

THE ODISHA VALUE ADDED TAX (AMENDMENT) ACT, 2017

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LAW DEPARTMENT

NOTIFICATION

The 21st June 2017

No. 6677—I-Legis-19/2017-L.—The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 20th June, 2017 is hereby published for general information.

ODISHA ACT 8 OF 2017

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

Be it enacted by the Legislature of the State of Odisha in the Sixty-eighth Year of the Republic of India as follows :—

Short title and commencement

1. (1) This Act may be called the Odisha Value Added Tax (Amendment) Act, 2017.

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

Amendment of section 2.

2. In the Odisha Value Added Tax Act, 2004 (hereinafter referred to as the principal Act), in section 2,—

Odisha Act 4 of 2005.

(i) clause (8) shall be omitted;

(ii) in clause (12), the words and comma "executing works contract," appearing after the words and comma "supplying or distributing goods," and the words and comma "transferring the right to use any goods or supplying by way of or as part of any service, any goods directly or otherwise," appearing after the words and comma "delivering any goods on hire-purchase or any system of payment by instalments," shall be omitted;

(iii) for clause (21), the following clause shall be substituted, namely:—

'(21) "goods" means the goods specified in Schedule C of this Act';

(iv) clause (25) shall be omitted;

(v) clause (26) shall be omitted;

- (vi) clause (27) shall be omitted;
- (vii) clause (29) shall be omitted;
- (viii) clause (36) shall be omitted;
- (ix) clause (43) shall be omitted;
- (x) in clause (45), sub-clause (b), sub-clause (e) and sub-clause (f) shall be omitted; and
- (xi) clause (63) shall be omitted.

Amendment
of section 4

3. In the principal Act, in section 4, for the sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The functions of the Tribunal may be exercised by a bench consisting of—

- (a) the Chairman or any other single member, as may be constituted by the Chairman, when the total disputed amount of tax and interest and penalty, if any, involved in a case does not exceed rupees one crore;
- (b) the Chairman or any other Judicial member and an Accounts member, as may be constituted by the Chairman, when the total disputed amount of tax and interest and penalty, if any, involved in a case exceeds rupees one crore, but does not exceed rupees five crore;
- (c) three members of the Tribunal, which shall include the Chairman or the senior Judicial member, one Accounts member and another Judicial member when the total disputed amount of tax and interest and penalty, if any, involved in a case exceeds rupees five crore and shall be presided over by the Chairman or, as the case may be, the senior Judicial member; and
- (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 10.

4. In the principal Act, in section 10, in sub-section (4), clause (b) shall be omitted.

Amendment
of section 11.

5. In the principal Act, in section 11,—

- (i) in sub-section(2), clauses (b-1) and (c) shall be omitted;
- (ii) sub-section (3) shall be omitted; and
- (iii) in clause (a) of sub-section (4), the words and commas “ or in the case of works contract, when the goods are incorporated in the course of execution of the works contract,” shall be omitted.

Amendment
of section 14.

6. In the principal Act, for section 14, the following section shall be substituted, namely:-

"14. The tax payable by a dealer under this Act shall be levied on his taxable turnover in respect of different goods specified in Schedule C at the rate mentioned therein in respect of those goods."

Omission of
section 17.

7. In the principal Act, section 17 shall be omitted.

Omission of
section 19.

8. In the principal Act, section 19 shall be omitted.

Omission of
section 20.

9. In the principal Act, section 20 shall be omitted.

Omission of
section 21.

10. In the principal Act, section 21 shall be omitted.

Omission of
section 22.

11. In the principal Act, section 22 shall be omitted.

Amendment
of section 33.

12. In the principal Act, in section 33, for sub-section(4), the following sub-section shall be substituted, namely:—

"(4) if any dealer, having furnished returns under sub-section (1) or sub-section (2), discovers any omission or incorrect statement therein or where there is requirement for adjustment of sale price or tax or both in relation to sale of any goods, makes such adjustment by way of issue of credit note or debit note, he may file a revised return any time on or before the end of October of the succeeding year or the date on which annual return is filed whichever is earlier:

Provided that, where as a result of revision of return, any extra amount on account of tax is found payable, the dealer revising the return shall pay such differential tax along with interest at the rate prescribed in sub-section (1) of section 34 and such interest shall be calculated from the due date for filing the original return to the date of payment of the differential tax".

Omission of
section 54.

13. In the principal Act, section 54 shall be omitted.

Amendment
of section 56.

14. In the principal Act, in section 56, for the words "five years" the words "seven years" shall be substituted.

Amendment
of section 57.

15. In the principal Act, in section 57, sub-sections (2) and (2-a) shall be omitted.

Amendment
of section 77.

16. In the principal Act, in section 77,—

(i) in sub-section (4), for the words and comma "and twenty per centum of the tax or interest or both, in dispute" the words and comma "and ten per centum of the tax or interest or both, in dispute" shall be substituted;

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

"(5) On admission of appeal, realization of the balance tax, interest or penalty, as the case may be, under dispute shall be deemed to be stayed in full till disposal of the appeal."; and

(iii) in sub-section (7-a), for the words "two years" wherever appearing, the words "three years" shall be substituted.

Amendment
of section 78.

17. In the principal Act, in section 78, for sub-section (6), the following sub-section shall be substituted, namely:—

"6. The Tribunal shall not entertain any appeal preferred by a dealer unless it is accompanied by satisfying proof of payment of twenty per centum of the tax or interest or both in dispute as determined under sub-section (7) of section 77:

"Provided that, on payment of twenty per centum of the tax or interest or both, in dispute, realization of the balance tax, interest or penalty, as the case may be, under dispute shall be deemed to be stayed in full till disposal of the appeal by the Tribunal.

Explanation—The payment of twenty per centum of the tax or interest or both in dispute shall be such including the amount deposited under sub-section (4) of section 77."

insertion of new
section 80A.

18. In the principal Act, after section 80, the following new section shall be inserted, namely:—

"Appeals not
to be filed in
certain cases.

80A.(1) The Government may, by notification, specify the monetary limit in respect of amount in dispute, for the purpose of regulating filing of revision before the High Court or appeal before the Tribunal, by the Commissioner under the provisions of this Act.

(2) Where, in pursuance of the notification issued under sub-section (1), the Commissioner has not filed an appeal or revision against any decision or order passed under the provisions of this Act, it shall not preclude the Commissioner from filing any appeal or revision, as the case may be, in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no revision or appeal, as the case may be, has been filed by the Commissioner pursuant to notification under sub-section(1), no person, being a party in any appeal or revision shall contend that the Commissioner has acquiesced in the decision on the disputed issue by not filing an appeal or revision in any case.

(4) The Tribunal or the High Court hearing an appeal or revision shall have regard to the circumstances under which the appeal or revision was not filed by the Commissioner in pursuance of the notification issued by the Government under sub-section(1)."

Amendment of
section 102A.

19. In the principal Act, in section 102A, in sub-section (1), for the words, alphabets and comma "Schedules A, B, C and D" the word and alphabet "Schedule C" shall be substituted.

Amendment of
section 106.

20. In the principal Act, in section 106, in sub-section (2), clauses (j), (k) and (l) shall be omitted.

Omission of
section 107.

21. In the principal Act, section 107 shall be omitted.

Omission of
Schedules.

22. In the principal Act, schedules A, B and D shall be omitted.

Amendment of
Schedule C.

23. In the principal Act, for Schedule C, the following Schedule shall be substituted, namely:—

"SCHEDULE C

<i>Sl. No.</i>	<i>Description of Goods</i>	<i>Rate of tax as applicable</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
1	<i>Foreign liquor, whether made in India or not, including brandy, whisky, vodka gin, rum, liquor, cordials, bitters and wines, or a mixture containing any of these, as also beer, ale, porter, cider, perry, and other similar potable fermented liquors.</i>	35%
2	<i>Country liquor</i>	20%
3	<i>Natural Gas</i>	15%
4	<i>Motor Spirit (Commonly known as Petrol), High Speed Diesel.</i>	26%
5	<i>Aviation Turbine Fuel</i>	5%
6	<i>Petroleum Crude</i>	5%

By Order of the Governor

B. P. ROUFRAY

Principal Secretary to Government