

GOVERNMENT OF ORISSA

LAW DEPARTMENT

ORISSA ACT 20 OF 1957

THE ORISSA SALES TAX (AMENDMENT) ACT, 1957

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ORISSA ACT 20 OF 1957

THE ORISSA SALES TAX (AMENDMENT) ACT, 1957

[Received the assent of the Governor on the 21st August 1957, first published in an extraordinary issue of the Orissa Gazette, dated the 5th September 1957]

AN ACT FURTHER TO AMEND THE ORISSA SALES TAX ACT, 1947

WHEREAS it is expedient further to amend the Orissa Sales Tax Act, 1947, in the manner herein-^{Orissa Act 14 of 1947.} after appearing ;

It is hereby enacted by the Legislature of the State of Orissa in the Eighth Year of the Republic of India as follows :—

Short title and commencement.

*1. (1) This Act may be called the Orissa Sales Tax (Amendment) Act, 1957.

** (2) Sections 1 and 6 shall come into force at once. The remaining sections shall come into force on such date as the State Government may, by notification, appoint.

Amendment of section 2, Orissa Act 14 of 1947.

2. In section 2 of the Orissa Sales Tax Act, 1947^{Orissa Act 14 of 1947.} (hereinafter referred to as the said Act),—

(i) clauses (a), (aa) and (hh) shall be omitted ;

(ii) after clause (d) the following new clause shall be inserted, namely :—

“(dd) ‘luxury goods’ shall mean such goods as may be specified from time to time by notification issued by the State Government ; ” and

(iii) the Explanation to clause (g) shall be omitted and shall be deemed to have been omitted with effect from the 7th day of September 1955.

Adaptations and savings

3. (1) Except as otherwise specifically provided in the said Act, for the word ‘Collector’ wherever it occurs in the said Act and has reference to the Collector of Sales Tax, the word ‘Commissioner’ shall be substituted.

* For statement of objects and reasons see *Orissa Gazette* Extra ordinary, dated the 29th May 1957 and for S. C. R. see *Orissa Gazette* Extraordinary, dated the 5th July 1957.

** Sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 and 13 came into force from the 2nd December 1957, (Vide notification No. 30990-F., dated 30th November 1957, *Orissa Gazette* Extraordinary dated the 1st December 1957).

(2) Any reference in the said Act, or in the Rules, orders or notifications made or issued thereunder by the Collector of Sales Tax or any other person appointed under section 3 of the said Act to assist him, shall be read and construed as a reference respectively to the corresponding authority appointed under the said section as amended herein and such rules, orders or notifications shall have force and effect accordingly.

(3) Save as otherwise expressly provided in this Act, all proceedings started, notices or notifications issued, orders passed, decisions made, actions taken or things done by the Collector of Sales Tax or such other person appointed to assist him shall have full force and effect to all intents and purposes and to the same extent as if such proceedings, notices, notifications, orders, decisions, actions or things had been started, issued, passed, made, taken or done by the corresponding authority under the said Act or rules made thereunder as amended by or under this section.

Amendment
of section 3
Orissa Act
14 of 1947.

4. For section 3 of the said Act, the following section shall be substituted, namely :—

“3. (1) The State Government may appoint any person to be the Commissioner of Sales Tax, Orissa and he shall exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act.

(2) A person who is or has been a member of the superior judicial service or is eligible for appointment to such service shall be appointed by the State Government to be the Sales Tax Tribunal for the purpose of exercising such judicial powers as are or may be conferred by or under the provisions of this Act :

Provided that the State Government may at any time as the occasion may require appoint an Additional Sales Tax Tribunal of the same qualification for disposing of such matters as may be entrusted to him by rules made by the State Government under this Act.

(3) The State Government may appoint such other persons under any prescribed designation including that of a Deputy Commissioner to assist the Commissioner and they shall exercise such powers and perform such duties as may be conferred or imposed by or under the provisions of this Act.”

Repeal of sections 3-A to 3-D and insertion of new section 3-A, Orissa Act 14 of 1947.

5. Sections 3-A, 3-B, 3-C and 3-D of the said Act shall be repealed and after section 3 of the said Act as so amended the following new section shall be inserted, namely :—

Powers and functions of the Commissioner.

“3-A. Without prejudice to any other functions that the Commissioner may perform under the provisions of this Act, he shall also exercise the following powers and discharge the following functions :—

(i) to superintend and control all persons employed in the executive administration of Sales Tax ;

(ii) subject to the provisions of this Act and the Rules made thereunder, to make rules of procedure and conduct of administration for the guidance of all persons subordinate to him ;

(iii) to call for any record from any subordinate officer and also to call for any papers in connection with any assessment ; and

(iv) to inspect the records and to superintend the work of officers subordinate to him and their offices.”

Amendment of section 5, Orissa Act 14 of 1947.

6. For sub-section (1) of section 5 of the said Act, the following sub-section shall be substituted, namely :—

“(1) The tax payable by a dealer under this Act shall be levied at the rate of 2 per cent on his taxable turnover :

Provided that the State Government may, from time to time by notification and subject to such conditions as they may impose, fix a higher rate of tax not exceeding 7 per cent or any lower rate of tax payable under this Act on account of the sale of any goods or class of goods specified in such notification :

Provided further that the State Government may by notification in respect of any luxury goods fix a higher rate of tax not exceeding 13 per cent :

Provided also that the State Government may permit dealers in such circumstances and under such conditions as may be prescribed, to compound for the tax assessable on their taxable turnover under the provisions of this Act by paying in lieu thereof a sum fixed in such manner as may be prescribed ”.

Amendment
section
Orissa
14 of

7. For section 21 of the said Act, the following section shall be substituted, namely :—

Members of
Commissioner
to
oath;

“21. (1) The Commissioner, Tribunal or Additional Tribunal, as the case may be or any person appointed to assist the Commissioner, under sub-section (3) of section 3 shall for the purpose of this Act have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit in respect of the following matters, namely :—

- (i) summoning and enforcing the attendance of any person and examining on oath or affirmation ;
- (ii) compelling the production of documents ; and
- (iii) issuing commissions for the examination of witnesses.

(2) Any proceedings under this Act before the Commissioner, Tribunal or Additional Tribunal, as the case may be or any person appointed to assist the Commissioner under sub-section (3) of section 3 shall be deemed to be “judicial proceedings” within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code.”

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Amendment
section
Orissa
14 of

8. For section 22 of the said Act, the following section shall be substituted, namely :—

Members to
obtain pro-
ceedings.

“22. Save as is provided in section 24 no assessment made or purporting to have been made and no order passed or purporting to have been passed under the provisions of this Act and the rules made thereunder by the Commissioner, Tribunal or Additional Tribunal, as the case may be or any person appointed under section 3 to assist the Commissioner shall be called in question in any Court and save as is provided in section 23 no appeal or application for revision shall lie against any such assessment or order as the case may be.”

Amendment
section
Orissa
14 of

9. For section 23 of the said Act, the following section shall be substituted, namely :—

Appeals and
revision.

“23. (1) Within thirty days from the date of receipt of the copy of an order of assessment, with or without penalty, under section 12, or an order

imposing penalty under sub-section (3) of section 11, any dealer may, in the prescribed manner, appeal to the prescribed authority against such assessment or penalty or both :

Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of tax as the appellant may admit to be due from him has been paid :

Provided further that the prescribed authority may admit the appeal after the period hereinbefore specified if the said authority is satisfied that the dealer has sufficient cause for not preferring the appeal within the said period.

(2) Subject to such rules as may be made or procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1), may—

(a) confirm, reduce, enhance or annul the assessment or penalty, if any, or both, or

(b) set aside the assessment or penalty, if any, or both and direct the assessing authority to pass a fresh order after such further inquiry as may be directed.

(3) (a) Any dealer or as the case may be, the State Government, dissatisfied with an appellate order made under sub-section (2) may within thirty days from the date of receipt of such order prefer an appeal in the prescribed manner to the Tribunal or Additional Tribunal, as the case may be against such order.

(b) The dealer or the State Government as the case may be, on receipt of notice that an appeal has been preferred under clause (a) may, notwithstanding that the said dealer or the State Government may not have appealed against such order or any part thereof, within thirty days of the service of the notice file a memorandum of cross objections and such memorandum shall be disposed of by the Tribunal or Additional Tribunal, as the case may be as if it were an appeal presented within time under clause (a).

(c) Except as otherwise provided in section 24 any order made by the Tribunal or Additional Tribunal, as the case may be under this sub-section shall be final.

(4) (a) Subject to such rules as may be made and for reasons to be recorded in writing, the Commissioner may, upon application by a dealer or on his

own motion revise any order made under this Act or the rules made thereunder by any person other than the Tribunal or Additional Tribunal, as the case may be, appointed under sub-section (3) of section 3 to assist him :

Provided that the Commissioner shall not entertain any such application for revision if the dealer filing the same having a remedy by way of appeal under sub-section (1), or sub-section (3) did not avail of such remedy or the application is not filed within the prescribed period.

(b) If the Commissioner proposes to reject an application for revision under the foregoing provision he shall record the reasons for such rejection.

(c) Any order made under this sub-section by the Commissioner shall be final.

(d) Notwithstanding anything contained in section 17, the Commissioner shall not except with the prior approval of the State Government delegate his powers under this sub-section to any other person appointed under sub-section (3) of section 3 to assist him.

(5) Any person likely to be affected prejudicially by any order made under this section shall be given a reasonable opportunity of being heard before such order is made :

Provided that an order passed on revision by the Commissioner declining to interfere with the original order which is sought to be revised, shall not be deemed to be an order prejudicial to the applicant."

Amendment
of section
24, Orissa
Act 14 of
1947.

10. In section 24 of the said Act for sub-section (1) the following sub-section shall be substituted namely :—

“(1) Within sixty days from the making of any order by the Tribunal or Additional Tribunal, as the case may be under sub-section (3) of section 23 affecting any liability of any dealer to pay tax under this Act, such dealer or as the case may be the State Government, may by application in writing accompanied, when the application is made by any person other than the State Government, with a fee of one hundred rupees require the Tribunal or Additional Tribunal, as the case may be to refer to the High Court any question of law arising out of such order and except in cases covered under sub-section (2) the Tribunal or Additional Tribunal,

as the case may be may, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court."

Savings

11. (1) Notwithstanding anything contained in the said Act as amended by this Act—

(i) any matter pending in revision or appeal or any application for reference before the Board of Revenue under the said Act or the rules made thereunder on the date of commencement of this Act or any reference arising out of any order passed in such revision shall be heard and dealt with by the Board of Revenue as if this Act had not been passed ;

(ii) any matter pending in revision under the said Act or the rules made thereunder before the Collector of Sales Tax on the date of commencement of this Act shall stand transferred to the Tribunal or Additional Tribunal, as the case may be of Sales Tax for disposal in accordance with the provisions of sub-section (3) of section 23 of the said Act as amended by this Act.

(2) If any doubt or difficulty arises in giving effect to the provisions of this Act, particularly in relation to the ascertainment of specification of the corresponding sales tax authorities or to the assignment or discharge of their respective duties and responsibilities under the provisions of the said Act, before or after the commencement of this Act, the State Government may, as occasion may require, by order do anything not inconsistent with the provisions of the said Act as amended by this Act or the rules made thereunder which appear to them necessary to remove the doubt or difficulty.

Amendment
of section 29,
Orissa Act
14 of 1947.

12. In sub-section (2) of section 29 of the said Act—

(i) in clause (b) for the figure and brackets '(1)' the figure and brackets '(3)' shall be substituted ; and

(ii) after clause (t) the following clause shall be inserted, namely :—

“(u) disposal of business by the Sales-Tax Tribunal and the Additional Sales-Tax Tribunal”.

Repeal of
section 30,
Orissa Act
14 of 1947.

13. Section 30 of the said Act shall be repealed.