

## ORISSA ORDINANCE No. 2 OF 1986

## THE ORISSA SALES TAX (AMENDMENT) ORDINANCE, 1986

[ Promulgated by the Governor of Orissa on the 2nd July 1986, first published in an extraordinary issue of the Orissa Gazette, dated the 2nd July, 1986 ]

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## ORDINANCE

To amend the Orissa Sales Tax Act, 1947

WHEREAS the Legislature of the State of Orissa is not in session;

AND WHEREAS the Governor of Orissa is satisfied that circumstances arise which render it necessary for him to take immediate action to amend the Orissa Sales Tax Act, 1947 in the manner hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Orissa is pleased to make and promulgate the following Ordinance in the Thirty-seventh Year of the Republic of India :—

Short title  
and  
commence-  
ment.

1. (1) This Ordinance may be called the Orissa Sales Tax (Amendment) Ordinance, 1986.

(2) It shall be deemed to have come into force with effect from the 7th day of April, 1984.

Amendment  
of section 2.

2. In section 2 of the Orissa Sales Tax Act, 1947 (hereinafter referred to as Orissa Act 14 of 1947, the principal Act), for clause (c) including the Explanations thereunder and clause (d), the following shall be substituted, namely :—

"(c) "Dealer" means any person who carries on business of purchasing, selling, supplying or distributing goods (including goods used or involved in the execution of works contract, whether as goods or in some other form), directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration and includes—

- (i) a local authority, a company, and undivided Hindu family, any society (including a Co-operative Society, club, firm or association which carries on such business;
- (ii) a society (including a Co-operative Society), club, firm, association or body of persons whether incorporated or not, which purchases goods from, or sells, supplies or distributes goods to members thereof for cash, deferred payment or other valuable consideration;
- (iii) a commission agent, a broker, a delcredere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of purchasing, selling, supplying, or distributing goods on behalf of any principal whether disclosed or not;
- (iv) a casual dealer;
- (v) a person who transfers, otherwise than in pursuance of a contract property in any goods for cash, deferred payment or other valuable consideration;
- (vi) a person who transfers property in goods (whether as goods or in some other form involved) in the execution of a works contract;

- (vii) a person who delivers goods on hire-purchase or any system of payment by instalments;
- (viii) a person who transfers the right to use in goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
- (ix) a person who supplies by way of or as part of any service or in any other manner, goods, being food or any other article of human consumption or any drink (whether or not intoxicant), whether such supply or service is for cash, deferred payment or other valuable consideration.

**Explanation I**—Every person who acts as an agent on behalf of a dealer residing outside the State and purchases, sells, supplies or distributes goods in the State or acts on behalf of such dealer as—

- (i) a mercantile agent as defined in the Indian Sale of Goods Act, 1930, or
- (ii) an agent for handling goods or documents of title relating to goods, or
- (iii) an agent for the collection or payment of the sale price of goods or as a guarantor for such collection or payment,

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and every local branch of a firm registered outside the State or of a company, the principal office or headquarters whereof is outside the State shall be deemed to be a dealer for the purposes of this Act.

**Explanation II**—The Central Government or a State Government or any of their employees acting in official capacity on behalf of such Government who, whether or not in the course of business, purchases, sells, supplies or distributes goods, directly or otherwise for cash or for deferred payment or for commission, remuneration or for other valuable consideration, shall, except in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act.

(d) "Goods" means all kinds of movable property other than actionable claims, stock, share or securities, and includes goods used or involved in the execution of works contract whether as goods or in some other form, all growing crops, grass and things attached or forming part of the land which are agreed before sale or under the contract of sale to be severed."

Amendment  
of Section 5.

3. In section 5 of the principal Act, in sub-section (2), for clause (AA), the following clause shall be substituted, namely:—

"(AA) Notwithstanding anything contained in sub-section (2) (A);

"Taxable turnover" in respect of—

- (i) "works contract" shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour charges and service charges incurred for the execution of the contract;
- (ii) "delivery of goods on hire-purchase or any system of payment by instalments" shall be deemed to be the hire-purchase price or total sum payable by the person for the purchase of goods, irrespective of the payment of the price in periodical instalments."

B. N. PANDE

Dated the 2nd July, 1986

Governor of Orissa