

ORISSA ACT V OF 1946

THE ORISSA ENTERTAINMENTS
TAX ACT, 1946

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AN ACT TO IMPOSE A TAX ON AMUSEMENTS AND OTHER
ENTERTAINMENTS IN THE PROVINCE OF ORISSA

WHEREAS it is expedient to provide for the levy by the Provincial Government of a tax on amusements and other entertainments, to repeal the Madras Local Authorities Entertainments Tax Act, 1926 and to provide for the payment of compensation to such local authorities as are now levying a tax under the aforesaid Act ;

It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Orissa Entertainments Tax Act, 1946.

(2) It extends to the whole of the Province of Orissa.

(3) This section shall come into force at once, and the remaining sections shall come into force in such areas and on such date or dates as the Provincial Government may, by notification, appoint.

Repeal of
Madras Act
V of 1927.

2. The Madras Local Authorities Entertainments Tax Act, 1926, is hereby repealed.

Definitions

3. In this Act, unless there is anything repugnant in the subject or context—

(1) "admission" includes admission as a spectator or as one of the audience, and admission for the purpose of amusement by taking part in an entertainment ;

(2) "admission to an entertainment" includes admission to any place in which an entertainment is held ;

(3) "agriculture" includes horticulture and the breeding of animals of every description ;

(4) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment ;

(5) "insitution" includes a company, society, club or other association of persons by whatever name called ;

(6) "local authority" means a body of Municipal Commissioners or a Municipal Council or a District Board or any Local Board or Union Board or Committee constituted under any enactment for the time being in force in the Province of Orissa ;

(7) "payment for admission" includes—

(a) any payment made by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher tax is required ;

(b) any payment for seats or other accommodation in a place of entertainment ;

(8) "prescribed" means prescribed by rules made under this Act ; and

(9) "proprietor" in relation to any entertainment includes any person responsible for or for the time being in charge of the management thereof.

Tax on
payments
for admis-
sion to
entertain-
ments.

4. Except as otherwise expressly provided in this Act, there shall be levied and paid to the Provincial Government, on all payments for admission to any entertainment, a tax (hereinafter referred to as the tax) at the following rates, namely:—

Where the payment, excluding the amount of the tax—

(i) is more than two annas but less than four annas. *Six pies*

(ii) is four annas or more but less than eight annas. *One anna*

(iii) is eight annas or more but less than one rupee. *Two annas*

(iv) is one rupee or more but less than two rupees. *Four annas*

(v) is two rupees or more but not more than three rupees. *Eight annas*

(vi) is in excess of three rupees *One rupee*

Composition
and
consolidated
payment
of tax.

5. The Provincial Government may, on the application of the proprietor of any entertainment in respect of which the tax is payable under section 4, allow the proprietor on such conditions as they may lay down—

(a) to compound the tax payable in respect of such entertainment for a fixed sum ; or

(b) to pay the amount of the tax due by means of a consolidated payment at such percentage of the gross proceeds received by the proprietor on account of payments for admission to such entertainment and on account of the tax, as the Provincial Government may fix.

Admission
to entertain-
ments.

6. (1) Save in the cases referred to in section 5, no person shall be admitted for payment to any entertainment where the payment is subject to the tax except—

(a) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not previously used) issued by the Provincial Government and indicating the proper tax for such ticket, or

(b) in special cases, with the approval of the Provincial Government, through a barrier which, or by means of a mechanical contrivance which automatically registers the number of persons admitted,

unless the proprietor of the entertainment has made arrangements approved by the Provincial Government for furnishing returns of the payments for admission to the entertainment and on account of the tax and has given security up to an amount and in a manner approved by the Provincial Government for the payment of the tax.

(2) Nothing in sub-section (1) shall be deemed to preclude the Provincial Government from requiring security from the proprietor of an entertainment for the payment of the tax in any other case.

Manner of
payment of
tax.

7. (1) The tax shall be levied in respect of each person admitted for payment, and in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket, and, in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions.

(2) The tax in the case of admission otherwise than by stamped ticket shall be recoverable from the proprietor.

(3) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any institution, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time or for any privilege right, facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced charge, the tax shall be paid on the amount of the lump sum and shall be twenty-five per cent of such lump sum notwithstanding anything contained in section 4:

Provided that where the Provincial Government are of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period during which the tax has not been in operation, the tax shall be levied on such an amount as appears to the Provincial Government to represent the right of admission to entertainments in respect of which the tax is payable.

Entertain-
ments
exempted
from
payment
of tax.

8. (1) The tax shall not be levied on payments for admission to any entertainment where the Provincial Government are satisfied—

(a) that the entire gross proceeds of the entertainment are devoted to philanthropic, religious or charitable purposes without any charge on such proceeds for any expenses of the entertainment ; or

(b) that the entertainment is provided for purposes which are partly educational or scientific by an institution not conducted or established for profit ; or

(c) that the entertainment is provided by an institution not conducted for profit and established solely for the purpose of promoting the public health or the interests of agriculture or of a manufacturing industry, and consists solely of an exhibition of articles which are of material interest in connexion with questions relating to public health or agriculture, or of the products of the industry for promoting the interests of which the institution exists or of the materials, machinery, appliances or foodstuffs used in the production of those products.

(2) The Provincial Government may, by general or special order, exempt any entertainment or class of entertainments or any class of audience or spectator from liability to the tax.

Refunds in
certain cases.

9. Where the Provincial Government are satisfied that the whole of the net proceeds of an entertainment have been or are to be devoted to philanthropic, religious or charitable purposes, and that in calculating the net proceeds, not more than twenty per cent of the gross proceeds inclusive of the tax have been deducted on account of the expenses of the entertainment, they shall repay to the proprietor the amount of the tax paid in respect of the entertainment.

Manner of
recovery of
tax.

10. Any amount due on account of the tax may be recovered by the Provincial Government as if it were an arrear of land revenue.

Inspection

11. (1) (a) Any officer authorized by the Provincial Government in this behalf may enter any place of entertainment while the entertainment is proceeding and any place ordinarily used as a place of entertainment at any reasonable time, for the purpose of seeing whether the provisions of this Act or any rules made thereunder are being complied with.

(b) Every officer so authorized shall be deemed to be a public servant within the meaning of section 21 of the **XLV of 1860** Indian Penal Code.

(2) The proprietor of every entertainment or the owner or person in charge of any place ordinarily used as a place of entertainment shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) If any person prevents or obstructs the entry of the inspecting officer, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be punished with fine which may extend to five hundred rupees.

Exemption
from
payment for
admission

12. The officer referred to in section 11 or any other officer who has to enter any place of entertainment in pursuance of a duty imposed upon him by or under this Act or any other law shall not be required to pay for his admission to the entertainment.

Payment of
compensation
to local
authorities.

13. (1) From the proceeds of the tax collected under this Act every year, there shall be paid to each of the local authorities which were in receipt of an income from the tax levied under the Madras Local Authorities Entertainments Tax Act, 1926, during any part of the three years preceding the 1st April 1946 a sum not less than the net maximum income derived by such local authority during any one of those three years from the tax so levied :

Madras Act
V of 1927.

Provided that from the amount payable under this sub-section to any local authority for the first year after the commencement of this Act, the net income derived by that authority from any tax levied on and after the 1st April of that year under the Madras Local Authorities Entertainments Tax Act, 1926, shall be deducted.

Madras
Act V of
1927

Explanation—In this sub-section, “year” shall mean the financial year.

(2) The Provincial Government shall determine the sums which should be paid to local authorities under sub-section (1) and their determination shall be final.

Such determination by the Provincial Government shall not be called in question in any court whatsoever.

Penalties

14. The proprietor of any entertainment who—

(a) admits any person for payment to any place of entertainment in contravention of the provisions of section 6, or

(b) fails, without sufficient cause, to pay the tax due from him within the time prescribed, or

(c) fraudulently evades the payment of any tax due under this Act, or

(d) contravenes any of the provisions of this Act,

shall, on conviction by a Magistrate, be liable in respect of each such offence to a fine which may extend to five hundred rupees, and shall, in addition, be liable to pay any tax which should have been paid.

Power to
compound
offences.

15. (1) The prescribed authority may either before or after the institution of legal proceedings accept from any person who has committed or is reasonably suspected of having committed an offence under this Act or under any rules made 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 payable under this Act, in addition to the tax so payable, a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater ; and

(b) in other cases, a sum of money not exceeding five hundred rupees.

(2) On payment of such sum as may be determined by the prescribed authority under sub-section (1) no further proceedings under the Act shall be taken against the accused in respect of the same offence.

Power to
make rules.

16. (1) The Provincial Government may make rules for securing the payment of the tax and generally for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules—

(a) for the supply and use of stamps or stamped or embossed tickets, or for the stamping or embossing of tickets sent to be stamped or embossed, and for securing the defacement of stamps when used ;

(b) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon; and for the payment of the tax on the transfer from one part of a place of entertainment to another, and on payments for seats or other accommodation ;

(c) for regulating the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount) and for securing proper records of admission by means of barriers or mechanical contrivances.

(d) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments to which the provisions of section 5 are applied or in respect of which the arrangements approved by the Provincial Government for furnishing returns are made under section 6 ;

(e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this Act or under the rules made thereunder ;

(f) for the keeping of accounts of all stamps used under this Act ;

(g) for the presentation and disposal of applications for exemption from payment of the tax, or for the refund thereof, made under the provisions of this Act ;

(h) for the collection of the tax under this Act and the powers to be exercised by the officers of the Provincial Government in that behalf ;

(i) for the issue of passes by proprietors of entertainments for the admission of officers who have to perform any duty in connexion therewith or any other duty imposed upon them by law.

(3) In making a rule under sub-section (1) or sub-section (2), the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees.

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication for a period of not less than one month.

(5) All rules made under this section shall be published in the Gazette, and on such publication shall have effect as if enacted in this Act.

Bar of cert: in proceedings.

17. No suit, prosecution or other legal proceedings shall lie against any servant of the Crown for anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.

Limitation for certain suit and prosecutions.

18. No suit or other legal proceeding shall lie against the Crown and no suit, prosecution or other proceeding shall lie against any officer or servant of the Crown in respect of any act done or purporting to be done in pursuance of this Act or any rules made thereunder, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Delegation of certain powers of the Provincial Government.

19. (1) The Provincial Government may by notification, delegate all or any of their powers under this Act, except those conferred upon them by sub-section (3) of section 1, section 16 and this section, to any person or authority subordinate to the Provincial Government, and may in like manner withdraw any powers so delegated.

(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the Provincial Government, and shall also be subject to control and revision by them.