

ORISSA ACT XXXVII OF 1951

**THE ORISSA SALES TAX (AMENDMENT)
ACT, 1951**

[*Received the assent of the Governor on the 16th
November 1951, first published in an extraordinary
issue of the Orissa Gazette, dated the 26th
November 1951*]

AN ACT TO AMEND THE ORISSA SALES TAX ACT, 1947

WHEREAS it is expedient to amend the Orissa Orissa Act
Sales Tax Act, 1947 in the manner hereinafter XIV of 1947
appearing ;

It is hereby enacted as follows :—

Short title
and com-
mencement

1. (1) This Act may be called the Orissa Sales
Tax (Amendment) Act, 1951.

(2) It shall come into force at once.

Amendment
of section 2,
Orissa Act
XIV of 1947

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

(a) for clause (b) the following clause shall be
substituted, namely :—

“(b) ‘contract’ means any agreement for the
carrying out for cash or deferred payment or other
valuable consideration—

(i) the construction, fitting out, improvement
or repair of any building, road, bridge or other
immovable property ;

(ii) the installation or repair of any machinery
affixed to any building or other immovable property;
or

(iii) the overhaul or repair of any motor
vehicle or other machinery ”;

(b) in clause (c) after the word “who” the word
“executes any contract or ” shall be inserted ;

(c) after clause (j) the following clause shall be inserted, namely :—

“(k) ‘quarter’ means a period of three months ending on the 31st March, 30th June, 30th September or 31st December.”

Amendment
of section 4,
Orissa Act
XIV of 1947

3. In section 4 of the said Act—

(i) in sub-sections (2) and (4) for the words “three months after the commencement of the year, immediately following that”, the following words shall be substituted, namely :—

“the quarter immediately following a period not exceeding twelve months”;

(ii) to sub-section (3) the following further proviso shall be added, namely :—

“Provided further that in calculating a period of three consecutive years the part of a year during which a dealer became first or again liable shall be excluded.”;

(iii) after sub-section (4) the following new sub-section shall be inserted, namely :—

“(5) Where a registered dealer starts a new business, partnership, firm or concern, whether by changing the constitution, style or the name of the previous business, partnership, firm or concern or otherwise, either singly or jointly with any other person, such newly started business, partnership, firm or concern shall, notwithstanding anything contained in this section but always subject to the other provisions of this Act, be liable to pay tax on sales which have taken place in Orissa from the date of commencement of the said business, partnership, firm or concern, as the case may be”.

Amendment
of section 5,
Orissa Act
XIV of 1947

4. For sub-clause (ii) of clause (a) of sub-section (2) of section 5 of the said Act, the following sub-clause shall be substituted, namely :—

“(ii) sales to a registered dealer of goods specified in the purchasing dealer's certificate of registration as being intended for resale by him in Orissa or

for use by him in the execution of any contract in Orissa, and on sales to a registered dealer of containers or other materials for the packing of such goods :

Provided that when such goods are used by the registered dealer for purposes other than those specified in his certificate of registration, the price of goods so utilised shall be included in his taxable turnover."

Amendment
of section 9,
Orissa Act
XIV of 1947

5. For sub-section (2) of section 9 of the said Act, the following sub-section shall be substituted, namely :—

"(2) Every dealer required by sub-section (1) to be registered shall make an application in this behalf in such manner and accompanied by such annual fee not exceeding ten rupees to such authority as may be prescribed."

Amendment
of section 9-A
Orissa Act
XIV of 1947

6. In section 9-A of the said Act—

(i) in sub-section (1) after the words "in the prescribed manner" the words "accompanied by a fee of rupees two" shall be inserted ;

(ii) to sub-section (4), the following proviso shall be added, namely :—

"Provided that the dealer shall pay an annual registration fee of one rupee for such number of years during which the registration certificate remains in force".

Amendment
of
section 11,
Orissa Act
XIV of
1947

7. In section 11 of the said Act—

(i) in sub-section (3) after the words "not exceeding" the words "one-tenth percentum of the tax due or" shall be inserted.

(ii) to the said sub-section the following explanation shall be added, namely :—

"*Explanation*—A return unaccompanied by a receipt from the treasury showing full payment of the admitted tax, shall not be deemed to be a return for the purposes of this section".

Amendment
of section 12,
Orissa Act
XIV of 1947

8. In section 12 of the said Act—

(i) (a) in sub-section (5) for the word "wilfully" the words "without sufficient causes" shall be substituted ;

(b) to the said sub-section the following proviso shall be added, namely :—

“ Provided that no penalty shall be levied for the quarter during which the dealer first or again becomes liable to pay tax under this Act.”;

(ii) in sub-section (7) after the words, brackets and figure “sub-section (5) of this section”, the words “ and may also direct, in cases where such escapement or under-assessment is due to the dealer having concealed particulars of his turnover or having without sufficient causes has furnished incorrect particulars thereof, that the dealer shall pay, by way of penalty, in addition to the tax assessed under this sub-section, a sum not exceeding one and a half times of the said tax so assessed” shall be inserted.

Amendment
of section 13,
Orissa Act
XIV of 1947

9. In section 13 of the said Act—

(i) in clause (c) of sub-section (4) after the words, brackets and figure “sub-section (5)” the words, brackets and figure “or sub-section (7)” shall be inserted ;

(ii) for sub-section (5) the following sub-section shall be substituted, namely :—

“(5) If any amount of tax together with penalty, if any, is not paid by the date fixed in the notice under sub-section (4), the Collector may direct that the dealer shall, in addition, pay by way of penalty a sum not exceeding one-eighth of the total amount due within such date not being less than thirty days from the date of service of notice upon the dealer in this behalf :

Provided that when a dealer has presented an appeal under section 23, the Collector may, in his discretion, treat the dealer as not being in default so long as the appeal remains pending.”;

(iii) after sub-section (5) the following new sub-section shall be inserted, namely :—

“(6) The amount of tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (4) or after the date specified in the notice under sub-section (5), shall be recoverable as an arrear of land revenue”.

Amendment
of section 14,
Orissa Act
XIV of 1947

10. In section 14 of the said Act the word "registered" shall be omitted.

Amendment
of section
19, Orissa
Act XIV of
1947

11. Section 19 of the said Act shall be renumbered as sub-section (1) of the said section and after the said sub-section as so renumbered, the following new sub-sections shall be added, namely :—

"(2) For the purpose of fixing liability of a transferee unregistered dealer under section 4 the gross turnover of the business of the transferer shall be deemed to be the gross turnover of the business of the transferee.

(3) If any business carried on by a firm, Hindu undivided family or an association of persons has been discontinued or dissolved, every person who was at the time of such discontinuance or dissolution, a partner of such firm or member of the Hindu undivided family or such association, shall, in respect of the turnover of the firm, Hindu undivided family or association, be jointly and severally liable to assessment under section 12 and for the amount of tax payable and all the provisions of the Act, shall, so far as may be, be applied to such assessments".

Amendment
of section
23, Orissa
Act XIV of
1947

12. To sub-section (1) of section 23 of the said Act, the following further proviso shall be added, namely :—

"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".

Amendment
of section
25, Orissa
Act XIV of
1947

13. After clause (b) of sub-section (1) of section 25 of the said Act the following new clause shall be inserted, namely :—

"(bb) makes a statement in a verification mentioned in an application for registration under section 9 or 9-A, or in the return of income, or application for refund under section 14, or in a form of appeal prescribed in section 23, which is false and which he either knows or believes to be false or does not believe to be true ; or".