

THE ORISSA VALUE ADDED TAX (AMENDMENT) ACT, 2010

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The Orissa Gazette



EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 1517, CUTTACK, FRIDAY, SEPTEMBER 24, 2010 / ASWINA 2, 1932

LAW DEPARTMENT

NOTIFICATION

The 24th September, 2010

No.10564/I-Legis-26/10—The following Act of the Orissa Legislative Assembly having been assented to by the Governor on the 16th September, 2010 is hereby published for general information.

ORISSA ACT 8 OF 2010

THE ORISSA VALUE ADDED TAX (AMENDMENT) ACT, 2010

AN ACT FURTHER TO AMEND THE ORISSA VALUE ADDED TAX ACT, 2004

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

Short title and commencement.

1. (1) This Act may be called the Orissa Value Added Tax (Amendment) Act, 2010.

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

Amendment of section 2.

2. In the Orissa Value Added Tax Act, 2004 (hereinafter referred to as the principal Act), in section 2, for clause (1), the following clauses shall be substituted namely:—

Orissa Act 4. of 2005.

‘(1-a) “Advance Ruling Authority” means the Orissa Sales Tax Tribunal constituted under sub-section (1) of section 4;

(1-b) "Advance Ruling" means a determination made by the Advance Ruling Authority of a disputed question raised under sub-section (1) of section 78-A;

(1-c) "Applicant for Advance Ruling" means a registered dealer who has filed an application under sub-section (1) of section 78-A;

(1-d) "appellate authority" means any authority prescribed for the purpose of section 77;'

Amendment
of section 3.

3. In the principal Act, in section 4, in sub-section (3)—

(i) in clause (b), the word "and" appearing at the end shall be omitted;

(ii) in clause (c), for the fullstop "." appearing at the end, the semicolon and the word "; and" shall be substituted; and

(iii) after clause (c), the following clause shall be added, namely:—

"(d) three members of the Tribunal, which shall include the chairman or the senior Judicial member and one Accounts member and another judicial member when the case is to hear an application seeking an advance ruling and shall be presided over by the chairman or, as the case may be, the senior Judicial Member."

Amendment
of section 9.

4. In the principal Act, in section 9, in clause (b), for the words "rupees twenty lakhs", the words "rupees forty lakhs" shall be substituted.

Amendment
of section 10.

5. In the principal Act, in section 10, in sub-section (4), in clause (d), for the letter and figure "Rs. 3,00,000" the letter and figure "Rs. 5,00,000" shall be substituted.

Amendment
of section 16.

6. In the principal Act, in section 16, for the words "rupees twenty lakhs" the words, "rupees forty lakhs" shall be substituted.

Amendment
of section 32.

7. In the principal Act, in section 32 , in sub-section (4), for the words "thirty days" the words "ninety days" shall be substituted.

Amendment
of section 34.

8. In the principal Act, in section 34, in sub-section (1),—

(a) in clause (c), the word "or" shall be added at the end;

(b) after clause (c), the following clause shall be added, namely:—

"(d) fails to pay the amount of tax due for any month in the manner prescribed;"

(c) in sub-clause(iii), after the semicolon the word, "or" shall be inserted;

(d) after sub-clause (iii), the following sub-clause shall be inserted, namely:—

"(iv) the tax payable for any month or months within the prescribed time."; and

(e) after the words "the return for the period" and before the words "was due" the words "or payment for the month" shall be inserted.

Amendment
of section 42.

9. In the principal Act, in section 42, in sub-section (6), for the words "receipt of" appearing after the words "within a period of six months from the date of" the words "service of notice issued under sub-section (1) along with" shall be substituted.

Amendment
of section 43.

10. In the principal Act, in section 43,—

(i) in sub-section (2), after the word "escapement", the words "or under assessment of tax on account of any reason(s) mentioned in sub-section (1) above", shall be inserted; and

(ii) in sub-section (3), for the words "after the expiry of five years", the words "after the expiry of seven years" shall be substituted.

Amendment
of section 75.

11. In the principal Act, in section 75, in sub-section (3), the words and comma "subject to appropriate permission where necessary," shall be omitted.

Insertion of
new section
78-A.

12. In the principal Act, after section 78, the following section shall be inserted, namely :—

"Advance
Ruling on
disputed
questions.

78-A.(1) Any registered dealer may apply in the prescribed form and manner, to the Tribunal for obtaining an advance ruling on any disputed question relating to,—

- (i) determination of rate of tax of a particular commodity, or
- (ii) admissibility of input tax credit on a particular transaction of purchase and if admissible, the conditions and restrictions subject to which such Input Tax Credit shall be admissible.

(2) If, in the opinion of the Tribunal, the application does not relate to any disputed question as referred to in sub-section (1) or the application is incomplete or incorrect, the Tribunal may, after giving the applicant a reasonable opportunity of being heard, reject the application.

(3) An application seeking Advance Ruling by any registered dealer shall not be entertained on the following grounds, namely:—

- (i) if the disputed question on which Advance Ruling has been sought is the subject matter of any assessment or appeal proceeding concerning the said dealer, or
- (ii) if the disputed question arises from any order already passed under this Act.

(4) (a) On admission of the application, the bench constituted for the purpose under clause (d) of sub-section (3) of section 4, shall, after hearing the applicant and the Commissioner or his authorized representative, pronounce its advance ruling on the question specified in the application.

- (b) The decision of the majority of members in the bench shall be final in case the members differ in their opinion.
- (c) The pronouncement of the advance ruling shall be made by the bench within four months of the receipt of the application by the Tribunal.

(5) (1) The advance ruling so pronounced shall be prospective in effect and shall be binding on the applicant who sought the ruling under sub-section (1) in respect of the question raised in the application, and on the authorities appointed or constituted under the Act in all similar cases situated in similar facts and circumstances.

(2) The Advance Ruling so pronounced under sub-section (4) shall be binding unless there is a change of law on the basis of which the advance ruling has been pronounced and accordingly no such question shall be entertained in any proceeding by any authority appointed or constituted under this Act, save as provided in section 80.

(6) The advance ruling so pronounced by the Advance Ruling Authority shall have effect on other dealers situated in similar facts and circumstances of any case.

(7) Where the Advance Ruling Authority finds, on a representation made to it by the Commissioner or otherwise, that an advance ruling pronounced by it under sub-section (4) has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order and after giving opportunity being heard, declare such advance ruling to be void ab initio and thereupon all the provisions of this Act shall apply to the applicant as if such advance ruling had never been made.

(8) On receipt of representation from the Commissioner or application from the applicant indicating change of law or fact basing on which advance ruling was pronounced under sub-section (4), the Advance Ruling Authority shall have the power to modify the said ruling after hearing the parties to the advance ruling.

(9) Time spent in obtaining an Advance Ruling, or disposal of the application for advance ruling or otherwise, or orders passed under sub-section (7) or sub-section (8) shall be excluded while counting the period of limitation prescribed under the Act for doing anything under this Act.”.

Amendment
of section 80.

13. In the principal Act, in section 80,—

- (i) in sub-section (1), after the words, bracket and figures “under sub-section (4) of section 78”, the words, bracket, figures and letter “or a ruling under sub-section (4) of section 78-A” shall be inserted;
- (ii) for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) The petition shall be in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.”.

By Order of the Governor

D. DASH

Principal Secretary to Government