

ORISSA ACT 8 OF 2004

THE ORISSA SALES TAX (AMENDMENT) ACT, 2004

TABLE OF CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement.
2. Amendment of Section 2.
3. Amendment of Section 4.
4. Amendment of Section 6.
5. Amendment of Section 7.
6. Amendment of Section 8.
7. Amendment of Section 9-B.
8. Insertion of new Section 9-BB.
9. Amendment of Section 13.
10. Amendment of Section 13-AA.

4

Total

Rs.

88,01,000

7,66,60,000

93,65,000

93,77,000

95,86,000

62,36,000

73,08,000

98,20,000

52,03,000

01,01,000

00,02,000

07,24,000

90,69,000

41,00,000

18,00,000

53,99,000

88,75,000

42,74,000

ORISSA ACT 8 OF 2004

***THE ORISSA SALES TAX (AMENDMENT) ACT, 2004**

[Received the assent of the Governor on the 8th October, 2004, first published in an Extraordinary issue of the *Orissa Gazette* dated the 12th October, 2004 (No. 1367)]

AN ACT FURTHER TO AMEND THE ORISSA SALES TAX ACT, 1947

BE it enacted by the Legislature of the State of Orissa in the Fifty-fifth Year of the Republic of India as follows :-

Short title
and
commencement.

1. (1) This Act may be called the Orissa Sales Tax (Amendment) Act, 2004.

(2) This Section and Sections 3, 4, 5, 6 and 10 shall come into force at once and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification, appoint.

Amendment
of Section 2.

2. In Section 2 of the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act), after clause (c), the following clause shall be inserted, namely :-

Orissa Act
14 of 1947.

(c-1) "Fund" means the Orissa Consumer Welfare Fund constituted under Section 9-BB;'

Amendment
of Section 4.

3. In Section 4 of the principal Act,-

(a) to sub-section (1), the following provisos shall be added, namely :-

"Provided that in the case of a dealer who is engaged in the execution of works contract and in execution thereof supplies goods, whether as goods or in some other forms, and whose gross turnover during the year preceding the date of commencement of the Orissa Sales Tax (Amendment) Act, 2004 exceeded fifty thousand rupees, shall be so liable under this Act :

Provided further that in case of a dealer who is engaged in execution of works contract of Panchayati Raj Institutions under Poverty Alleviation Programme shall not be so liable under this Act.";

(b) in sub-sections (2), (3) and (4), for the word, brackets and figure "sub-section (7)", the words "this Section" shall be substituted ; and

(c) in sub-section (7), clause (c) shall be omitted.

Amendment
of Section 6.

4. In Section 6 of the principal Act, the following Explanation shall be inserted at the end, namely :-

"*Explanation*- When any goods or class of goods so exempted are in respect of the finished goods of any industrial unit, such finished goods shall mean and shall always be deemed to have meant the goods which are manufactured only by such industrial unit and bear its own trademark or brandname, and not the trademark or brandname of any other industrial unit".

Amendment
of Section 7.

5. In Section 7 of the principal Act, the following Explanation shall be added at the end, namely :-

*For the Bill, See *Orissa Gazette*, Extraordinary, dated the 12th October 2004 (No. 1367)

Explanation— When any such exemption or deferment of payment of tax is allowed in respect of any class of dealers being industrial units, such exemption or deferment in case of any such industrial unit shall mean and shall always be deemed to have meant the exemption or deferment in respect of the turnover which relates to goods manufactured only by such industrial unit bearing its own trademark or brandname, and not the trademark or brandname of any other industrial unit.”

Amendment
of Section 8.

6. The Explanation to Section 8 of the principal Act, shall be renumbered as Explanation-I thereto and, after Explanation-I as so renumbered, the following Explanation shall be inserted, namely :—

Explanation-II— Sales of goods or classes or description of goods when notified to be taxed at the point at which first such sale is effected by a registered dealer in a series of sales by successive dealers, such point, where such goods are manufactured by an industrial unit in the State of Orissa and bear the trademark or brandname of anyone else, shall mean and shall always be deemed to have meant the point at which the first of such sales of those goods are effected by a registered dealer, other than such industrial unit.”

Amendment
of Section
9-B.

7. In Section 9-B of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely :—

“(5) (i) The amount of tax collected by any person or dealer in contravention of clause (a) of sub-section (1) and any amount deducted by any person by way of tax in contravention of clause (b) of the Section shall be forfeited to the State Government by an order of the Commissioner :

Provided that no such order shall be made by the Commissioner without giving the dealer or, as the case may be, the person concerned an opportunity of being heard.

(ii) When any such order of forfeiture is made, the Commissioner shall send a notice in the prescribed manner to the persons from whom tax has been so collected or, as the case may be, deducted in contravention of sub-section (1) and other details, if any, relating thereto as may be prescribed and giving such persons an opportunity to file their claims accompanied by such documentary or other evidence as each such persons may furnish to establish his claim, within sixty days from the date of such publication of the notice, for refund of the amount so collected from them or deducted from their dues.

(iii) If, on receipt of any such claim, the Commissioner is satisfied that the whole or any part of the amount of such claim is refundable, he shall refund such amount to the person concerned within one month after the amount is collected or recovered from the dealer or person who collected or, as the case may be, deducted the amount in contravention of sub-section (1).”

Insertion of
new Section
9-BB.

8. After Section 9-B of the principal Act, the following Section shall be inserted, namely :—

Consumer
Welfare
Fund.

“9-BB. (1) There shall be established by the State Government a fund, to be called the Orissa Consumer Welfare Fund.

(2) There shall be credited to the Fund in such manner as may be prescribed,—

- (a) an amount of rupees one lakh, to be initially paid by the State Government by way of grant for the purpose of the Fund ; and
- (b) all amount forfeited under sub-section (5) and all penalty paid pursuant to sub-section (3) of Section 9-B including interest recovered, if any, on such amounts except any amount refunded under clause (iii) of sub-section (5) of the said Section after deducting therefrom the expenses of collection and recovery as determined by the State Government.

(3) The money is credited to the Fund shall be utilised by the State Government for the welfare of the consumers in accordance with such rules and the accounts and other relevant records in relation to the Fund shall be maintained in such manner as may be prescribed.”

Amendment
of Section
13.

9. In Section 13 of the principal Act, in clause (e) of sub-section (4), after the word, brackets and figure “sub-section (3)”, the words, brackets and figure “and amount forfeited under sub-section (5)” shall be inserted.

Amendment
of Section
13-AA.

10. In Section 13-AA of the principal Act, in sub-section (1), for the words “rupees one lakh”, the words “rupees fifty thousand” shall be substituted.