



The Andhra Pradesh Entry of Goods into Local Area Tax Act, 1987

Act 31 of 1987

Keyword(s):

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**THE ANDHRA PRADESH ENTRY OF GOODS INTO LOCAL
AREA TAX ACT, 1987.** ✓

ACT NO. 31 OF 1987*

[20th June, 1987]

An Act to provide for the levy and collection of tax on the entry of certain goods into local areas in the State of Andhra Pradesh for consumption, use or sale therein, and for matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-eighth Year of the Republic of India as follows:-

CHAPTER - I

Preliminary

1. (1) This Act may be called the Andhra Pradesh Entry of Goods into Local Area Tax Act, 1987. Short title, extent and Commencement.

*Received the assent of the President on the 22nd June, 1987. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part IV-A Extraordinary, dated the 9th April, 1987 at page 34.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force in such local area on such date as the State Government may, by notification in the Andhra Pradesh Gazette, appoint and they may appoint different dates for different local areas.

Definitions. 2. (1) In this Act, unless the context otherwise requires, —

Act VI of 1957. (a) “ Appellate Tribunal ” means the Appellate Tribunal constituted under the Andhra Pradesh General Sales Tax Act, 1957 ;

(b) “ assessing authority ” means any person authorised by the Government or by any authority empowered by them in this behalf, to make assessment of tax under this Act ;

(c) “ Commissioner ” means the person appointed by the Government to be the Commissioner of Commercial Taxes in the State ;

(d) “ Government ” means the State Government ,

Act II of 1956.
Act 19 of 1979.
Act 23 of 1981.
Act 6 of 1965.
Act 6 of 1965.
(e) “ local area ” means the area within the limits of, a city as declared under the Hyderabad Municipal Corporations Act, 1955, or the Visakhapatnam Municipal Corporation Act, 1979, or the Vijayawada Municipal Corporation Act, 1981 as the case may be, a municipality as constituted or deemed to have been constituted under the Andhra Pradesh Municipalities Act, 1965, or any notified area, as declared under section 389-A of the Andhra Pradesh Municipalities Act, 1965 and includes such other area within the limits of one or more Gram Panchayats, as may be declared by the Government by, notification to be a local area for the purposes of this Act;

(f) "scheduled goods" means goods specified in the Schedule to this Act ;

(g) "tax" means the tax on the entry of goods into a local area leviable under this Act ;

(h) "year" means the twelve months ending with the 31st day of March ;

(2) All words and expressions used in this Act and not defined, but defined in the Andhra Pradesh General Sales Tax Act, 1957 shall have the meanings respectively assigned to them in that Act. Act VI of 1957.

CHAPTER-II.

TAX AUTHORITIES.

3. (1) The Government may authorise the Commissioner to carry out the purposes of this Act.

Power of Government to appoint tax authorities.

(2) The Government may appoint or may empower the Commissioner to appoint as many officers or authorities as they or he may think fit for the purpose of assisting the Commissioner in exercising the powers and performing the functions conferred on or entrusted to him by or under this Act.

(3) The officers or authorities appointed under sub-section (2), shall exercise their powers, discharge their duties and perform their functions, within such limits of local area or areas and in respect of such classes of dealers as the Government or the Commissioner may assign to them.

(4) Subject to such rules as may be made in this behalf, the Commissioner may delegate any of his powers, duties or functions under this Act or the rules made thereunder to any officer or authority appointed under sub-section (2).

(5) Subject to such directions as the Government may, from time to time, give in this behalf, all officers and authorities appointed for the purposes of this Act, shall be under the supervision and control of the Commissioner and shall observe and follow the orders, instructions and directions issued by him from time to time.

CHAPTER-III. LEVY AND COLLECTION OF TAX.

Levy and
Collection
of Tax.

4. (1) There shall be levied and collected, for the purpose of this Act, a tax on the entry of all or any of the scheduled goods into a local area, for consumption, use or sale therein, from any place outside that local area, at such rate, not exceeding four percent of the purchase price of such goods, as may be specified by the Government, by notification in this behalf ; and the Government may specify different rates for different scheduled goods and for different local areas :

Provided that no such tax shall be levied and collected on the entry of any scheduled goods into a local area, if such goods are brought or caused to be brought into that area by a person other than a dealer.

Explanation :—In this sub-section “purchase price” means the price at which the goods have been purchased by the dealer before the entry thereof into the local area and if the goods have not been so purchased the market price thereof.

(2) The tax levied under this Act, in respect of the entry of any scheduled goods into a local area shall be payable by the dealer, who, —

(i) brings or causes to be brought into the local area such goods whether on his own account or on the account of his principal, or

(ii) takes delivery or is entitled to take delivery of such goods on such entry.

(3) The tax levied under this Act, shall be collected in such manner, within such time and through such agency as may be prescribed.

5. Notwithstanding anything in section 7, every dealer, who is liable to tax under this Act, shall every year submit a return relating to his business in the scheduled goods, and also such other returns to such authority, within such period, in such manner and containing such particulars as may be prescribed.

Submission of returns of transactions by dealers.

6. (1) If the assessing authority is satisfied that any return submitted under section 5 is correct and complete, he shall assess the amount of tax payable by the dealer on the basis thereof ; but if the return appears to him to be incorrect or incomplete he shall, after giving the dealer a reasonable opportunity of proving the correctness and completeness of the return submitted by him and making such inquiry as he deems necessary, assess to the best of his judgement, the amount of tax due from the dealer. An assessment under this sub-section shall be made only within a period of four years from the expiry of the year to which the assessment relates.

Assessment of tax.

(2) Where the return submitted by a dealer includes the purchase price or any of the particulars thereof which would not have been disclosed but for an inspection of accounts, registers or other documents of the dealer made by an officer authorised under this Act, before the submission of such return, the assessing authority may, after giving an opportunity to the dealer for making a representation in this behalf, treat such return to be an incorrect or incomplete return within the meaning of sub-section (1) and proceed to take action on that basis.

(3) When making an assessment to the best of judgement under sub-section (1), the assessing authority may also direct the dealer to pay in addition to the tax assessed, a penalty as specified in sub-section (12), on the purchase price that was not disclosed by the dealer in his return.

(4) Where any dealer —

(i) fails to submit return before the date prescribed in that behalf, or

(ii) produces the accounts, registers and other documents after inspection, or

(iii) submits a return subsequent to the date of inspection,

the assessing authority may, at any time within a period of six years from the expiry of the year to which the assessment relates, after issuing a notice to such dealer and after making such enquiry as he considers necessary, assess to the best of his judgement, the amount of tax due from such dealer on his purchase price for that year and may direct such dealer to pay in addition to the tax so assessed a penalty as specified in sub-section (12).

(5) In any of the following events, namely, where the whole or any part of the purchase price of a dealer has escaped assessment to tax, or has been under-assessed, or assessed to a rate lower than the correct rate, the assessing authority may, after issuing a notice to such dealer and after making such enquiry as he may consider necessary, by order, setting out the grounds thereof —

(a) determine to the best of judgement the purchase price that has escaped assessment and assess the purchase price so determined ;

(b) assess the correct amount of tax payable on the purchase price that has been under assessed ;

(c) assess at the correct rate the purchase price that has been assessed at a lower rate ;

(d) assess the correct amount of tax payable in a case where any deduction or exemption has been wrongly allowed;

In addition to tax assessed under this sub-section, the assessing authority may also direct the dealer to pay a penalty as specified in sub-section (12).

(6) Any assessment or levy under sub-section (5) shall be made within a period of four years from the date on which any order of assessment or levy was served on the dealer.

(7) Before issuing any direction for the payment of any penalty under sub-section (3), sub-section (4) or sub-section (5), the assessing authority shall give the dealer a reasonable opportunity to explain the omission to disclose the purchase price or to furnish correctly any particulars and shall make such enquiry as he considers necessary.

(8) The powers conferred by sub-section (5) on the assessing authority may, subject to the same conditions as are applicable in the case of that authority, be exercised also by any of the authorities higher than the assessing authority including the Deputy Commissioner and Joint Commissioner concerned.

(9) Where an assessment under this section has been deferred on account of any stay order granted by the High Court in any case or by reason of the fact that an appeal or other proceedings is pending before the High Court or the Supreme Court involving a question of law having a direct bearing on the assessment in question, notwithstanding anything in sub-section (1), sub-section (4) or sub-section (6) the assessment in respect of assessee in pursuance or in

consequence of or to give effect to any finding or direction contained in an order of the High Court or the Supreme Court shall be made within three years from the date of receipt of such order by the assessing authority.

(10) It shall be lawful for the Commissioner to direct by general or special order, any assessing authority to defer assessment in respect of any class of scheduled goods or any class of dealers pending clarification of any question referred to him, if such question has direct bearing on such assessment. Notwithstanding anything in sub-section (1), sub-section (4) or sub-section (6), the assessment in pursuance or in consequence of or to give effect to such clarification shall be made within three years from the date of receipt, of such clarification by the assessing authority.

(11) Where an assessment made under this section has been set aside by any court or other competent authority under this Act, for any reason, notwithstanding anything in sub-section (1), sub-section (4) or sub-section (6), any fresh assessment, in pursuance or in consequence of or to give effect to any finding or direction contained in an order of such court or other competent authority, shall be made within three years from the date of receipt of such order by the assessing authority.

(12) The penalty leviable under sub-section (3), sub-section (4) or sub-section (5) shall not exceed, —

(a) five times the tax due, in a case where the assessing authority is satisfied that the failure of the dealer to disclose the whole, or part of the purchase price or any other particulars correctly or to submit the return before the prescribed date was wilful, and

(b) one half of the tax due, in a case where such failure was not wilful:

Provided that where such failure occurred due to a *bonafide* mistake on the part of such dealer, no such penalty shall be levied.

7. (1) The tax assessed and the penalty levied under this Act shall be paid by the dealer in such manner and within such time, not being less than fifteen days from the date of service of the notice of assessment or of the levy of penalty, as may be specified in such notice: Payment of tax and other dues payable under the Act.

Provided that the assessing authority may, for good and sufficient reasons to be recorded in writing, require such dealer to pay the tax assessed or the penalty levied within such time, not being less than seven days from the date of service of the notice of assessment or of the levy of penalty, as may be specified in the notice.

(2) The Deputy Commissioner may by general or special order, permit the payment of any tax or penalty or both assessed or levied under this Act in two or more instalments within such intervals as may be specified in the said order.

(3) If the tax assessed or the penalty levied under this Act or any instalments thereof is not paid by any dealer within the time specified therefor in the notice of assessment or in the order permitting payment in instalments, such dealer shall pay in addition to the amount of such tax or penalty or instalment interest at the rate of two rupees for every one hundred rupees or part thereof for each month or part thereof from the date specified for its payment.

(4) If the tax assessed or the penalty levied or interest payable under this Act or any instalment thereof is not paid by a dealer within the time specified therefor, the whole of the amount then remaining unpaid may be recovered from him as if it were an arrear of land revenue.

(5) The penalty payable under this Act, shall be without prejudice to institution of any proceedings for an offence under this Act or for recovery of the entire amount remaining unpaid under sub-section (4).

Recovery of
tax and other
dues pay-
able under
the Act
from per-
sons from
whom
money is due
to the dealer.

8. (1) The assessing authority may at any time or from time to time by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority), require any person from whom money is due or may become due to the dealer, or any person who holds or may subsequently hold money for, or on account of the dealer, to pay to the assessing authority either forthwith if the money has become due or is so held within the time specified in the notice (but not before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax, penalty or fee or the whole of the money when it is equal to or less than that amount.

(2) The assessing authority may, at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the liability discharged or to the extent of the liability of such dealer for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent proves to the satisfaction of the assessing authority that the sum demanded or any part thereof is not due by him to such dealer, or that he does not hold any money for or on account of such dealer, then, nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.

(6) Where any person, to whom a notice under sub-section (1) is sent, fails to pay to the assessing authority the sum demanded or any part thereof as required in the said notice, such sum shall be recoverable from such person as if it were an arrear of land revenue due from him.

(7) The provisions of this section shall be without prejudice to any action that may be taken for the recovery of money due from the assessee.

9. (1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment. Liability of firms.

(2) Where a partner of a firm liable to pay any tax, or other amount under this Act, retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax, or other amount remaining unpaid at the time of his retirement and any tax or other amount due upto the date of retirement, though unassessed.

10. (1) When the ownership of the business of a dealer liable to pay any tax or penalty, or any other Tax payable on transfer of business.

amount under the provisions of this Act, is transferred, the transferer and the transferee shall jointly and severally be liable to pay any tax or penalty of any other amount payable but remaining unpaid at the time of transfer, and for the purpose of recovery from the transferee, such transferee shall be deemed to be the dealer liable to pay the tax or penalty or other amount under this Act.

(2) When a firm liable to pay the tax, or penalty is dissolved, the assessment of the tax and imposition of penalty shall be made as if no dissolution of the firm had taken place, and every person who was at the time of dissolution a partner of the firm and the legal representative of any such person who is deceased, shall be jointly and severally liable to pay the tax or penalty assessed or imposed.

(3) When an undivided Hindu family liable to pay the tax or penalty is partitioned, the assessment of the tax and the imposition of penalty shall be made as if no partition of the family had taken place, and every person who was a member of the family before the partition shall be jointly and severally liable to pay the tax or penalty assessed or imposed.

(4) Where a dealer dies, his executor, administrator or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act, shall apply to him in respect of the business of the said deceased dealer, provided that, in respect of any tax or penalty assessed as payable by any such dealer or any tax or penalty which would have been payable by him under this Act, if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

11. (1) Any dealer objecting to any order passed or proceedings recorded by any authority under the provisions of this Act, other than an order passed or proceeding recorded by a Joint Commissioner or Deputy Commissioner under sub-section (8) of section 6 may, within thirty days from the date on which the order or proceedings were served on him, appeal to such authority as may be prescribed : Appeals.

Provided that the appellate authority may admit an appeal preferred after a period of thirty days aforesaid, if it is satisfied that such dealer had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in such form and verified in such manner as may be prescribed and shall be accompanied by a fee calculated at the rate of two per cent of the tax or penalty under dispute subject to a minimum of fifty rupees and a maximum of one thousand rupees.

(3) Where an appeal is admitted under sub-section (1), the appellate authority may, on an application filed by the appellant and subject to such terms and conditions as it may think fit, order stay of collection of the tax or penalty under dispute pending disposal of the appeal.

(4) Against an order passed by the appellate authority refusing to order stay under sub-section (3), the appellant may prefer a revision petition within thirty days from the date of the order of such refusal to the Joint Commissioner who may, subject to such terms and conditions as he may think fit, order stay of collection of the tax or penalty under dispute pending disposal of the appeal by the appellate authority.

(5) Notwithstanding anything in sub-section (3) or sub-section (4) where a dealer has preferred an appeal to the Appellate Tribunal under section 13, the stay, if any, ordered under sub-section (4) shall be operative till the disposal of the appeal by such Tribunal and the stay, if any, ordered under sub-section (3), shall be operative till the disposal of the appeal by such Tribunal only in case where the Joint Commissioner, on an application made to him by the dealer in the prescribed manner, makes a specific order to that effect.

(6) The appellate authority may, after giving the appellant an opportunity of being heard and subject to such rules of procedure as may be prescribed,—

(a) confirm, reduce, enhance or annul the assessment or the penalty or both ; or

(b) set aside the assessment or the penalty or both, and direct the assessing authority to pass a fresh order after such further inquiry as may be directed ; or

(c) pass such order as it may think fit.

(7) Before passing an order under sub-section (6), the appellate authority may make such inquiry as it deems fit or remand the case to any subordinate officer or authority for an inquiry and report on any specified point or points.

(8) Every order passed in appeal under this section shall, subject to the provisions of sections 12, 13, 14 and 15 be final.

12. (1) The Commissioner may suo motu call for and examine the record of any order passed or proceedings recorded, by any authority, officer or person subordinate to him, under the provisions of this Act, including sub-section (2) and if such order or proceeding recorded is prejudicial to the interests of revenue, may make such enquiry, or cause such enquiry to be made and subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order or proceeding and may pass such order in reference thereto as he may think fit.

Revision by
Commissioner and
other prescribed
authorities.

(2) Powers of the nature referred to in sub-section (1) may also be exercised by the Joint Commissioner, the Deputy Commissioner and the Commercial Tax Officers in case of orders passed or proceedings recorded by authorities, officers or persons subordinate to them.

(3) The powers under sub-section (1) or sub-section (2) shall not be exercised by the authority specified herein in respect of any issue or question which is the subject matter of an appeal before, or which was decided on appeal by, the Appellate Tribunal under section 13.

(4) In relation to an order of assessment passed under this Act, the powers conferred by sub-sections (1) and (2), shall be exercisable only within such period, not exceeding four years from the date on which the order was served on the dealer, as may be prescribed.

(5) No order shall be passed under sub-section (1) or sub-section (2) enhancing any assessment unless an opportunity has been given to the assessee to show cause against the proposed enhancement.

(6) Where an order passed under this section has been set aside by any Court or other competent authority under this Act, for any reason, notwithstanding anything contained in sub-section (4), any fresh revision, in pursuance or in consequence of or to give effect to any finding or direction contained in an order of such Court or other competent authority shall be made within three years from the date of receipt of such order by the revising authority.

(7) Where any proceeding under this section has been deferred on account of any stay order granted by the High Court in any case or by reason of the fact that an appeal or other proceeding is pending before the High Court or in the Supreme Court involving a question of law having a direct bearing on the order or proceeding in question, notwithstanding anything contained in sub-section (4), the revision, in pursuance or in consequence of or to give effect to any finding or direction contained in an order of the High Court or the Supreme Court, shall be made within three years from the date of receipt of such order by the revising authority.

Appeal to
the Appellate
Tribunal.

13. (1) Any dealer objecting to an order passed or proceeding recorded—

(a) by any appellate authority on appeal under section 11 ; or

(b) by a Joint Commissioner or Deputy Commissioner *suo motu* under sub-section (8) of section 6 or under sub-section (2) of section 12

may appeal to the Appellate Tribunal within sixty days from the date on which the order or proceeding was served on him.

(2) The Appellate Tribunal may admit an appeal preferred after the period of sixty days mentioned in sub-section (1), if it is satisfied that the dealer had sufficient cause for not preferring the appeal within that period.

(3) The appeal shall be in the prescribed form, shall be verified in the prescribed manner and shall be accompanied by such fee, calculated at the rate of two percent of the tax or penalty under dispute subject to a minimum of one hundred rupees and a maximum of two thousand rupees.

(4) The Appellate Tribunal may, after giving both parties to the appeal a reasonable opportunity of being heard—

(i) confirm, reduce, enhance or annul the assessment or the penalty or both ;

(ii) set aside the assessment or the penalty or both and direct the assessing authority to pass fresh order after such further inquiry as may be directed ; or

(iii) pass such order as it may think fit :

Provided that if the appeal involves a question of law, decision on which is pending in any proceeding before the High Court or the Supreme Court, the Appellate Tribunal may defer the hearing of the appeal before it, till such proceedings is disposed of.

(5) Before passing any order under sub-section (4), the Appellate Tribunal may make such inquiry as it deems fit or remand the case to the appellate authority against whose order the appeal was preferred or to the assessing authority concerned for an inquiry and report on any specified point or points.

(6) Notwithstanding anything in sub-section(4), where the dealer who has filed an appeal under this section to the Appellate Tribunal fails to appear before the Appellate Tribunal either in person or by counsel when the appeal is called on for hearing, it shall be open to the Appellate Tribunal to make an order dismissing the appeal :

Provided that the Appellate Tribunal may on an application made by the dealer within thirty days from the date of communication of the order of dismissal and on sufficient cause being shown by him for his non-appearance when the appeal was called on for hearing, re-admit the appeal on such terms as it thinks fit, after giving notice thereof to the authority against whose order or proceeding the appeal is preferred.

(7) The payment of tax and penalty, if any, due in accordance with the order of the first appellate authority or of the Deputy Commissioner suo-motu under sub-section (8) of section 6 or in revision under section 12 in respect of which an appeal has been preferred under sub-section (1), shall not be stayed pending disposal of the appeal.

(8) Except in case where a stay is in operation as provided in sub-section (5) of section 11 no appeal shall be entertained under sub-section (1) unless it is accompanied by a satisfactory proof of the payment of tax as determined in any appeal under section 11 or revision under section 12.

(9) Except as provided in the rules made under this Act, the Appellate Tribunal shall not have power to award costs to either of the parties to the appeal.

(10) Every order passed by the Appellate Tribunal under sub-section (4), shall be communicated by it to the dealer, the authority against whose order the appeal was preferred, the Commissioner and such other authorities as may be prescribed.

(11) Every order passed by the Appellate Tribunal under sub-section (4) shall subject to the provisions of section 14, be final.

14. (1) Within ninety days from the date on which an order under sub-section (4) of section 13 was communicated to him, the dealer or the authority prescribed in this behalf may prefer a petition to the High Court against the order on the ground, that the Appellate Tribunal has either decided erroneously, or failed to decide, any question of law:

Revision by
High Court.

Provided that the High Court may admit a petition preferred after the period of ninety days aforesaid if it is satisfied that the petitioner had, sufficient cause for not preferring the petition within that period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, where it is preferred by the dealer, be accompanied by a fee of five hundred rupees.

(3) If the High Court, on perusing the petition considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both parties to the petition, a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the High Court on the question or questions of law raised, or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Appellate Tribunal under clause (a) with its opinion on the question or questions of law raised, the Appellate Tribunal shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers it necessary so to do, remit the petition to the Appellate Tribunal and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case:

Provided that the High Court may, in its discretion, permit the petitioner to pay the tax in such number of instalments, or give such other direction in regard to the payment of tax as it thinks fit :

Provided further that if, as a result of the petition any change becomes necessary in such assessment, the High Court may authorise the assessing authority to amend, the assessment and on such amendment being made the excess amount paid by the dealer shall be refunded to him without interest, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(7) (a) The High Court may, on the application of the dealer or the prescribed authority, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be, preferred within such time and in such manner as may be prescribed, and shall, where it is preferred by the dealer, be accompanied by a fee of five hundred rupees.

(8) The payment of tax and penalty if any due in accordance with the order of the Appellate Tribunal in respect of which a petition has been preferred under sub-section (1) shall not be stayed pending the disposal of the petition but if such amount is reduced as a result of such petition, the excess tax paid shall be refunded in accordance with the provisions of section 23.

(9) In respect of every petition or application preferred under sub-section (1) or sub-section (7) the costs shall be in the discretion of the High Court.

15. (1) Any dealer objecting to an order relating to assessment passed by the Commissioner *suo motu* under sub-section (1) of section 12 may appeal to the High Court within sixty days from the date on which the order was communicated to him : Appeal to High Court.

Provided that the High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that such dealer had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form, shall be verified in the prescribed manner and shall be accompanied by a fee calculated at the rate of two percent of tax or penalty under dispute subject to a minimum of one hundred rupees and a maximum of two thousand rupees.

(3) The High Court shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

(4) The provisions of sub-sections (6), (7), (8) and (9) of section 14 shall apply in relation to appeals preferred under sub-section (1) as they apply in relation to petitions preferred under sub-section (1) of section 14.

Petitions, applications and appeals to High Court to be heard by a Bench of not less than two Judges.

Central Act V of 1908.

16. Every petition, application or appeal preferred to the High Court under section 14 or section 15 shall be heard by a Bench of not less than two Judges, and in respect of such petition, application or appeal, the provisions of section 98 of the Code of Civil Procedure, 1908 shall, so far as may be, apply.

Maintenance of true and correct accounts and records by dealers, etc.

17. Every dealer liable to tax under this Act, shall keep and maintain a true and correct account promptly, in any of the languages specified in the Eighth Schedule to the Constitution or in English, relating to his business in the scheduled goods in such manner and containing such particulars as may be prescribed. Different particulars may be prescribed for different classes of dealers.

Submission of certain records by owners, etc., of goods vehicles and boats.

18. The owner or other person in-charge of a goods vehicle or, as the case may be, a boat shall submit to the Commercial Tax Officer having jurisdiction over the area in which goods are delivered,—

(i) bill of sale or delivery note ;

(ii) goods vehicle record or trip sheet or log book ; and

(iii) such other documents as may be prescribed;

relating to the scheduled goods under transport and containing such particulars as may be prescribed, or copies thereof within such time as may be prescribed.

19. (1) Any Officer not below the rank of an Assistant Commercial Tax Officer authorised by the Government in this behalf may, for the purpose of this Act require any registered dealer to produce before him the accounts, registers and other documents, and to furnish any other information relating to his business.

Powers to order production of accounts and power of entry, inspection, etc.

(2) All accounts, registers and other documents maintained by a dealer in the course of his business, the scheduled goods in his possession and his offices, shops, godowns, vessels or vehicles shall be open to inspection by such officer at any time during the business hours specified under the relevant law for the time being in force or where no such hours are specified at all reasonable times.

(3) If any such officer has reason to suspect that any dealer is attempting to evade the payment of any tax or other amount due from him under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such dealer as he considers necessary and shall give such dealer a receipt for the same. The accounts, registers and documents so seized shall be retained by such officer only for so long as may be necessary, for their examination and for any inquiry or proceedings under this Act :

Provided that such accounts, registers and documents shall not be retained for more than thirty days at a time except with the permission of the next higher authority.

(4) For the purposes of sub-section (2) or sub-section (3) any such Officer shall have power to enter and search, at any time during business hours specified under the relevant law for the time being in force or, where no such hours are specified, at all reasonable times, any office, shop, godown, vessel, vehicle or any other place of business or any building or place where such Officer has reason to believe that the dealer keeps or is, for the time being, keeping any scheduled goods, accounts, registers or other documents of his business :

Provided that no residential accommodation (not being a shop-cum-residence) shall be entered into and searched by any such officer below the rank of a Deputy Commissioner except on the authority of an order issued by the Deputy Commissioner having jurisdiction over the local area; and all searches under this sub-section shall, so far as may be, made in accordance with the provisions of the Code of Criminal Procedure, 1973, subject to the rules, if any, made in this behalf.

Central Act
2 of 1974.

(5) The power conferred by sub-section (4) shall include the power to break open any box or receptacle in which any goods, accounts, registers or other documents of the dealer may be contained or to break open the door of any premises where any such goods, accounts, registers or other documents may be kept:

Provided that the power to break open door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, fails or refuses to open the door on being called upon to do so.

20. (1) Any person, who—

(a) fails to pay, within the time allowed any tax assessed or any penalty imposed on him under this Act, or

Offences
and penal-
ties.

(b) wilfully acts in contravention of the provisions of this Act or the rules made thereunder; shall, on conviction, be liable to be punished with fine which may extend to two thousand rupees.

(2) Any person who prevents or obstructs inspection, entry, search or seizure by an officer authorised under section 19 in contravention of the terms thereof shall, on conviction, be liable to be punished with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(3) Any person, who—

(a) wilfully submits an untrue return or fails to submit a return as required by the provisions of this Act or the rules made thereunder; or

(b) fraudulently evades the payment of any tax, and other amount due from him under this Act, shall, on conviction, be liable to be punished, if it is a first offence, with fine which may extend to two thousand rupees, and if it is a second or subsequent offence, with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(4) Any person who makes any statement or declaration in any of the records or documents specified in section 18 which statement or declaration he knows or has reason to believe to be false shall, on conviction, be liable to be punished with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

(5) Any person, who is in any way knowingly concerned in any fraudulent evasion or attempt at evasion or abetment of evasion of any tax payable

under this Act, shall, on conviction, be liable to be punished with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

Cognizance
of offences.

21. (1) No court other than the Court of a Magistrate of the first class shall take cognizance of, or try, an offence under this Act.

(2) No prosecution for an offence under sub-section (2) of section 20 or for any second or subsequent offence under sub-section (3) of that section shall be instituted except with the written consent of the Deputy Commissioner having jurisdiction over the local area.

Composi-
tion of
offences.

22. (1) The prescribed authority may accept from any person, who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence,—

(a) where the offence consists of failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable a sum of money not exceeding two thousand rupees or double the amount of the tax recoverable, whichever is greater; and

(b) in other cases, a sum of money not exceeding two thousand rupees.

(2) Any order passed or proceeding recorded by the prescribed authority under sub-section (1), shall be final and no appeal or application for revision shall lie there from.

23. (1) The assessing authority shall refund the ^{Refunds.} tax, if any, paid provisionally by an assessee for any particular period if it is found to be in excess of the tax payable by him for the said period or at the option of the assessee adjust such excess towards any tax due in respect of any other period :

Provided that the assessing authority may first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice of demand may have been issued, and shall then refund the balance, if any.

(2) (a) Every claim for refund under sub-section (1), shall be made by the assessee in such form and verified in such manner as may be prescribed, on or after the date on which the tax in respect of which the claim is made was directed to be refunded.

(b) No such claim shall be allowed unless it is made within three years from the date specified in clause (a).

(3) Where as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee, the assessing authority shall refund the amount to the assessee without his having to make any claim in that behalf, or adjust or apply such amount as provided in sub-section (1).

(4) Where an order giving rise to a refund to an assessee is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending and the assessing authority is of the opinion that grant of the refund is likely to adversely affect the revenue, the assessing authority may, with the previous approval of the Deputy Commissioner, withhold the refund till such time as the Deputy Commissioner may determine.

(5) In a claim for refund under sub-section (1), it shall not be open to the assessee to question the correctness of any assessment or other matter decided, which has become final and conclusive, or seek for a review in respect thereof, and the assessee shall not be entitled to any relief on such claim except the refund of tax wrongly paid in excess.

Interest on
delayed
refunds.

24. (1) If the assessing authority does not grant the refund within six months from the date on which the claim for refund is made by the assessee under sub-section (2) of section 23, the Government shall pay the assessee simple interest at twelve percent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of six months aforesaid to the date of the order granting the refund.

(2) Where a refund is due to the assessee in pursuance of an order referred to in sub-section (3) of section 23 and the assessing authority does not grant the refund within a period of six months from the date of such order, the Government shall pay to the assessee simple interest; at twelve percent per annum on the amount of refund due, from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

(3) Where a refund is withheld under the provisions of sub-section (4) of section 23, the Government shall pay the assessee simple interest at twelve percent per annum on the amount of refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of six months from the date of the order referred to in sub-section (4) of section 23 to the date the refund is granted.

Explanation :—If the delay in granting the refund within the period of six months specified in this section is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(4) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner whose decision shall be final.

25. An assessing authority, an appellate authority or a revising authority shall, for the purpose of this Act, have power—

Power to summon witnesses and production of documents.

(a) to summon and enforce the attendance of any person to examine him on oath or affirmation; and

(b) to require the production of any document.

26. Any person who is entitled to appear before any authority other than the High Court in connection with any proceedings under this Act, may be represented before such authority, —

Appearance before any authority in proceedings

(a) by his relative or a person regularly employed by him, if such relative or person is duly authorised by him in writing in this behalf; or

(b) by a legal practitioner; or

(c) by a chartered accountant within the meaning of the Chartered Accountants Act, 1949 or by a person who was enrolled as a sales tax, practitioner under the Andhra Pradesh General

Central Act 38 of 1949
Act VI of 1957.

sales tax Act, 1957 if such accountant or sales tax practitioner is duly authorised in writing in this behalf.

Bar of jurisdiction of Courts.

27. Save as otherwise expressly provided in this Act, no Court shall entertain any suit or other proceeding to set aside or modify or question the validity of an assessment, order or decision made or passed by any officer or authority under this Act or any rules made thereunder or in respect of any other matter falling within its or his scope.

Protection of acts done in good faith.

28. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act without the previous sanction of the Government and no such suit, prosecution or other proceeding shall be instituted after the expiry of six months from the act complained of.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties imposed on him or the discharge of functions entrusted to him by or under this Act.

Provision in the case of defective or irregular proceedings.

29. No assessment made, penalty or compounding fee levied or other order passed by any officer or authority under this Act shall be set aside merely on account of any defect or irregularity in the procedure relating thereto, unless it appears that such defect or irregularity has in fact occasioned material hardship or failure of justice.

Rounding off of purchase price, etc.

30. (1) The amount of purchase price shall be rounded off to the nearest multiple of ten rupees, and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then if the last figure in

the amount is five or more the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten ; and the amount so rounded off shall be deemed to be the total purchase price of the assessee for the purpose of this Act.

(2) The amount of tax, interest, penalty or any other sum payable and the amount of refund due under the provisions of this Act shall be rounded off to the nearest rupee and for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more it shall be increased to one rupee, and if such part is less than fifty paise it shall be ignored.

31. (1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act. Power to make rules.

(2) Any rules made under this Act may be made with retrospective effect and when such a rule is made, the reasons for so making the rule shall be specified in a statement to be laid before the Legislative Assembly of the State.

(3) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session, and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the

modification or annulment is notified, have effect only in such modified form or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to
amend the
schedule.

32. (1) The Government may, by notification, alter or add to or cancel any item in the Schedule.

(2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly, as soon as may be, but in any case during the next session of the Legislative Assembly following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the alteration, addition or cancellation as the case may be, of the Schedule specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder :

Provided that if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Legislative Assembly during that session:

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.

(3) All references made in this Act to any item in the Schedule shall be construed as relating to the item in the Schedule as for the time being amended in exercise of the powers conferred by this section.

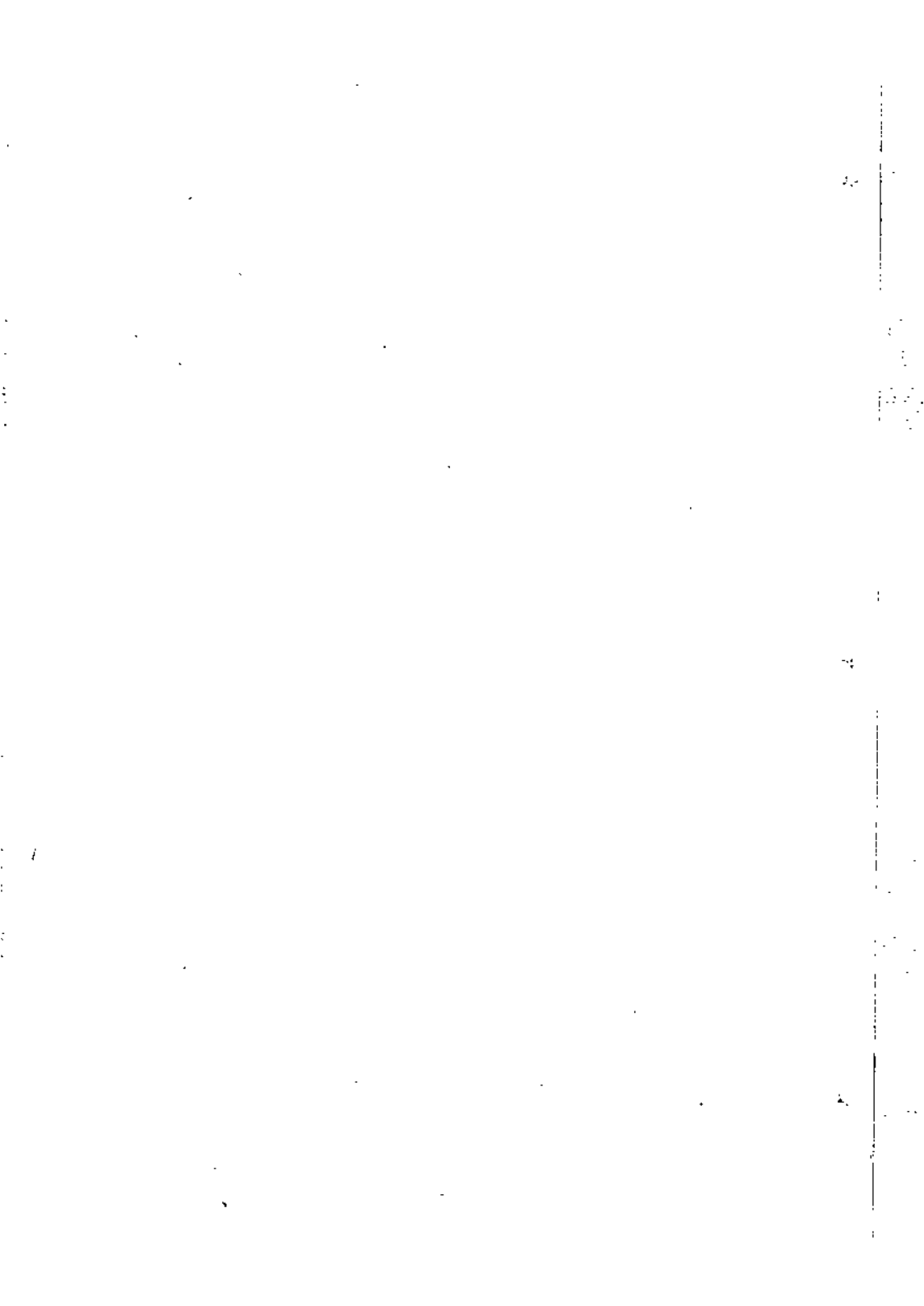
33. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make such provisions, not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty.

Power to
remove
difficulties.

THE SCHEDULE

(See section 4)

1. All varieties of textiles other than those made wholly of cotton manufactured either in mills or powerlooms and hosiery cloth lengths other than made wholly of cotton.
2. Sugar other than levy sugar.
3. Tobacco and all its products other than Virginia tobacco.



THE ANDHRA PRADESH ENTRY OF GOODS INTO LOCAL
AREA TAX (AMENDMENT) ACT, 1987.

ACT NO. 37 OF 1987*

[20th August, 1987]

An Act to amend the Andhra Pradesh Entry of Goods into Local Area Tax Act, 1987.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-eighth Year of the Republic of India as follows:-

1. This Act may be called the Andhra Short title. Pradesh Entry of Goods into Local Area Tax (Amendment) Act, 1987.

*Received the assent of the Governor on the 19th August, 1987. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part IV-A Extraordinary, dated the 29th July, 1987, at page 6.

Insertion of
new section
4-A, Act 31
of 1987.

2. In the Andhra Pradesh Entry of Goods into Local Area Tax Act, 1987 (hereinafter referred to as the principal Act) after section 4, the following section shall be inserted, namely:—

4.A⁽¹⁾ In lieu of the tax payable under sub-section (1) of section 4 every dealer liable to pay tax under this Act, may at his option pay the amount of tax as specified in the Table given below:—

THE TABLE

Purchase price slab	Amount of Tax payable per year if the rate of tax is—			
	1%	2%	3%	4%
(1)	(2)	(3)	(4)	(5)
	Rs.	Rs.	Rs.	Rs.
Where the taxable purchase price—				
1. Does not exceed Rs. 1 lakh	500	1,000	1,500	2,000
2. Exceeds Rs. 1 lakh but does not exceed Rs. 2 lakhs	1,500	3,000	4,500	6,000
3. Exceeds Rs. 2 lakhs but does not exceed Rs. 3 lakhs	2,500	5,000	7,500	10,000
4. Exceeds Rs. 3 lakhs but does not exceed Rs. 4 lakhs	3,500	7,000	10,500	14,000
5. Exceeds Rs. 4 lakhs but does not exceed Rs. 5 lakhs	4,500	9,000	13,500	18,000

	(1)	(2)	(3)	(4)	(5)
6.	Exceeds Rs. 5 lakhs but does not exceed Rs. 7 lakhs	Rs. 6,000	Rs. 12,000	Rs. 18,000	Rs. 24,000
7.	Exceeds Rs. 7 lakhs but does not exceed Rs. 9 lakhs	8,000	16,000	24,000	32,000
8.	Exceeds Rs. 9 lakhs but does not exceed Rs. 11 lakhs	10,000	20,000	30,000	40,000
9.	Exceeds Rs. 11 lakhs but does not exceed Rs. 14 lakhs	12,500	25,000	37,500	50,000
10.	Exceeds Rs. 14 lakhs but does not exceed Rs. 17 lakhs	15,500	31,000	46,500	62,000
11.	Exceeds Rs. 17 lakhs but does not exceed Rs. 20 lakhs	18,500	37,000	55,500	74,000
12.	Exceeds Rs. 20 lakhs but does not exceed Rs. 24 lakhs	22,000	44,000	66,000	88,000
13.	Exceeds Rs. 24 lakhs but does not exceed Rs. 28 lakhs	26,000	52,000	78,000	1,04,000
14.	Exceeds Rs. 28 lakhs but does not exceed Rs. 32 lakhs	30,000	60,000	90,000	1,20,000
15.	Exceeds Rs. 32 lakhs but does not exceed Rs. 36 lakhs	34,000	68,000	1,02,000	1,36,000
16.	Exceeds Rs. 36 lakhs but does not exceed Rs. 40 lakhs	38,000	76,000	1,14,000	1,52,000
17.	Exceeds Rs. 40 lakhs but does not exceed Rs. 45 lakhs	42,500	85,000	1,27,500	1,70,000
18.	Exceeds Rs. 45 lakhs but does not exceed Rs. 50 lakhs	47,500	95,000	1,42,500	1,90,000
19.	Exceeds Rs. 50 lakhs	at 1% or 2% or 3% or 4% as the case may be over and above the slab range of Rs. 50 lakhs.			

(2) Any dealer who opts to pay tax under sub-section (1) shall apply in the prescribed form to the assessing authority to be permitted to pay the tax under sub-section (1) and on being permitted he shall pay the tax due in advance during the year in monthly or prescribed instalments and for that purpose shall submit such returns in such manner as may be prescribed:

(3) The permission granted by the assessing authority under sub-section (2) shall continue to be in force till the dealer withdraws his option.

(4) The tax paid under sub-section (2) shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

(5) The assessing authority may by an order in writing cancel the permission granted under sub-section (2) for good and sufficient reasons after giving the dealer concerned an opportunity of being heard."

Insertion of
new section
10-A.

3. After section 10 of the principal Act, the following section shall be inserted, namely:—

"Power of Government to notify exemption and reduction of tax. 10-A. (1) The Government may by notification and for reasons to be specified therein make an exemption or reduction in the rate of the tax payable under this Act subject to such conditions and restrictions as may be prescribed,—

(i) on the entry of any specified class of schedule goods into any local area; or

(ii) by any specified class of persons, in regard to the whole or any part of their purchase price.

(2) Any exemption under sub-section (1) may extend to all local areas or to any specified local area or areas in the State."

4. For the Schedule to the principal Act, the following Schedule shall be substituted, namely:—

Substitution
of new
Schedule for
the Sched-
ule.

“THE SCHEDULE

(See section 4)

1. All varieties of textiles manufactured either in mills or powerlooms other than those made wholly of cotton and hosiery cloth lengths other than those wholly made of cotton.

2. Sugar other than levy sugar.

3. All products of tobacco other than cigars cheroots the value of which does not exceed ten paise per each cigar|cheroot and beedies.”.



**THE ANDHRA PRADESH ENTRY OF GOODS INTO
LOCAL AREA TAX (AMENDMENT) ACT, 1988.**

ACT NO. 12 OF 1988*.

[20th April, 1988.]

An Act further to amend the Andhra Pradesh Entry of Goods into Local Area Tax Act, 1987.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Thirty-ninth Year of the Republic of India as follow:-

1 (1) This Act may be called the Short Title Andhra Pradesh Entry of Goods into Local and com- Area Tax (Amendment) Act, 1988. mencement.

(2) It shall be deemed to have come into force on the 15th October, 1987.

*Received the assent of the Governor on the 19th April, 1988. For Statement of Objects and Reasons, please see the Andhra Pradesh Gazette, Part IV-A, Extraordinary, dated the 24th March, 1988, at page 4.

Amendment
of section
4A, Act 31
of 1987.

2. In the Andhra Pradesh Entry of Goods into Local Area Tax Act, 1987, in section 4A,—

(i) in sub-section (1), after the expression “sub-section (1) of section 4”, the words “on the entry of the scheduled goods other than the goods specified in item 1 of the Schedule to this Act”, shall be inserted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) In lieu of the tax payable under sub-section (1) of section 4, on the entry of the scheduled goods specified in item 1 of the Schedule to this Act, every dealer liable to pay tax under this Act, may at his option pay the amount of tax as specified in the Table given below:—

THE TABLE

Purchase price slab.	Amount of tax payable per year
(1)	(2)
Where the taxable purchase price—	
	Rs.
1. does not exceed Rs. 1 lakh	250
2. exceeds Rs. 1 lakh but does not exceed Rs. 3 lakhs	1,500
3. exceeds Rs. 3 lakhs but does not exceed Rs. 5 lakhs	4,000
4. exceeds Rs. 5 lakhs but does not exceed Rs. 10 lakhs	7,500
5. exceeds Rs. 10 lakhs but does not exceed Rs. 20 lakhs	15,000

(1)	(2)
	Rs.
6. exceeds Rs. 20 lakhs but does not exceed Rs. 30 lakhs	25,000
7. exceeds Rs. 30 lakhs but does not exceed Rs. 50 lakhs	— 40,000
8. exceeds Rs. 50 lakhs	at 1% over and above the slab range of Rs. 50 lakhs.

(iii) in sub-section (2), for the expression "under sub-section (1)", the expression "under sub-section (1), or as the case may be, under sub-section (1A)" and for the expression "under sub-section (1) and on being permitted", the words "accordingly and on being so permitted" shall respectively be substituted.