

THE ODISHA ENTRY TAX ACT, 1999

AN ACT TO PROVIDE FOR THE LEVY AND COLLECTION OF TAX ON THE ENTRY OF GOODS INTO THE LOCAL AREAS OF THE STATE OF ODISHA FOR CONSUMPTION, USE OR SALE THEREIN AND MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

Be it enacted by the Legislature of the State of Odisha in the Fiftieth Year of the Republic of India, as follows: -

CHAPTER – I

PRELIMINARY

1. Short title, extent and commencement.

(1) This Act may be called the Odisha Entry Tax Act, 1999.

(2) It shall extend to the whole of the State of Odisha.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

In this Act, unless the context otherwise requires, -

- a. "Assessing Authority" means the Sales Tax Officer appointed under the Sales Tax Act within the area of his jurisdiction;
- b. "Commissioner" means the Commissioner of Sales Tax, Odisha appointed under the Sales Tax Act;
- c. "Dealer" shall have the meaning assigned to it in clause (c) of section 2 of the Sales Tax Act, and shall include a handling or delivery agent or an agent acting in any manner on behalf of the principal;
- d. "Entry of goods" with all its grammatical variations and cognate expressions, means entry of goods into a local area from any place outside that local area or any place outside the State for consumption, use or sale therein;
- e. "Importer" means a dealer or any other person who in any capacity brings or causes to be brought any scheduled goods into a local area for consumption, use or sale therein;
- f. "Local area" means the areas within the limits of a -

- i. Municipal Corporation,
 - ii. Municipality,
 - iii. Notified Area Council,
 - iv. Gram Panchayat, and
 - v. Other local authority by whatever name called, constituted or continued in any law for the time being in force and shall also include an industrial township constituted under section 4 of Odisha Municipal Act, 1950;
- a. "Person" includes any Company or Association or Body of individuals whether incorporated or not and also a Hindu Undivided family, a firm, a Local Authority, Government of India, the Government of any State or Union Territory;
 - b. "Motor Vehicle" means a motor vehicle as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988;
 - c. "Prescribed" means prescribed by rules;
 - d. "Purchase value" means the value of scheduled goods as ascertained from original invoice or bill and includes insurance charges, excise duties, countervailing charges, sales tax, transport charges, freight charges and all other charges incidental to the purchase of such goods:

Provided that where purchase value of any scheduled goods is not ascertainable on account of non-availability or non-production of the original invoice or bill or when the invoice or bill produced is proved to be false or if the scheduled goods are acquired or obtained otherwise than by way of purchase, then the purchase value shall be the value or the price at which the scheduled goods of like kind or quality is sold or is capable of being sold in open market;

- e. "Rules" means rules made under this Act;
 - f. "Sales Tax Act" means the Odisha Sales Tax Act, 1947;
- (m) "Scheduled goods" means the goods specified in the Schedule to this Act;
 - (n) "State Government" means the Government of Odisha;
 - (o) "Tribunal" means the Odisha Sales Tax Tribunal referred to in sub-section (2) of section 3 of the Sales Tax Act;
- p. "Year" means the financial year; and
 - q. Words and expressions used herein and not defined in this Act but defined in the Sales Tax Act shall have the meaning respectively assigned to them in that Act.

CHAPTER – II

LEVY OF TAX

3. Levy of Tax.

(1) There shall be levied and collected a tax on entry of the scheduled goods into a local area for consumption, use or sale therein at such rate not exceeding twelve percentum of the purchase value of such goods from such date as may be specified by the State Government and different dates and different rates may be specified for different goods and local areas subject to such conditions as may be prescribed.

(2) The tax leviable under this Act shall be paid by every dealer in scheduled goods or any other person who brings or causes to be brought into a local area such scheduled goods whether on his own account or on account of his principal or customer or takes delivery or is entitled to take delivery of such goods on such entry :

Provided that no tax shall be levied under this section on the entry of scheduled goods into a local area, if it is proved to the satisfaction of the assessing authority that such goods have already been subjected to entry tax or that the entry tax has been paid by any other person or dealer under this Act.

Explanation. - Where the goods are taken delivery of on its entry into a local area or brought into the local area by a person other than a dealer, the dealer who takes delivery of the goods from such person shall be deemed to have brought or caused to have brought the goods into the local area.

(3) Notwithstanding anything contained in sub-sections (1) and (2) but subject to the provisions of this Act, there shall be levied and collected a tax on the entry of any motor vehicle into any local area for use or sale therein which is liable for registration in the State of Odisha under the Motor Vehicles Act, 1988 and rate of tax shall be at such rate or rates as may be specified by the State Government by notification on the purchase value of such motor vehicles.

4. Reduction in Tax Liability.

(1) Where an importer of motor vehicle liable to pay tax under sub-section (3) of section 3 being a Dealer in motor vehicles becomes liable to pay tax under the Sales Tax Act by virtue of sale of such motor vehicles then his liability under the Sales Tax Act shall be reduced to the extent of tax paid under this Act.

Explanation. - For the purpose of this sub-section the chassis and the vehicle with body built on the chassis shall be treated as one and the same goods.

(2) When an importer or manufacturer of goods specified in part-III of the schedule except motor vehicles pays tax under sub-section (1) of section 3 or section 26 of this Act, being a Dealer under the Sales Tax Act becomes liable to pay tax under the said Act by virtue of sale of such goods then his liability under the Sales Tax Act shall be reduced to the extent of tax paid under this Act.

5. Registration of Dealers.

(1) Every dealer in scheduled goods who is liable to be registered under the Sales Tax Act shall get himself registered under this Act, in such manner and within such period as may be prescribed.

(2) The registration under sub-section (1) shall be made in such manner and for such period as may be prescribed :

Provided that the dealers already registered under the Sales Tax Act shall be deemed to be registered under this Act without furnishing any security under this Act on submission of an application in the prescribed manner.

6. Exemption of Tax.

The State Government may by notification and subject to such conditions and restrictions as it may impose exempt from levy of tax any class of dealers, persons or importers.

CHAPTER – III

RETURN, ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF TAX.

7. Return and Assessment.

(1) Notwithstanding anything contained in section 10, every registered dealer and every dealer who is liable to get himself registered under this Act shall every year submit a return to the assessing authority within such period and in such manner containing such particulars as may be prescribed.

(2) Before any dealer submits any return under sub-section (1), he shall in the prescribed manner pay in advance the full amount of tax payable by him on the basis of such return as reduced by any tax already paid under section 10 and shall furnish along with the return satisfactory proof of the payment of such tax and after the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed.

(3) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, he shall assess the dealer on the basis thereof .

(4) If no return is submitted by the dealer under sub-section (1) before the period prescribed or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, he shall assess the dealer to the best of his judgement recording the reasons for such assessment:

Provided that before taking action under this sub-section the dealer shall be given reasonable opportunity of proving the correctness and completeness of the return submitted by him.

(5) While making any assessment under sub-section (4), the assessing authority may also direct the dealer to pay in addition to the tax assessed a penalty not exceeding one and a half times the amount of tax due that was not disclosed by the dealer in his return or in the case of failure to submit a return one and a half times the tax assessed, as the case may be.

8. Security Deposit.

Subject to the provisions of section 5, the provisions of Sales Tax Act shall mutatis mutandis apply to the security and enhancement of security for registered dealers under this Act.

9. Payment of tax for entry of goods escaping assessment.

(1) Where for any reason all or any of the scheduled goods brought by a dealer has escaped assessment to tax, the assessing authority may subject to the provisions of sub-section (3) at any time within a period of three years from the expiry of the year to which the tax relates proceed to assess to the best of his judgment the tax payable on the entry of such goods after issuing a notice to the dealer and after making such enquiry as he considers necessary.

(2) In making an assessment under sub-section (1) the assessing authority may, if he is satisfied that the escape from assessment is due to wilful nondisclosure of the entry

of such goods by the dealer, direct him to pay in addition to the tax assessed under sub-section (1) a penalty not exceeding one and a half times the tax so assessed:

Provided that no penalty under this sub-section shall be directed to be paid unless the dealer affected has been given a reasonable opportunity of showing cause against such imposition.

(3) In computing the period of limitation for assessment under this section the time during which an assessment has been deferred on account of any stay order granted by any court, shall be excluded.

10. Payment of tax in advance.

(1) Subject to the provisions of the rules, every registered dealer and every dealer liable to get himself registered under this Act shall send every month to the assessing authority a statement containing such particulars as may be prescribed and shall pay in advance the full amount of tax payable by him on the basis of the scheduled goods brought by him during the preceding month into the local area and the amount so payable shall for the purpose of sub-section (4) of section 11 be deemed to be the amount due under this Act from such dealer.

(2) If at the end of the year it is found that the amount of tax paid in advance by any dealer for any month or for the whole year in the aggregate was less than the tax payable for that month or the tax for the whole year as finally assessed, as the case may be, by more than fifteen per cent, the assessing authority may direct such dealer to pay, in addition to the tax, by way of penalty, a sum not exceeding one and a half times the differential amount between the tax payable and the tax paid for the month or for the whole year, as the case may be:

Provided that no penalty under this sub-section shall be imposed unless the dealer affected has been given a reasonable opportunity of showing cause against such imposition.

(3) If no such statement is submitted by a dealer under sub-section(1) before the date prescribed or if the statement submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may assess the dealer provisionally for that month to the best of his judgement, recording the reasons for such assessment, and proceed to demand and collect the tax on the basis of such assessment :

Provided that before taking action under this sub-section the dealer shall be given a reasonable opportunity of being heard.

11. Payment and Recovery of tax.

(1) The tax under this Act shall be paid in such manner, in such installments, if any, and within such time, as may be prescribed.

(2) If default is made in making payment in accordance with sub-section(1), -

- i. the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the property of the dealer or any other person or persons liable to pay tax under this Act; and
- ii. the dealer or any other person or persons liable to pay the tax under this Act shall pay a penalty equal to two and half per cent of such amount for each month subsequent to the first three months as aforesaid.

Explanation. - For the purposes of clause (ii) the penalty payable for a part of a month shall be proportionately determined.

(3) Notwithstanding anything contained in sub-section (2), the Commissioner may subject to such conditions as may be prescribed remit the whole or any part of the penalty payable in respect of any period by any dealer or person or class of persons.

(4) Any tax assessed, or any other amount due under this Act from a dealer or any other person or persons may without prejudice to any other mode of collection, shall be recovered as an arrear of Public demand or in accordance with the provisions contained in the schedule to the Sales Tax Act:

Provided that where a dealer or any other person who has appealed or applied for revision of any order made under this Act and has complied with an order made by the appellate or the revising authority in regard to the payment of tax or other amount, no proceedings for recovery under this sub-section shall be made or continued until the disposal of such appeal or application for revision.

12. Recovery of tax from certain other persons.

(1) The assessing authority may at any time, by notice in writing, a copy of which shall be forwarded to the dealer from whom any tax assessed is due at his last address known to the assessing authority, require any person from whom money is due to the dealer or any person who holds or may subsequently hold money for or on account of the dealer to pay to the assessing authority either forthwith upon

the money becoming due or being held 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 due by the dealer in respect of arrears of tax or penalty or the whole of the money when it is equal to or less than that amount.

(2) The assessing authority may, at any 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 under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount refunded to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the liability discharged or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.

(6) Any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be charged on the properties of the said person and may be recovered as if it were an arrear of land revenue.

Explanation. - For the purposes of this section, the amount due to dealer or money held for or on account of dealer shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person as may be lawfully subsisting.

13. Liability of firm.

(1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax, or other amount under this Act retires, he shall, notwithstanding any contract to the contrary, be

liable to pay the tax or other amount remaining unpaid at the time of his retirement and any tax or other amount due upto the date of retirement, though un-assessed, after due assessment of the same.

14. Tax payable on transfer of business etc.

1. When the ownership of the business of a dealer liable to pay any tax or penalty, or any other amount under the provisions of this Act, is transferred, the transferor and the transferee shall jointly and severally be liable to pay any tax or penalty or any other amount payable but remaining unpaid at the time of transfer, and for the purpose of recovery from the transferee, such transferee shall be deemed to be the dealer liable to pay the tax or penalty or other amount under this Act.

Explanation. - When a person carries on business in the same premises substantially in the same scheduled goods in succession to a dealer liable under this Act, it shall be presumed that there has been entire transfer of the business unless the contrary is proved.

2. When a firm liable to pay the tax or penalty is dissolved, the assessment of the tax and imposition of penalty shall be made as if no dissolution of the firm had taken place, and every person who was at the time of dissolution a partner of the firm and the legal representative of any such partner, who is deceased, shall be jointly and severally liable to pay the tax or penalty assessed or imposed.
3. When an undivided Hindu family liable to pay the tax or penalty is partitioned, the assessment of the tax and the imposition of penalty shall be made as if no partition of the family had taken place, and every person who was a member of the family before the partition shall be jointly and severally liable to pay the tax or penalty assessed or imposed.
4. Where a dealer dies, his executor, administrator or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer, provided that in respect of any tax or penalty assessed as payable by any such dealer or any tax or penalty which would have been payable by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

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CHAPTER - IV

TAX AUTHORITIES

15. Tax Authorities.

1. There shall be such classes and such number of Tax Authorities including assessing authorities as may be specified by the State Government for the purposes of this Act.
2. The authorities specified under sub-section (1) shall be appointed by the State Government and shall exercise, discharge and perform such powers, duties and functions in respect of such areas and such classes of persons or such dealers as may be specified by the State Government.
3. Where any orders issued under sub-section (2) have assigned to two or more tax authorities the same area or the same dealers or classes of dealers or the same cases or classes of cases, they shall perform their functions in accordance with such order as the Commissioner may make for the distribution and allocation of the work.
4. The Commissioner shall have the power of superintendence and control over all persons employed in the administration of this Act.

16. Appeals.

(1) Any person objecting to an order affecting him passed under the provisions of this Act may appeal to such authority as may be prescribed (hereinafter referred to as the appellate authority)

(2) The appeal shall be preferred within thirty days, -

- i. in respect of an order of assessment, from the date on which the notice of assessment was served on the appellant, and
- ii. in respect of any other order from the date on which the order was communicated to the appellant :

Provided that the appellate authority may admit an appeal preferred after the period of thirty days aforesaid but within a period of ninety days if it is

satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(3) No appeal against an order of assessment shall be entertained by the appellate authority unless it is accompanied by satisfactory proof of the payment of the tax and penalty not disputed in the appeal.

(4) Notwithstanding that an appeal has been preferred under sub-section(1), the tax or other amount shall be paid in accordance with the order against which the appeal has been preferred:

Provided that the appellate authority may in its discretion, give such directions as it thinks fit in regard to the payment of tax or other amount payable under clause (b) if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(5) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(6) In disposing of an appeal, the appellate authority may after giving the appellant a reasonable opportunity of being heard, -

a. in the case of an order of assessment or penalty, -

- i. confirm, reduce, enhance or annul the assessment or penalty or both;
- ii. set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed : or
- iii. pass such other orders as it may think fit; and

a. in the case of any other order, confirm, cancel or vary such order .

(3) Every order passed on appeal under this section shall, subject to the provisions of sections 17 to 20, be final.

17. Appeal to the Tribunal.

(1) Any officer empowered by the State Government in this behalf or any other person objecting to an order passed by the appellate authority may appeal to the Tribunal within a period of sixty days from the date on which the order was communicated to him.

(2) The Tribunal may admit an appeal preferred after the period of sixty days referred to in sub-section (1) but within the period of six months if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(3) No appeal preferred by a dealer or any other firm against an order passed by the appellate authority shall be entertained by the Tribunal unless fifty percent of the disputed amount of tax and penalty confirmed by the appellate authority is paid by the dealer.

(4) Subject to the provisions of the Sales Tax Act, the Tribunal shall dispose of the appeal in the prescribed manner.

18. Revision by the Commissioner of orders prejudicial to revenue.

(1) The commissioner or any other officer specially empowered by him in this behalf may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any assessing authority or appellate authority is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(2) The power under sub-section (1) shall be exercisable only within a period of four years from the date of the order sought to be revised was passed.

Explanation- In computing the period of limitation for the purposes of sub-section(2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

19. Appeal to High Court.

(1) Any assessee objecting to an order passed under section 18 may appeal to the High Court within sixty days from the date on which the order was communicated to him:

Provided that the High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by a fee of two hundred rupees.

(3) The High Court shall, after giving both parties to the appeal a reasonable opportunity of being heard pass such order thereon as it thinks fit.

20. Rectification of mistakes.

(1) With a view to rectifying any mistake apparent from the record, the assessing authority, appellate authority or revising authority may, at any time, within five years from the date of an order passed by it, amend such order:

Provided that an amendment which has the effect of enhancing an assessment or otherwise increasing the liability of the assessee shall not be made unless the assessing authority, appellate authority or revising authority, as the case may be, has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(2) Where an order has been considered and decided in any proceedings by way of appeal or revision relating to an order referred to in sub-section(1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) An order passed under sub-section (1), shall be deemed to be an order under the same provision of law under which the original order the mistake in which was rectified had been passed.

CHAPTER – V

MISCELLANEOUS

21. Maintenance of accounts by dealers and issue of sale bills or cash memorandum.

(1) Every registered dealer and every dealer liable to get himself registered for the purposes of this Act shall maintain and keep true and complete accounts relating to his business as well as such other registers or records as laid down under Sales Tax Act and all such accounts, registers or records shall be retained by the dealer in his safe custody till his assessment or reassessment, as the case may be, for the relevant year is completed or, in case where any appeal, revision

or other proceedings in respect of such year has been filed and is pending, the same is disposed of.

(2) Every registered dealer and every dealer liable to get himself registered for the purposes of this Act shall issue, in respect of all scheduled goods sold by him a bill or cash memorandum signed and dated by him or his servant, manager or agent showing particulars of his name, address, registration number, if any, and description, quantity and value of goods sold, and shall keep the counterfoil or duplicate of such bill or cash memorandum with him and retain it in his custody for the period mentioned in sub-section (1):

Provided that the selling dealer shall also obtain and record in the sale bill or cash memorandum, the name and full address of the buyer, together with his registration number, if any, where the buyer is a dealer, in cases where the price of goods is one thousand rupees or more:

Provided further that the provisions of this sub-section shall not apply to a dealer whose total turn over in scheduled as well as other goods in a year does not exceed ten thousand rupees.

(3) Every sale bill or cash memorandum to be issued as per sub-section(2) shall be serially machine numbered.

22. Powers to order production of accounts and powers of entry, inspection and seizure.

(1) Any officer empowered by the State Government in this behalf including the assessing authority, may for the purpose of this Act, require any dealer to produce before him the accounts and any other documents, and to furnish any information relating to the stocks purchases, sale and deliveries of scheduled goods by the dealer and also any other information relating to his business.

(2) If any such officer has reason to suspect that any dealer is attempting to evade the payment of any tax or other amount due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers, records and other documents of the dealer as he may consider necessary, and shall give the dealer a receipt for the same and the accounts, registers, records and documents so seized shall be retained by such officer so long as may be necessary for their examination and for any inquiry or proceeding under this Act.

23. Recognition of Sales Tax check-gate or barriers for the purpose of this Act.

(1) With a view to preventing or checking evasion of tax under this Act, checkposts or barriers or both, as the case may be, established or erected under the provisions of Sales Tax Act shall be deemed to be a recognised check-posts or barriers for the purpose of this Act.

(2) At every check post or barrier mentioned in sub-section (1) or at any other place when so required by an officer empowered by the State Government in this behalf, the driver or any other person in charge of a goods vehicle or boat shall stop the vehicle or boat, as the case may be, and keep it stationary as long as may reasonably be necessary and allow the Officer in charge of the check-post or barrier or the officer empowered as aforesaid, to examine the contents in the vehicle or boat and inspect all records relating to the goods carried, which are in the possession of such driver or other person in charge who shall, if so required, give his name and address and the name and address of the owner of the vehicle or boat.

(3) The Officer in-charge of the checkpost or barrier or the officer empowered as aforesaid shall have power to seize and confiscate any goods which are under transport by a goods vehicle or a boat and are not covered by a way bill issued by the person who consigns the goods in the manner prescribed under the Sales Tax Act:

Provided that before taking action for the confiscation of goods under this sub-section, the officer shall give the person affected an opportunity of being heard and make an enquiry in the manner prescribed:

Provided further that where the person affected makes payment to such officer of the amount of tax payable in respect of such goods to be assessed in the prescribed manner, the goods seized as aforesaid shall be released:

Provided also that no order of confiscation shall be made in respect of goods which are not liable to payment of tax under this Act.

24. Transport of goods by road through the State and issue of transit pass.

When a vehicle or boat coming from any place outside the State and bound for any other place outside the State and carrying scheduled goods, passes through the State, the driver or any other person incharge of such vehicle shall furnish the necessary information and obtain a transit pass in the prescribed manner and subject to the conditions provided under section 16AA of the Sales Tax Act and the rules made thereunder:

Provided that when a transit pass has been issued under Sales Tax Act, no separate transit pass under this section shall be required.

25. Penalties for contravention of provisions of sections 23 and 24.

(1) If any person, being the driver or the person in charge of a goods vehicle or boat contravenes the provisions of section 23 or section 24, the assessing authority after giving such person a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding twice the amount of tax payable in respect of the goods and may for the purpose of realisation of the penalty seize such goods.

(2) Where the penalty levied under sub-section (1) is paid, the goods so seized shall be released, but where such penalty is not paid by the person concerned within the time prescribed, the Commissioner shall confiscate the goods so seized.

(3) If the goods which are seized or confiscated under the preceding sub-sections are of perishable nature, they shall be sold in the prescribed manner.

26. Manufacturers to collect and pay tax.

(1) Notwithstanding anything contained in this Act, every manufacturer of scheduled goods who is registered under the Sales Tax Act shall in respect of sale of its finished products effected by it to a buying dealer, either directly or through an intermediary, shall collect by way of tax an amount equal to the tax payable on the value of such finished products under section 3 of this Act by the buying dealer in prescribed manner and shall pay the tax so collected into the Government Treasury :

Provided that the liability of the manufacturer for payment of tax under the sub-section during a year shall be reduced to the extent of tax paid under this Act on the raw materials which directly go into the composition of the finished products during that year in the prescribed manner.

(2) Every manufacturer collecting tax under sub-section (1) shall send every month to the assessing authority of the area a statement in the prescribed form containing particulars of tax collected during the preceding month and pay the full amount of tax so collected by it, within twenty days after close of the preceding month in which such collection were made.

(3) The amount of tax collected under sub-section (1) and not paid as required under sub-section (2) shall for the purpose of section 11 be deemed to be an amount due under this Act.

(4) Every manufacturer collecting tax under sub-section (1) shall reflect the amount of tax collected under this section in the cash memo or sale invoice issued to the buyer.

(5) Collection and payment of tax in accordance with sub-sections (1) and (2) shall be without prejudice to any other mode of recovery of tax under this Act from the buying dealer and shall be subject to such adjustments as may be necessary on the completion of assessment of such buying dealer.

27. Forwarding agency, etc., to submit returns.

Every clearing or forwarding house or agency, commission agency, transporting agency, shipping agency, shipping out-agency or steamer agency in the State shall submit to the assessing authority of the area such return as may be prescribed of all scheduled goods cleared, forwarded, transported or shipped by it into the concerned local area and the assessing authority concerned shall have the power to call for and examine the books of accounts or other documents in the possession of such agency with a view to verify the correctness of the return submitted.

28. Submission of certain records by owners.

The owner or other person in charge of a scheduled goods vehicle or boat shall, in respect of the goods transported by him in such vehicle or boat submit to the assessing authority having jurisdiction over the local area in which the scheduled goods are delivered, such particulars thereof and within such time and manner as may be prescribed.

29. Offences and penalties.

(1) Any person who –

- a. being a dealer in scheduled goods fails to submit a return as required by the provisions of this Act or the rules made thereunder; or
- b. being a person obliged to get himself registered under this Act does not get himself so registered; or
- c. fails to pay within the time allowed any tax assessed on him or any penalty levied on him under this Act; or
- d. fails to keep true and complete accounts; or
- e. fails to comply with notice issued under section 9; or

- f. fails to submit a statement as required by section 10; or
- g. fails to issue a sale bill or cash memorandum in accordance with the provisions of sub-sections (2) and (3) of section 21;

shall, on conviction by a Magistrate, be punishable with simple imprisonment for a term which may extend to six months or fine which shall not be less than two thousand rupees but which may extend to five thousand rupees or with both.

(2) Any person who -

- a. wilfully submits an untrue return, or not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act or the rules made thereunder; or
- a. wilfully submits an untrue statement under section 10; or
- b. fraudulently evades the payments of any tax assessed on him or other amount due from him under this Act; or
- c. wilfully acts in contravention of any of the provisions of this Act, shall, on conviction, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to twelve months or fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees or with both and when the offence is continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

30. Cognizance of offences.

No court shall take cognizance of any offence punishable under sub-section (2) of section 29 except with the previous sanction of the Commissioner.

31. Composition of offences.

The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence punishable under this Act, by way of composition of such offence-

- a. where the offence consists of the failure to pay or the evasion of any tax or other amount recoverable under this Act in addition to the tax or amount so recoverable, a sum of money not exceeding five thousand rupees or double the amount of the tax or amount recoverable whichever is greater; and

b. in other cases, a sum of money not exceeding five thousand rupees.

32. Offences by companies.

1. If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible, to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

2. Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purposes of this section,-

- a. "Company" means any body corporate and includes a firm or other association of individuals; and
- b. "Director" in relation to a firm means a partner in the firm.

33. Bar of certain proceedings.

(1) No suit, prosecution or other proceedings shall lie against any officer or servant of the State Government, for any act done or purporting to be done under this Act without the previous sanction of the State Government.

(2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceedings if the act was done in good faith in the course of the performance of duties or the discharge of the functions imposed by or under Act.

34. Burden of proof.

For the purpose of levy and assessment of tax under this Act, it shall be presumed that every registered dealer or person liable to get himself registered for the purposes of this Act whose place of business is within a local area is liable to pay the tax on the purchase price of all scheduled goods as are dealt with by him and the burden of proving that any transaction of such dealer or person in any of the scheduled goods is not liable to tax shall lie on such dealer or the person, as the case may be.

35. Refund of tax in certain cases.

The tax paid by a registered dealer in respect of any scheduled goods shall be refunded to him, where such goods are sold by him in the course of export out of the territory of India.

Explanation - (1) For the purposes of this section, the expression "export out of the territory of India" shall have the meaning assigned to it under the provisions of sub-section (1) of section 5 of the Central Sales Tax Act, 1956.

(2) The burden of proving that any scheduled goods were sold in the course of export out of the territory of India shall be on the registered dealer.

36. Refund of tax in certain cases.

Subject to such conditions and in such manner as may be prescribed, there shall be paid to such local authority every year such sum as may be determined by the Government from out the tax collected under this Act.

37. Power to make rules.

(1) The State Government shall subject to the condition of previous publication, make rules, by notification, to carry out the purpose of this Act:

Provided that previous publication shall not be necessary where the rules are made for the first time after the commencement of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,-

- a. all matters expressly or otherwise required or allowed by this Act to be prescribed;
- b. the assessment to tax in respect of a business which is discontinued or the ownership of which has changed;
- c. the assessment to tax in respect of business owned by minor and other incapacitated persons or by persons residing outside the State of Odisha;
- d. the assessment to tax under this Act of any scheduled goods which have escaped assessment;
- e. procedure for registration of dealers under section 5;
- f. refund or tax collected of the scheduled goods has not been consumed, sold or used within the local area;
- g. compelling the submission of returns and the production of documents and enforcing the attendance of persons and examining them on oath or affirmation;
- h. the duties and power of officers appointed for the purpose of enforcing the provisions of this Act;
- i. generally regulating the procedure to be followed, and the forms to be adopted in proceedings under this Act;
- j. any other matter including levy of fees for which there is no provision or no sufficient provision in this Act and for which provision is in the opinion of the State Government necessary for giving effect to the purposes of this Act.

(3) In making a rule under sub-section (1) or sub-section (2) the State Government may provide that a person guilty of a breach thereof shall on conviction be punishable with fine which may extend to one thousand rupees and, where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

38. Servants and officers to be public servants.

All officers and servants appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

39. Notifications to be laid before the Assembly.

All notifications issued under sections 3 and 6 shall, as soon as possible after they are published, be laid before the Odisha Legislative Assembly for a total period of fourteen days which may comprise in one or more sessions.

40. Power to remove difficulties.

If any difficulty arises in giving effect to the provisions of this Act, the Government may, as the occasion may require, by order, do anything not inconsistent with the provisions of this Act or the rules, which appears to them necessary for the purpose of removing the doubt or difficulty:

Provided that no order shall be issued under this section after the expiry of a period of two years from the date of commencement of this Act.

41. Repeal and Saving.

(1) Clause (kk) of sub-section (1) of section 131 of the Odisha Municipal Act, 1950 is hereby repealed.

(2) Notwithstanding such repeal it shall not affect -

- a. the previous operation of the said clause or anything duly done or suffered thereunder; or
- b. any right, privilege, obligation or liability acquired, accrued or incurred thereunder; or
- c. any penalty, forfeiture or punishment incurred in respect of the offence committed against the said clause; or
- d. any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said clause has not been repealed.

SCHEDULE

Part – I

1. Coal, Coke
2. Cotton yarn, Waste Cotton
3. 8[Iron and Steel as specified under section 14 of the Central Sales Tax Act, 1956.
4. Crude Petroleum Oil.
5. Pure silk fabric, silk, artificial silk yarn, raw silk.
6. Drugs & Chemicals including Medicine.
7. Furnace Oil

8. Gunny bags, jute twine, jute & Jute products.
9. Kerosene.
10. Safety matches.
11. Sheets, rods etc. of non-ferrous metal including aluminium
12. Bricks & roofing tiles.
13. Caustic soda, soda ash & silicate of soda.
14. Paper including news print
15. Hides, skin-raw or dusted.
16. Tobacco & Tobacco products
17. Jeera, Dhania
18. Onion & Ginger
19. Sugar
20. Staple fibre yarn
21. Pepper & other spices
22. LPG, Natural gas & other gases
23. 9[Polythene, High Density Poly Ethylene (HDPE), Poly Propylene (PP) including wovensack, plastic goods, moulded luggage excluding plastic or moulded furniture.]
24. Tooth brush, tooth paste, tooth powder
25. Toilet soap, detergents & cosmetic products.
26. Paints & Varnishes of any form
27. Sanitary wares & fittings
28. 8[Footwear ⁵[of all varieties
29. Telephone & Accessories.
30. Typewriting machine with components
31. Cigarettes & lighter
32. Pan masala & other tobacco products ⁵[including Zarda.]
33. IMFL/Beer
34. Aeroplanes, Spare Parts & Accessories
35. Arms, riffles, Pistols etc.
36. Wireless reception equipments, VSAT & Tele Communication equipments
37. Agriculture machinery i.e. pump sets, tractor & power tiller, combined ¹⁰[harvestor] etc and components/ accessories thereof.
38. Raw prawn / processed prawn
39. Betel nuts
40. Petrol, diesel, lubricants etc.
41. Timber, ⁵[Bamboo, woodpulp, Mohua flower] & Kendu leaf
42. Spectacles, lenses, glasses
43. Butter, ghee & pasteurised milk
44. Vanaspati, edible oil / vegetable oil / solvent oil
45. Cement, Asbestos including Asbestos Cement, other Asbestos products and Asbestos Cement Products,

46. Rubber and Synthetic Rubber products including tyres and tubes.

46. Leather goods not including Footwear
47. Carry bags of all varieties, Ladies handbags and Vanity bags of all varieties.
48. Doors, shutters and Hardware products
49. Automobile spare parts and components
50. Potato
51. Egg
52. Milk powder, Tinned food and beverages
53. Adhesives
54. Plywood, Laminated sheets, Sheet glass
55. Agarbati
56. Gudakhu
57. Tea and Coffee (loose or packed)
58. Minerals including bauxite, Chromite, Dolomite, Lime stone, Manganese and Iron ore, but not including Coal and Coke.
59. Fruits
60. Fish
61. Sulphur, Rock Phosphates, Ammonia, Sulphuric Acid, Hydrochloric Acid, Liquid Chlorine, Caustic Soda, Alumina.
62. Precious and semi-precious gemstones;]

Part – II

1. Cakes, Pastries, Sweetmeat, ¹²[Toffees, Biscuits, Chocolates, Ice cream.]
2. Electrical goods including motors, materials for transmission towers & conductors/ cable for manufacture.
3. Textile Products including cotton fabrics & ready made Garments.
4. Soft drinks, fruit juices etc.
5. Cinematographic equipment including camera, Projector, sound recorder etc.
6. Photographic cameras, enlargers, lenses with spare parts / components thereof ⁵[and Photographic films.]
7. Electrical Appliances excluding those specified elsewhere in this schedule
8. Voltage stabiliser, ⁵[Uninterrupted Power supply System (UPS)] & other office equipments not specified elsewhere including its accessories and spare parts
9. Machinery & equipments ⁵[and spare parts and components] used in manufacture, mining, generation of electricity, or for execution of works contract or for any other purpose.
10. Furniture including steel, plastic and aluminium furnitures.
- ⁵[11. Butumen and Asphalts

11. Elevator and Lift and their spare parts and components
12. Generator and Transformer
13. Mobile telephone and its spare parts and components
14. Poultry
15. Fireworks
16. Clocks, Watches and Time pieces
17. Cushions, mattresses, pillows and other articles made wholly or partly of rubber foam or synthetic resin and plastic foam.
18. Steel Almirah and Steel Cabinet
19. Dry fruits, Jam, Potato chips, Packaged Cashew Nuts and Pickles
20. Comflakes, Noodles and Pappad
21. Greeting Cards]

Part – III

1. Copier, Xerox machine, Fax, TV, VCR, VCP.
2. Motor vehicles, two wheelers, three wheelers.
3. Marble, Decorative Stones / Tiles, Cuddpah Stone, Granite Stone.
4. Air Conditioners.
5. Air Coolers.