

ORISSA ACT 19 OF 1989

THE ORISSA ENTERTAINMENTS TAX (SECOND AMENDMENT) ACT, 1989

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ORISSA ACT 19 OF 1989

**THE ORISSA ENTERTAINMENTS TAX
(SECOND AMENDMENT) ACT, 1989**

[Received the assent of the Governor on the 1st November 1989 first published in an extraordinary issue of the *Orissa Gazette*, dated the 6th November 1989].

AN ACT FURTHER TO AMEND THE ORISSA ENTERTAINMENTS TAX ACT, 1946

BE it enacted by the Legislature of the State of Orissa in the Fortieth Year of the Republic of India as follows :—

Short title

1. This Act may be called the Orissa Entertainments Tax (Second Amendment) Act, 1989.

Amendment of section 5

2. Section 5 of the Orissa Entertainments Tax Act, 1946 (hereinafter referred to as the principal Act), shall be re-numbered as sub-section (1) thereof and, after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

Orissa Act 5 of 1946.

(2) “Notwithstanding anything contained in sub-section (1), in the case of cinematograph exhibitions held in any theatre in any local area under a Municipal Council or a Notified Area Council constituted under the Orissa Municipal Act, 1950, there shall be levied and paid to the State Government a tax at such percentage, not less than twenty per centum or more than forty per centum of the gross collection capacity on every show, which shall be specified by the State Government by notification from time to time along with the names of the local areas and the conditions regulating such levy and payment of tax,

Orissa Act 23 of 1950.

Explanation—

For the purposes of this section “gross collection capacity” in relation to cinematograph exhibition means the national aggregate of all payments for admission to a show (inclusive of the Entertainment Tax and the surcharge and additional surcharge, if any, on the Entertainment Tax leviable under this Act), if all the seats or other accommodation in the theatre specified in the licence issued by the licensing authority under the Orissa Cinemas (Regulation) Act, 1954 were occupied by the Spectators.”;

Orissa Act 2 of 1954.

Insertion of
new section
9-B.

3. After section 9-A of the principal Act, the following section shall be inserted, namely :—

Special
mode of
recovery.

9-B. (1) Notwithstanding anything contained in this Act or any law or contract to the contrary, the Commercial Tax Officer (hereinafter referred to as the assessing authority) may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the proprietor at his last known address known to the assessing authority) require—

- (a) any person from whom any money is due or may become due to a proprietor, who has failed to pay the tax due from time to time under this Act, or
 - (b) any person who holds or may subsequently hold for or on account of such proprietor to pay into the Government treasury in the manner specified in the notice issued under this section either forthwith or upon the money becoming due to being held or at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount of tax due from the proprietor under this Act, or the whole of the money when it is equal to or less than that amount.
- (2) The assessing authority issuing a notice under sub-section (1) may, at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.
- (3) Any person making any payment in compliance with a notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the Proprietor and the receipt from the Government treasury shall constitute a good and sufficient discharge of the liability of such person to the proprietor to the extent of the amount specified in the receipt.
- (4) Any person discharging any liability to the proprietor after service on him of the notice issued under sub-section (1) shall, if the liability is discharged in any manner other than that required in the said notice, be personally liable to the State Government to the extent of the liability so discharged or to the extent of the liability of the proprietor for tax or penalty or both, whichever is less.
- (5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the officer who issued the notice that the money demanded or any part thereof was not due to the proprietor or that he did not hold any money for or on account of the proprietor, at the time the notice was served on him, nor is the money demanded or any part thereof likely to become due to the proprietor or to be held for or on account of the proprietor, nothing contained in this section shall be deemed to require such person to pay into the Government treasury any such money or part thereof, as the case may be.

(6) Any amount of money which a person is required to pay under sub-section (1) or for which he is personally liable to the State Government under sub-section (4) shall, if it remains unpaid, be recoverable in the same manner as provided in section 10 :

Provided that nothing in this section shall operate to affect any action that may have been taken or prevent any action that may be or is being taken under section 9-A for recovery from the proprietor direct of the amount due from him.

(7) No action shall be taken under this section in respect of any amount of tax, or penalty the date of payment of which has been extended by the assessing authority under the other provisions of the Act, if any, or the realisation of which has been stayed by an appellate authority".