



## The Orissa Sales Tax (Amendment and Validation) Act, 1979

Act 24 of 1979

### Keyword(s):

Assessment, Business, Contract, Dealer, Goods, Registered Dealer, Sale, Sale Price, Tax, Work Contract

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ORISSA ACT 24 OF 1979

[THE ORISSA SALES TAX (AMENDMENT AND VALIDATION) ACT, 1979]

[Received the assent of the Governor on the 13th October 1979, first published in an extraordinary issue of the Orissa Gazette, dated the 17th October 1979]

AN ACT TO AMEND THE ORISSA SALES TAX ACT, 1947 AND TO VALIDATE CERTAIN ACTIONS

Be it enacted by the Legislature of the State of Orissa in the Thirtieth Year of the Republic of India, as follows :—

1.(1) This Act may be called the Orissa Sales Tax (Amendment and Validation) Act, 1979. Short title and commencement.

(2) It shall be deemed to have come into force with effect from the 19th day of July, 1979.

2. \* \* \* \*

3. Notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary, an assessment, reassessment, levy or collection of any tax or imposition of any penalty made or purporting to have been made, under the principal Act before the commencement of the Orissa Sales Tax (Amendment and Validation) Ordinance, 1979 and any action taken or thing done or purporting to have been taken or done in relation to or in pursuance of such assessment, reassessment, levy, collection or imposition shall be deemed to be as valid and effective as if such assessment, reassessment, levy, collection or imposition or action or thing had been made, taken or done under or in furtherance of the principal Act as amended by this Act and—

(a) all acts, proceedings or things done or actions taken by any authority, officer or person in connection with the levy, assessment, reassessment or collection of such tax or imposition of such penalty shall for

1. For Statement of Objects and Reasons, see *Orissa Gazette*, Extraordinary dated the 12th September 1979 (No. 1749).

2. Necessary amendment have been incorporated in the Original Act. For reference see *Orissa Code Vol. VII*.

## (Sec. 4)

all purposes, be deemed to be and to have always been done or taken in accordance with law;

- (b) no suit or other proceedings shall be maintained or continued in any court or before any authority whatsoever for the refund of any tax or penalty so paid; and
- (c) no court shall enforce any decree or order directing the refund of any such tax or penalty so paid.

Repeal and  
savings.

4. (1) The Orissa Sales Tax (Amendment and Validation) Ordinance, 1979 is hereby repealed.

Orissa  
Ordinance  
No. 11 of  
1979.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act.

ORISSA ACT 6 OF 1992

THE ORISSA SALES TAX (SECOND AMENDMENT) ACT, 1991

TABLE OF CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement
2. Amendment of section 3
3. Amendment of section 13
4. Insertion of new section 13-D
5. Amendment of section 29-A

## ORISSA ACT 6 OF 1992

**\*THE ORISSA SALES TAX (SECOND AMENDMENT) ACT, 1991**

*[Received the assent of the Governor on the 25th January 1992, first published in an extraordinary issue of the Orissa Gazette, dated the 27th January 1992]*

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

**BE** it enacted by the Legislature of the State of Orissa in the Forty-second Year of the Republic of India as follows :—

Short title  
and  
commence-  
ment.

1. (1) This Act may be called the Orissa Sales Tax (Second Amendment) Act, 1991.

(2) Section 3 shall be deemed to have come into force on the 1st day of December, 1989 and the remaining provisions of this Act shall come into force at once.

Amendment  
of section 3.

2. In the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act), ~~Of~~ Act 14 of 1947.

(i) in sub-section (2), for the words "three members", the words "four members" shall be substituted;

(ii) in sub-section (2-a), for the words "other member" and "in the supertime scale", the words "other two members" and "upgraded supertime scale" shall respectively be substituted; and

(iii) in sub-section (2-e),—

(a) for the words "all the members", wherever they occur, the words "three members" shall be substituted; and

(b) for the words "tax and penalty", wherever they occur in clause (a), the words "tax including surcharge, if any, and penalty" shall be substituted.

Amendment  
of  
section 13.

3. In the principal Act, in section 13, after sub-section (7), the following sub-section shall be inserted, namely :-

“(8) (i) Notwithstanding anything contained in this Act, but subject to the conditions as the State Government may by general or special order specify, where a dealer is allowed to defer payment of tax under section 7 and where a loan liability equal to the amount of any such tax payable by such dealer has been raised by the Industrial Promotion and Investment Corporation Limited, such tax shall be deemed, in the public interest, to have been paid.

(ii) The conditions to be specified under clause (i) shall include a condition that any tax so deemed to have been paid shall not be shown as payment of tax during the year in which the deferred amount of tax is actually paid.”.

Insertion of  
new section  
13-D.

4. In the principal Act, after section 13-C, the following section shall be inserted, namely :-

“13-D. Notwithstanding anything contained in this Act, the State Government may, if it is necessary so to do in the public interest, subject to such conditions and exceptions as it may impose, by notification, exempt any specified class of sales or specified sales or purchases from payment of the whole or any part of the tax payable under the provisions of this Act.”.

Power of  
State Govern-  
ment to  
exempt tax  
in public  
interest.

Amendment  
of  
section 29-A.

5. In the principal Act, in section 29-A, for the word and figure “and 8”, the comma, figures, letter and word “8 and 13-D” shall be substituted.

ORISSA ACT 8 OF 1993

**THE ORISSA SALES TAX (AMENDMENT) ACT, 1993**

TABLE OF CONTENTS

**PREAMBLE**

**SECTIONS**

1. Short title
2. Amendment of Section 3
3. Amendment of Section 12

## \* THE ORISSA SALES TAX (AMENDMENT) ACT, 1993

[Received the assent of the Governor on the 29th March 1993, first published in an extraordinary issue of the *Orissa Gazette*, dated the 2nd April 1993].

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

**B**E it enacted by the Legislature of the State of Orissa in the Forty-fourth Year of the Republic of India as follows:—

- Short title. 1. This Act may be called the Orissa Sales Tax (Amendment) Act, 1993.
- Amendment of Section 3. 2. In the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act), Orissa Act in sub-section (2-e) of Section 3, for clause (a), the following clause shall be substituted, 14 of 1947, namely:—
- “(a) the functions of the Tribunal may be exercised—
- (i) by a Bench consisting of a single member as constituted by the Chairman when the total disputed amount of tax including surcharge, if any, and penalty involved in a case does not exceed rupees twenty thousand;
  - (ii) by a Bench consisting of a Judicial member and Accounts member as may be constituted by the Chairman, when the total disputed amount of tax including surcharge, if any, and penalty involved in a case exceeds rupees twenty thousand, but does not exceed rupees one lakh; and
  - (iii) by a Bench consisting of three members of the Tribunal when the total disputed amount of tax including surcharge, if any, and penalty involved in a case exceeds rupees one lakh;”.
3. In the principal Act, after sub-section (8) of Section 12, the following sub-sections shall be inserted, namely:—
- Amendment of Section 12, “(9) If the Commissioner is satisfied that any dealer has, with a view to evading or avoiding payment of tax, effected sales of any goods or class of goods to favoured buyers or shown in his accounts sales or purchases at prices, which are unreasonably low compared to the prevailing market price of such goods, he may at the time of assessment or, where the assessment has been completed, at any time within a period of five years from the expiry of the year to which the sales or, as the case may be, the accounts relate, estimate the price of such goods on the basis of market price thereof prevailing at the time when such sales were effected or, as the case may be, such accounts were shown, and assess or, as the case may be, reassess the dealer to the best of his judgment, after making such enquiry as he may consider necessary and after giving the dealer a reasonable opportunity of being heard.
- Explanation*—For the purpose of this sub-section, where the prices shown in accounts are unreasonably low in respect of sales or purchases of any goods or class of goods, it shall be deemed that the dealer having effected sales at prevailing market prices has shown such low prices in the accounts.
- (10) Provisions of sub-section (9) shall also apply to assessments under sub-sections (2), (3), (4), (5), (6) and (8) and enhancement of assessments made, and fresh assessments directed, under Section 23.”

ORISSA ACT 22 OF 1993

THE ORISSA SALES TAX (AMENDMENT AND VALIDATION) ACT, 1993

TABLE OF CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement
2. Amendment of section 13-AA
3. Validation
4. Repeal and savings

**\*THE ORISSA SALES TAX (AMENDMENT AND VALIDATION) ACT, 1993**

[Received the assent of the Governor on the 2nd December 1993, first published in an extraordinary issue of the *Orissa Gazette*, dated 8th December 1993]

**AN ACT FURTHER TO AMEND THE ORISSA SALES TAX ACT, 1947 AND TO VALIDATE CERTAIN ACTIONS.**

Short title and commencement.

1. (1) This Act may be called the Orissa Sales Tax (Amendment and Validation) Act, 1993.

(2) It shall be deemed to have come into force on the 4th day of October, 1993.

Amendment of section 13-AA.

2. In the Orissa Sales tax Act, 1947 (hereinafter referred to as the principal Act), for section 13-AA including its marginal heading, the following sections shall be deemed to have been substituted with effect from the 15th day of December 1986, namely:—

Orissa Act 14 of 1947.

Deduction of tax at source from payment to work-contractors.

“13-AA. (1) Notwithstanding anything contained in section 13 or any other law or contract to the contrary, any person responsible for paying any sum to any contractor (hereinafter referred to in this section as a ‘deducting authority’) for carrying out any works-contract, which involves transfer of property in goods, in pursuance of a contract between the contractor and—

- (a) Central Government or any State Government, or
- (b) any local authority, or
- (c) any authority or Corporation established by or under a statute, or
- (d) any company incorporated under the Companies Act, 1956 including any State or Central Government undertaking, or
- (e) any Co-operative Society or any other Association registered under the Societies Registration Act, 1860.

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or any other mode, whichever is earlier, deduct an amount towards sales-tax equal to two per centum of such sum in respect of the works-contract, if the value of the works-contract exceeds rupees one lakh.

(2) While making deduction as referred to in sub-section (1), the deducting authority shall grant a certificate to the contractor in the form prescribed and shall send a copy thereof to the Sales tax Officer within whose jurisdiction the works contract is executed.

(3) The amount deducted from the Bills or Invoices shall be deposited into a Government Treasury within one week from the date of deduction in such form of chalan as may be prescribed.

(4) Such deposit into Government Treasury shall be adjusted by the Sales Tax Officer towards the Sales tax liability of the contractor and would also constitute a good and sufficient discharge of the liability of the deducting authority to the contractor to the extent of the amount deposited.

(5) (a) Where, on an application being made by the contractor in this behalf, the Commissioner is satisfied that any works-contract of the nature referred to in sub-section (1) involves both transfer of property in goods and labour or service, or involves only labour or service and, accordingly, justifies deduction of tax on a part of the sum in respect of the works-contract or, as the case may be, justifies no deduction of tax, he shall, after giving the contractor a reasonable opportunity of being heard, grant him such certificate as may be appropriate, in the manner prescribed:

Provided that nothing in the said certificate shall affect the assessment of the sales-tax liability of the contractor under this Act.

(b) Where such a certificate is produced by a contractor before the deducting authority, until such certificate is cancelled by the Commissioner, the deducting authority shall either make no deduction of tax or make the deduction of tax, as the case may be, in accordance with the said certificate.

\*For the Bill see *Orissa Gazette Extraordinary* dated the 1st November, 1993 (No.1436)

(6) If any person contravenes the provisions of sub-section (1) or (2) or (3) or of clause (b) of sub-section (5) the Sales Tax Officer shall, after giving him an opportunity of being heard, by an order in writing, impose on such person penalty not exceeding twice the amount required to be deducted and deposited by him into Government Treasury."

**Validation.**

3. (1) Notwithstanding any judgment, decree or order of any Court or Tribunal or other authority, all deductions towards sales Tax, pertaining to works-contracts involving transfer of property in goods, made under sub-section (1) of section 13-AA of the principal Act, before the date of commencement of this Act and all proceedings or actions taken or things done, or penalties imposed in contravention of the provision of sub-section (1) or sub-section (2) or sub-section (3) of the said section, for the purpose of or in relation to such deductions before the said date, shall, for all intents and purposes, be deemed to be, and to have always been, made, taken, done or imposed, as the case may be, as validly and effectively as if the provisions of sub-sections (1), (2), (3), (4) and (6) of section 13-AA of the principal Act as introduced by section 2 of this Act had been in force at all material times when such deductions were made or proceedings or actions were taken or things were done or penalties were imposed and, accordingly, no suit or other proceeding shall be maintained or continued in any court for the refund of any amount of Sales tax or penalty realised by such deduction or, as the case may be, imposition under section 13-AA of the principal Act as stood prior to the said date.

(2) For the removal of doubts it is hereby declared that—

- (a) no act or omission on the part of any person, before the commencement of this Act shall be liable to any penalty which would not have been so liable if this Act had not come into force; and
- (b) nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any sales tax paid by him, in excess of the amount due from him, under section 13-AA of the principal Act as amended by section 2 of this Act.

**Repeal and savings.**

4. (1) The Orissa Sales Tax (Amendment and [Validation] Ordinance, 1993 is hereby repealed.

Orissa  
Ordinance  
No. 8 of  
1993.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

ORISSA ACT 12 OF 1995

THE ORISSA SALES TAX (AMENDMENT) ACT, 1995

TABLE OF CONTENTS

**PREAMBLE**

**SECTIONS**

1. Short title and commencement
2. Amendment of section 3
3. Insertion of new section 5-A
4. Amendment of section 13-AA

## ORISSA ACT 12 of 1995

## \*THE ORISSA SALES TAX AMENDMENT ACT, 1995

[Received the assent of the Governor on the 26th August 1995 first published in an extraordinary issue of the *Orissa Gazette*, dated the 26th August 1995.]

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

BE it enacted by the Legislature of the State of Orissa in the Forty-sixth Year of the Republic of India as follows:—

Short title  
and commence-  
ment.

1. (1) This Act may be called the Orissa Sales Tax (Amendment) Act, 1995.

(2) Sections 2 and 3 shall be deemed to have come into force on the 27th day of May, 1995 and the remaining provisions of this Act shall come into force at once.

Amendment  
of section 3

2. In the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act), in section 3, in clause (a) of sub-section (2-e), after the words "disputed amount of tax" wherever they occur, the words and commas "including surcharge, if any," shall be inserted. Orissa Act  
14 of 1947.

Insertion of  
new sec-  
tion 5-A

3. In the principal Act, after section 5, the following section shall be inserted, namely:—

Surcharge

"5-A. (1) Every dealer whose gross turnover during any year exceeds rupees ten lakhs shall, in addition to the tax payable by him under this Act, also pay a surcharge at the rate of ten per centum of the total amount of the tax payable by him:

Provided that the aggregate of the tax and surcharge payable under this Act shall not exceed in respect of goods declared to be of special importance in Inter-State trade or commerce by section 14 of the Central Sales Tax Act, 1956, the rate fixed by section 15 of the said Act: 74 of 1956.

Provided further that in the case of an assessment year which has commenced before the commencement of the Orissa Sales Tax (Amendment) Act, 1995, turnover of the whole of such assessment year shall be taken into account for purposes of determining whether the dealer is liable to pay surcharge under this section, but the surcharge shall be payable only in respect of that part of the turnover which relates to the period after the commencement of this section.

(2) All provisions relating to the payment, assessment, recovery and refund of the tax under this Act shall, as far as may be, apply to the payment, assessment, recovery and refund of the surcharge.

(3) Notwithstanding anything to the contrary contained in any other provision of this Act, no dealer mentioned in sub-section (1), who is liable to pay surcharge, shall be entitled to collect the amount of this surcharge."

Amendment  
of section  
13-AA.

4. In the principal Act, in sub-section (1) of section 13-AA, for the words "two per centum" the words "four per centum" shall be substituted.

\*For the Bill, See *Orissa Gazette*, Extraordinary, dated the 31st July, 1995 (No.886)

## ORISSA ACT 1 OF 1996

## THE ORISSA SALES TAX (SECOND AMENDMENT) ACT, 1995

[Received the assent of the Governor on the 8th January 1996 first published in an extraordinary issue of the Orissa Gazette, dated the 9th January 1996]

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

Be it enacted by the Legislature of the State of Orissa in the Forty-sixth Year of Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Orissa Sales Tax (Second Amendment) Act, 1995.

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

Amendment of section 9.

2. In section 9 of the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act), for sub-section (3), the following sub-section shall be substituted, namely :—

Orissa Act 14 of 1947.

“(3) On receipt of an application, the prescribed authority shall, if he is satisfied that the applicant is a *bona fide* dealer and the requirements of the provisions of this Act and the rules made thereunder have been complied with, he shall register the applicant and grant him a certificate of registration on the prescribed form which shall specify the class or classes of goods in which the dealer carries on business at the time of grant of the certificate and such other particulars as may be prescribed :

Provided that the prescribed authority shall refuse to grant a certificate of registration, if the applicant has not paid the dues payable by him in respect of any business under the provisions of this Act and the rules made thereunder :

Provided further that the prescribed authority may, after giving the applicant a reasonable opportunity of being heard, refuse to grant a certificate of registration to the applicant, if—

- (i) any person associated with the business for which the application is made has not paid the dues payable by him in respect of any business under the provisions of this Act and the rules made thereunder ; or
- (ii) any earlier certificate of registration granted to the applicant or any person associated with the business for which the application is made, has been cancelled under the provisions of this Act and the circumstances and reasons, for which such certificate was cancelled, continue to exist ; or
- (iii) for any other good and sufficient reasons to be recorded in writing.”

Insertion of new section 16-AA.

3. After section 16-A of the principal Act, the following section shall be inserted, namely :—

“Regulatory measures for transport of goods through Orissa.

16-AA. (1) When a vehicle or boat carrying goods, coming from any place outside the State and bound for any other place outside the State, passes through the State, the driver or other person in-charge of such vehicle or boat shall—

- (a) declare in such form and manner before the officer-in-charge of the first check-post or barrier after his entry into the State that the goods under transport shall not be unloaded, delivered or sold in the State ;
- (b) obtain, in the prescribed manner, a transit pass in such form containing such particulars as may be prescribed from the said officer ; and
- (c) deliver the transit pass so obtained to the officer-in-charge of the last check-post or barrier before his exit from the State, failing which it shall be presumed that the goods carried thereby have been sold within the State by the owner or person-in-charge of the vehicle or boat :

Provided that where the goods carried by such vehicle or boat are, after their entry into the State, transported outside the State by any other vehicle, boat or conveyance, the onus of proving that the goods have actually been moved out of the State shall be on the owner or person-in-charge of the vehicle or boat.

*Explanation*—In a case where a vehicle or boat owned by a person is hired for transportation of goods by any other person, the hirer of that vehicle or boat shall, for the purpose of this section, be deemed to be the owner of the vehicle or boat, as the case may be.

(2) The officer-in-charge of any check-post or barrier or any other officer, not below the rank of a Sales Tax Officer, duly authorised by the Commissioner, may detain any vehicle or boat and keep it stationary as long as may reasonably be necessary for examination of the contents therein and the records relating to the goods under transport by such vehicle or boat, and seize the same if—

- (a) it is presumed under sub-section (1) that the goods carried by the vehicle or boat, as the case may be, has been sold in the State; or
- (b) the driver or the other person-in-charge of the vehicle or boat, as the case may be, fails, without reasonable cause, to produce or deliver the transit pass required under sub-section (1); or
- (c) he has reason to believe that the goods carried by the vehicle or boat, as the case may be, has been unloaded, delivered or sold within the State in contravention of the declaration furnished under sub-section (1),

he may direct the driver or the other person-in-charge of the vehicle or boat, as the case may be, to pay within a specified period, by way of penalty, a sum equivalent to twenty per centum of the value of the goods under transport by such vehicle or boat, as the case may be, or rupees twenty thousand, whichever is higher, in addition to tax as otherwise payable under this Act, failing which the officer may confiscate the goods under transport in the prescribed manner to recover such penalty and tax :

Provided that—

- (a) before taking any action for confiscation of the goods the officer shall give the driver or the person-in-charge of the vehicle or boat, as the case may be, an opportunity of being heard and, if necessary, may make an enquiry in the manner prescribed ; and
- (b) where the goods under transport are not available at the time of seizure of the vehicle or boat, as the case may be, the officer may detain the vehicle until such penalty and tax are paid.

(3) Where the goods seized are of a perishable nature they shall be sold in the prescribed manner.

(4) Where any goods seized under this section are sold, the sale proceeds thereof, after deduction of the tax including penalty payable under this section and the expenses of such sale, be paid to the person from whom the goods are seized.

(5) No order of penalty shall be made under this section in respect of goods which are not liable to payment of tax under this Act."

Insertion of  
new Section  
16-D.

4. After section 16-C of the principal Act, the following section shall be inserted, namely :—

"Production  
and inspection  
of  
accounts and  
documents in  
certain cases.

16-D. (1) Without prejudice to the provisions contained in sections 16-A and 16-B, where a transporter or a bailee or the owner or lessee of a warehouse to whom goods are delivered for transmission keeps such goods, before delivery thereof is taken from him, in any office, shop, warehouse, godown, vessel, boat, receptacle, vehicle or any other place, the Commissioner shall have the power to enter into and search such office, shop, godown, vessel, receptacle, vehicle or other place, as the case may be, and to examine the goods and inspect all records relating thereto and in every such case, the transporter, bailee, owner or lessee of the warehouse or the person-in-charge of such goods and records shall give all facilities for such examination and inspection and shall produce the bills of sale or such other documents as may be required relating to the goods and give his name and address and the name and address of the transporter, bailee, owner or lessee of the warehouse or the person-in-charge of such goods and records, as the case may be.

*Explanation I*—For the purposes of this section—

- (i) "transporter" means the owner or any person having possession or control of a goods vehicle, who transports on account of any other person for hire or on his own account, any goods from one place to another, and includes any person whose name is entered in the permit issued under the Motor Vehicles Act, 1988 as the holder thereof, the driver or any other person in-charge of such vehicle ;
- (ii) "bailee" means the person to whom goods are delivered ;
- (iii) "lessee" means the person to whom the lease of goods is granted by the lessor ; and
- (iv) "goods vehicle" means a goods carriage as defined in the Motor Vehicles Act, 1988.

59 of 1988

*Explanation II*—For the purpose of this section, where goods are delivered to a transporter, bailee or the owner or lessee of a warehouse for transmission, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from the transporter, bailee or the owner or lessee of the warehouse, as the case may be.

- (2) If the Commissioner has reason to suspect that any transporter, bailee or the owner or lessee of a warehouse is attempting to contravene the provisions of sub-section (1) or to evade payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the transporter bailee or, as the case may be, the owner or lessee of the warehouse, as may be necessary, granting a receipt for the same and shall retain the same as long as may reasonably be necessary for examination thereof or for a prosecution.
- (3) The power conferred under sub-section (2), shall include the power to break open any box, almirah or other receptacle in which any account, register or other documents of the transporter, bailee or the owner or lessee of a warehouse or to break open the doors of any premises where any such account, register or documents or any goods may be kept.
- (4) The powers exercisable under sub-section (3) shall not be delegated to any officer below the rank of a Sales Tax Officer appointed under this Act or the rules made thereunder.
- (5) The Commissioner shall have the power to seize any goods vehicle or seize and confiscate any goods of any transporter, bailee or the owner or lessee of a warehouse, which are found in any office, shop, godown, vehicle or vessel or any other place while on transit but not accounted for by the transporter, bailee or the owner or lessee of the warehouse, as the case may be, in his accounts, registers and other documents maintained in respect of such goods :

Provided that before taking action for the confiscation of goods under this sub-section, the Commissioner shall give the person affected an opportunity of being heard and make an enquiry in the prescribed manner :

Provided further that where the person affected makes payment to the Commissioner the amount of tax at the appropriate rate payable in respect of such goods to be assessed in the prescribed manner with a penalty equivalent to twenty per centum of the value of the goods seized, the Goods and the vehicle seized as aforesaid shall be released."

## ORISSA ACT 12 OF 1997

**\*THE ORISSA SALES TAX (AMENDMENT) ACT, 1997**

*[Received the assent of the Governor on the 5th November 1997, first Published in an extraordinary issue of the Orissa Gazette, dated the 15th November 1997]*

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

**B**E it enacted by the Legislature of the State of Orissa in the Forty-eighth Year of the Republic of India as follows:—

Short title  
and commence-  
ment.

1. (1) This Act may be called the Orissa Sales Tax (Amendment) Act, 1997.
- (2) It shall come into force at once.

Amendment  
of  
section 5-A.

2. In section 5-A of the Orissa Sales Tax Act, 1947, for sub-section (1) excluding Orissa Act 14 of 1947, the provisos thereto, the following shall be substituted, namely:—

“(1) Every dealer shall, in addition to the tax payable by him under this Act, also pay a surcharge—

- (a) at the rate of ten per centum of the total amount of tax so payable, if his gross turnover during any year exceeds rupees ten lakhs but does not exceed rupees one crore; and
- (b) at the rate of fifteen per centum of the total amount of tax so payable, if his gross turnover during any year exceeds rupees one crore.”

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\*For the Bill see *Orissa Gazette*, Extraordinary, dated the 19th September 1997 (No. 1178).

ORISSA ACT 6 OF 1999

THE ORISSA SALES TAX (AMENDMENT) ACT, 1999

TABLE OF CONTENTS

PREAMBLE

SECTIONS

1. Short title.
2. Amendment of section 3.
3. Amendment of section 13-AAA.
4. Amendment of section 16.
5. Insertion of new section 23-A.

## ORISSA ACT 6 OF 1999

## \* THE ORISSA SALES TAX (AMENDMENT) ACT, 1999

[Received the assent of the Governor on the 8th June 1999 first published in an Extraordinary issue of the *Orissa Gazette*, dated the 16th June 1999]

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

BE it enacted by the Legislature of the State of Orissa in the Fiftieth Year of the Republic of India as follows:—

- Short title. 1. This Act may be called the Orissa Sales Tax (Amendment) Act, 1999.
- Amendment of section 3. in section 3.— 2. In the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act) Orissa Act 14. of 1947.
- (i) in sub-section (2), for the words “four members”, the words “six members” shall be substituted;
- (ii) in sub-section (2-a), for the words “two members” and “other two members”, the words “three members” and “other three members” shall respectively, be substituted; and
- (iii) in clause (a) of sub-section (2-e),—
- (a) in sub-clause (i), for the words “rupees twenty thousand”, the words “rupees fifty thousand” shall be substituted;
- (b) in sub-clause (ii), for the words “rupees twenty thousand” and “rupees one lakh”, the words “rupees fifty thousand” and “rupees five lakhs” shall, respectively, be substituted; and
- (c) in sub-clause (iii), for the words “rupees one lakh”, the words “rupees five lakhs” shall be substituted.
- Amendment of section 13-AAA. 3. In the principal Act, in section 13-AAA, for the words “small scale industry wherever they occur, the word “dealer” shall be substituted.
- Amendment of section 16. 4. In the principal Act, after the proviso to sub-section (6) of section 16, the following new provisos shall be added, namely:—
- “Provided further that where it is not reasonably practicable to take physical possession of any goods so seized under this sub-section and remove it to a safe place due to its volume, weight or other physical character or its perishable nature, the Commissioner may serve an order on the dealer or the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of the Commissioner and to keep the goods in safe condition:
- Provided further that where the person affected makes payment to the Commissioner, the amount of tax payable in respect of the goods and the penalty equal to the tax payable, the goods so seized shall be released”.
- Insertion of new section 23-A. 5. In the principal Act after section 23, the following new section shall be inserted, namely:—
- “23-A. (1) Notwithstanding anything contained in this Act, a dealer who has filed or preferred appeal either under sub-section (1) or sub-section (3) of section 23 which is pending as on 31st day of December, 1998, may apply to the Commissioner within sixty days from the date of commencement of the Orissa Sales Tax (Amendment) Act, 1999 by exercising option to compound the disputed amount of tax, penalty and interest in the prescribed form along with payment of composition amount to the extent of 60% of the total disputed dues involved in the appeal so pending.

(2) The Commissioner on receipt of the application in the prescribed form shall, after causing such enquiry as may be deemed necessary, pass an order within sixty days from the receipt of application specifying the disputed amount and the amount computed towards composition.

(3) The order specifying the amount of composition by the Commissioner shall be communicated to the concerned dealer and the Sales Tax Officer concerned.

(4) The payment of the extra amount, if any, so specified, shall be made within thirty days from the date of receipt of the order and the fact of such payment shall be intimated to the Commissioner and the Sales tax Officer concerned alongwith the proof of payment thereof and a certificate thereon shall be issued by the Commissioner to the concerned dealer.

(5) Every order passed under sub-section (2) determining the sum payable by the concerned dealer shall be conclusive and no matter covered by such order shall be re-opened in any other proceeding under this Act.

(6) On satisfaction of the amount specified in the order of composition passed under sub-section (2) the appeal or reference filed by the concerned dealer before any authority or the Tribunal under this Act shall be deemed to have been withdrawn.

(7) If the dealer has filed a writ petition or appeal or reference before the High Court or the Supreme Court against any order in respect of tax arrear, he shall file an application before such High Court or Supreme Court to withdraw such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, shall furnish proof of such withdrawal.

(8) Where an appeal has been filed by a Department of the State Government in respect of any issue relating to such tax arrear comprising tax penalty and interest the appellate authority shall proceed to decide the appeal irrespective of such application by the concerned dealer".

## ORISSA ACT 3 OF 2000

**\*THE ORISSA SALES TAX (AMENDMENT AND VALIDATION) ACT, 2000**

[Received the assent of the Governor on the 31st March 2000 first published in an extra ordinary issue of the Orissa Gazette, dated the 31st April 2000]

AN ACT FURTHER TO AMEND THE ORISSA SALES TAX ACT, 1947 AND TO VALIDATE CERTAIN ACTIONS.

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

Short title

1. This Act may be called the Orissa Sales Tax (Amendment and Validation) Act, 2000.

Amendment of section 13-A A.

2. In the Orissa Sales Tax Act, 1947 ( hereinafter referred to as the principal Act ), Orissa Act 14 of 1947. for section 13-AA including its marginal heading, the following section shall be deemed to have been substituted with effect from the 15th day of December 1986 namely ;—

Deduction of tax at source from payment to works contractors.

“13-AA, (1) Notwithstanding anything contained in section 13 or any other law or contract to the contrary, any person responsible for paying any sum to any contractor (hereinafter referred to in this section as the ‘deducting authority’) for carrying out any works contract, which involves transfer of property in goods, in pursuance of a contract between the contractor and—

- (a) the Central Government or any State Government, or
- (b) any local authority, or
- (c) any authority or Corporation established by or under a statute, or
- (d) any company incorporated under the Companies Act, 1956 including any State or Central Government undertaking, or
- (e) any co-operative society or any other association registered under the Societies Registration Act, 1860.

21 of 1860

shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or any other mode, whichever is earlier, deduct, subject to the certificate, if any, produced by the contractor in pursuance of sub-section (5), an amount towards sales tax equal to four per centum of such sum in respect of the works contract, if the value of the works contract exceeds rupees one lakh :

Provided that during the period beginning on the 15th day of December, 1986 and ending on the 25th day of August, 1995, the amount to be deducted towards sales tax shall be equal to two per centum of such sum in respect of the works contract.

(2) While making deduction as referred to in sub-section (1), the deducting authority shall grant a certificate to the contractor in the form prescribed and shall send a copy thereof to the Sales Tax Officer within whose jurisdiction the works contract is executed.

(3) The amount deducted from the Bills or Invoices shall be deposited into a Government Treasury within one week from the date of deduction in such form or challan as may be prescribed.

(4) Such deposit into Government Treasury shall be adjusted by the Sales Tax Officer towards the sales tax liability of the contractor and would also constitute a good and sufficient discharge of the liability of the deducting authority to the contractor to the extent of the amount deposited.

\* For the Bill, see Orissa Gazette Extraordinary dated the 27th March 2000 (No. 543)

(5) (a) Where, on an application being made by the contractor in this behalf, the Commissioner is satisfied that any works contract of the nature referred to in sub-section (1) involves both transfer of property in goods and labour or service, or involves only labour or service and, accordingly, justifies deduction of tax on a part of the sum in respect of the works contract or, as the case may be, justifies no deduction of tax, he shall, after giving the contractor a reasonable opportunity of being heard, grant him such certificate as may be appropriate, in the manner prescribed:

Provided that nothing in the said certificate shall affect the assessment of the sales tax liability of the contractor under this Act.

(b) Where, such a certificate is produced by a contractor before the deducting authority, until such certificate is cancelled by the Commissioner, the deducting authority shall either make no deduction of tax or make the deduction of tax, as the case may be, in accordance with the said certificate.

(6) If any person contravenes the provisions of sub-section (1) or sub-section (2) or sub-section (3) or of clause (b) of sub-section (5), the Sales Tax Officer shall, after giving him an opportunity of being heard, by an order in writing, impose on such person penalty not exceeding twice the amount required to be deducted and deposited by him into Government Treasury.

Explanation—Nothing in sub-section (5) or any other provision of this section shall be construed as to authorise deduction of any amount towards sales tax on the value of any property in goods transferred in the course of inter-State sales, sales outside the State or sales in the course of import."

Validation.

3. (1) Notwithstanding any judgement, decree or order of any Court or Tribunal or other Authority, all deductions towards Sales Tax, pertaining to works contracts involving transfer of property in goods, made under sub-section (1) of section 13-AA of the principal Act before the date of commencement of this Act and all proceedings or actions taken or things done, or penalties imposed in contravention of the provision of sub-section (1) or sub-section (2) or sub-section (3) or clause (b) of sub-section (5) of the said section, for the purpose of or in relation to such deductions before the said date, shall, for all intents and purposes, be deemed to be, and to have always been, made taken, done or imposed, as the case may be, as validly and effectively as if the provisions of section 13-AA of the principal Act as amended by section 2 of this Act had been in force at all material points of time when such deductions were made or proceedings or actions were taken or things were done or penalties were imposed and, accordingly, no suit or other proceeding shall be maintained or continued in any Court or Tribunal or before other Authority for the refund of any amount of sales tax or penalty realised by such deduction or, as the case may be, imposition under section 13-AA of the principal Act as stood prior to the said date.

(2) For the removal of doubts it is hereby declared that—

(a) no act or omission on the part of any person before the commencement of this Act shall be liable to any penalty which would not have been so liable if this Act had not come into force ; and

(b) nothing in sub-section (1) shall be construed as preventing any person from claiming refund of any sales tax paid by him, in excess of the amount due from him, under section 13-AA of the principal Act as amended by section 2 of this Act.

## ORISSA ACT 8 OF 2000

**\* THE ORISSA SALES TAX (AMENDMENT) ACT, 2000****AN ACT FURTHER TO AMEND THE ORISSA SALES TAX ACT, 1947**

[Received the assent of the Governor on the 25th September 2000, first published in an extraordinary issue of the Orissa Gazette, dated the 3rd October, 2000]

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

- Short title. 1. This Act may be called the Orissa Sales Tax (Amendment) Act, 2000.
- Amendment of section 3. 2. In section 3 of the Orissa Sales Tax Act, 1947 (hereinafter referred to as the principal Act),—
- (a) in sub-section (2-b), the following Explanation shall be added at the end, namely :—
- “Explanation—Cases allotted to different Benches, other than a Bench, consisting of a single member, in accordance with the provisions of sub-section (2-c) as stood prior to the commencement of the Orissa Sales Tax (Amendment) Act, 1999, which are pending but not heard, shall be re-allotted by the Chairman to different Benches in accordance with the provisions of that sub-section, as amended by the said Act.”; and
- (b) in clause (a) of sub-section (2-c), in sub-clause (iii), after the word “Tribunal”, the words “including at least one Judicial member and one Accounts member” shall be inserted.
- Amendment of section 4. 3. In section 4 of the principal Act, in sub-section (2), for the words “with effect from the month”, the words “with effect from the day” shall be substituted.
- Amendment of section 11. 4. In section 11 of the principal Act,—
- (a) for sub-section (1), the following sub-section shall be substituted, namely:—
- “(1) Every registered dealer and every other dealer who is liable to pay tax under this Act, or who may be required so to do by the Commissioner by notice served in the prescribed manner, shall furnish such returns, by such dates and to such authority as may be prescribed.”;
- (b) in sub-section (2), for the words “registered dealer”, the word “dealer” shall be substituted ; and
- (c) for sub-section (3) excluding the Explanation and proviso occurring thereunder, the following shall be substituted, namely :—
- “(3) If a dealer fails, without reasonable cause, to furnish any return required under sub-section (1) by the prescribed date, the Commissioner may direct that the dealer shall, by way of penalty, pay a sum equal to one-tenth per centum of the tax due or rupees ten, whichever is higher, for every day after the prescribed date during which the dealer fails to furnish the required return”.
- Amendment of section 12. 5. In section 12 of the principal Act,—
- (a) in sub-section (4-a), for the words “twenty-four per cent”, the words “ten per cent” shall be substituted;
- (b) in sub-section (5), for the words “not exceeding”, the words “equal to” shall be substituted; and
- (c) in sub-section (8) for the words “not exceeding”, the words “equal to” shall be substituted.

Amendment  
of  
Section 13.

6. In section 13 of the principal Act, in sub-section (6), for the words "eighteen per cent per annum from the said date for the first three months and thereafter at the rate of twenty-four per cent per annum", the words "ten per cent per annum from the said date" shall be substituted.

Amendment  
of section  
13-AAA.

7. In section 13-AAA of the principal Act, in sub-section (1), the comma and words " ; and the amount of sales tax so deducted shall be deemed to be the amount of sales tax collected by the dealer from the State Government" shall be added at the end.

Amendment  
of section  
14-C.

8. For section 14-C of the principal Act, the following section shall be substituted, namely :—

"14-C. (1) Amounts refundable under section 14, if not refunded within a period of ninety days from the date of receipt of the application in that behalf from the dealer, shall carry interest at the rate of ten per cent per annum with effect from the date of expiry of the said period :

Provided that—

(a) If the delay or any part thereof in granting the refund within the aforesaid period is attributable to the person to whom the refund is payable, the period of such delay shall be excluded for the purpose of calculation of such interest ; and

(b) the interest calculable shall be on the balance of the amount after adjusting the amount of tax, Penalty or other amount due, if any, under this Act from the dealer for any year out of the refundable amount on the date from which such interest is calculable.

(2) No amount, the payment of which has been made by a dealer, whether pursuant to any order passed by any authority under this Act or by a Court, towards any tax, surcharge, penalty or interest payable for any period, shall, during the pendency of any proceeding including appeal in respect of such tax, surcharge, penalty or interest before any authority under this Act or before any Court, carry any interest".

Amendment  
of  
section 16-A

9. In section 16-A of the principal Act,—

(a) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3-a) Where the officer-in-charge of the check-post or barrier or the officer empowered as aforesaid, while inspecting the goods under transport and the records relating thereto under sub-section (2), is satisfied after such enquiry as he may deem fit that such goods belongs to a dealer who being liable to be registered under section 9, has failed to get himself registered, he shall seize and confiscate the goods, unless such dealer or the driver or any other person in charge of the goods vehicle or boat used for transport of such goods makes payment to such officer of the amount of tax payable in respect of such goods, to be assessed in the prescribed manner, along with a penalty equal to the tax so payable :

provided that—

(a) before taking action for confiscation of goods under this sub-section, the officer shall give the person affected a reasonable opportunity of being heard and make an enquiry in the manner prescribed, and

(b) no order of confiscation shall be made in respect of goods which are not liable to payment of tax" ; and

(b) in sub-section (4), for the word, brackets and figure "sub-section (3)", the words, brackets and figures "sub-section (3) or sub-section (3-a)" shall be substituted.

Amendment  
of section  
16-C.

10. In section 16-C of the principal Act, in sub-section (1), for the words "not exceeding", the words "equal to" shall be substituted.

Amendment of section 24. 11. For section 24 of the principal Act including its marginal heading the following section shall be substituted, namely :—

Revision by High Court.

“24 (1) Within sixty days from the date of receipt of the copy of an order of the Tribunal under sub-section (3) of section 23 affecting any liability of a dealer to pay tax under this Act, or within sixty days of coming into force of the Orissa Sales Tax (Amendment) Act, 2000 for the cases pending before Tribunal for reference to High Court as on the date of coming into force of the said Act, such dealer or, as the case may be, the State Government may prefer a petition to the High Court against the order on the ground that the Tribunal has either failed to decide or decided erroneously any question of law :

Provided that the High Court may admit a petition preferred after the period of sixty 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, when it is preferred by any person other than by an officer empowered by the State Government, be accompanied by a fee of one hundred rupees.

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

(4) (a) If the High Court does not dismiss the petition under sub-section (3) it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised, either reverse, confirm or amend the order of the Tribunal against which the petition was preferred or remit the matter to the 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 Tribunal under clause (a) with its opinion on the question of law raised, the latter 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 necessary so to do, remit the petition with its finding on any specific question or issue”.

Savings.

12. (1) Any case which is pending before the High Court on a reference or otherwise under section 24 of the principal Act prior to the commencement of this Act shall be deemed to be a revision preferred under the said section as amended by section 11 of this Act and shall be disposed of accordingly.

(2) All applications made to the Tribunal under section 24 of the principal Act for reference to the High Court, which are pending on the date of commencement of this Act, shall lapse and the fee paid with any such application shall be refunded.

## ORISSA ACT 3 OF 2001

**\*THE ORISSA SALES TAX (AMENDMENT) ACT, 2001**

[Received the assent of the Governor on the 5th May 2001, first published in an extraordinary issue of the Orissa Gazette, dated the 15th May, 2001 (No. 905)]

**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-second Year of the Republic of India as follows:—

- Short title.** 1. This Act may be called the Orissa Sales Tax (Amendment) Act, 2001.
- Amendment of section 5.** 2. In section 5 of the Orissa Sales Tax Act, 1947 (Hereinafter referred to as the principal Act), in sub-section (1),—
- Orissa Act  
14 of 1947.
- (i) In the opening portion, for the words "not exceeding twenty-five per cent", the words "not exceeding seventy-five per cent in case of liquor and twenty-five per cent in case of other goods," shall be substituted; and
- (ii) the following Explanation shall be added at the end, namely:—
- "Explanation—*For the purposes of this sub-section, "liquor" shall mean liquor as defined in the Bihar and Orissa Excise Act, 1915 and shall include India Made Foreign Liquor and any other product covered by the Drugs and Cosmetics Act, 1940 of which more than fifty per cent of ingredients are spirit or alcohol or both."*"*
- Bihar and  
Orissa Act  
2 of 1915,  
23 of 1940
- Amendment of section 5-A.** 3. For section 5-A of the principal Act, the following section shall be substituted namely:—
- "5-A. (1) Every dealer shall, in addition to the tax payable by him under this Act, also pay a surcharge at the rate of ten *per centum* of the total amount of tax so payable by him:
- Provided that the aggregate of the tax and surcharge payable under this Act shall not exceed in respect of goods declared to be of special importance in Inter-State trade or commerce by Section 14 of the Central Sales Tax Act, 1956 the rate fixed by Section 15 of the said Act.
- 74 of 1956.
- (2) All provisions relating to the payment, assessment, recovery and refund of the tax under this Act shall, as far as may be, apply to the payment assessment, recovery and refund of the surcharge."
- Amendment of section 24.** 4. In section 24 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—
- "(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner and shall, when it is preferred by the State Government, be signed by the Commissioner of Sales Tax or such other officer as may be authorised by him in this behalf:
- Provided that when the petition is preferred by any person other than the State Government, it shall be accompanied by a fee of rupees one hundred."

\*For the Bill, see Orissa Gazette Extraordinary, dated the 4th April, 2001, (No. 550)

## 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.

## 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 :-

"*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.