



**The Andhra Pradesh Small Scale Industries (Restriction on Sales Tax Holiday)
Act, 1995**

Act 14 of 1995

Keyword(s):

Sales Tax Holiday, Liberalised State Incentive Scheme

Amendment appended: 18 of 1996

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THE ANDHRA PRADESH SMALL SCALE INDUSTRIES
(RESTRICTION ON SALES TAX HOLIDAY). ACT, 1995

ACT No. 14 OF 1995*

[16th Feb. 1995]

An Act limit the maximum Fixed Capital Investment for the purpose of Sales Tax Holiday in respect of certain Small Scale Industries in the State of Andhra Pradesh.

Whereas the Government in G.O Ms.No. 498, Industries and Commerce (I.A). Department, dated the 16th October, 1989 issued orders extending certain concessions under the Liberalised State Incentive Scheme for setting up of new industries in the State of Andhra Pradesh, except in the Industries specified in the Annexure to the order and those to be located in the Municipal Corporation limits of Hyderabad, Visakhapatnam and Vijayawada;

And whereas, a concession of five years Sales Tax Holiday subject to a ceiling of rupees thirty five lakhs on Sales Tax during the entire holiday period has been allowed to the small scale industries to be set up on or after the 3rd October, 1989 and going into commercial production before the 31st March, 1995;

And whereas, it has been brought to the notice of the Government that there is every likelihood of under exploitation of the concession of the Sales Tax Holiday of rupees thirty five lakhs allowed in the aforesaid G.O., by some of the units with every small fixed capital investment but with high turnover by virtue of components bought out;

* Received the assent of the Governor on the 14th Feb. 1995. For Statement of Object & Reasons, please see the Andhra Pradesh Gazette Part IV-A. Extraordinary, dated 24th Jan. 1995 at Pages 6 & 7.

To AND whereas, while approving the comprehensive guidelines for effective implementation of the Incentive Scheme issued in Memo. No. 2125/LA/89, Industries and Commerce Department dated 15-9-1990 it has been made clear in para 6 (2) (B) (ii) of the aid guidelines that small scale industries are exempted from payment of Sales Tax for a period of five years from the date of commercial production limited to 100% of fixed capital investment or rupees thirty five lakhs whichever is less;

AND whereas, the demand notices for payment of Sales Tax in accordance with the guidelines evolved were issued to certain small scale industries;

AND whereas, the said small scale units have challenged the said demand notices in the High Court of Andhra Pradesh, on the pretext that they are eligible for the Sales Tax Holiday benefit up to a maximum of rupees thirty five lakhs in accordance with the orders issued in the said G.O., irrespective of that capital investment;

AND whereas, in W.P.No. 16570/91 and batch the High Court of Andhra Pradesh, while upholding the contention of the petitioners, directed not to demand or collect Sales Tax from the petitioners except as otherwise provided in the said G.O.;

AND whereas, the intention of the Government is only to allow the small scale units a Sales Tax Holiday to an extent of 100% of their capital investment or a maximum of rupees thirty five lakhs whichever is less during the entire holiday period vide para 6-B (ii) of the guidelines issued in Memo No. 2125/LA/87-1, dated the 15th September, 1990 for implementation of the Liberalised State Incentive Scheme, 1989;

AND whereas, the High Court of Andhra Pradesh in W.P. No. 16570/91 and batch held that limiting the extent of eligibility to a sum lesser than rupees thirty five lakhs could have been effected only by another notified order issued under clause (2) of article 166 of the Constitution rather than by a Memorandum and held that the respondents are not entitled to rely upon the alteration or reduction in the eligibility of the petitioners for exemption to any amount lesser than that which was promised in clause 3 of G.O. Ms.No. 479, Industries and Commerce (I.A.) Department dated 16-10-1989;

AND whereas, the implementation of the said directions of the High Court would run against the policy of the Government and it amounts to allowing the small scale units with less capital investment and high turnover, taking undue advantage of the policy of the Government ;

AND whereas, the implementation of the judgment of the High Court would result in the colossal loss of revenue to the Government ;

BE it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-sixth Year of the Republic of India, as follows :-

Short title
and comment.

1. (1) This Act may be called the Andhra Pradesh Small Scale Industries (Restriction on Sales Tax Holiday) Act, 1995.

(2) It shall be deemed to have come into force on the 16th October, 1989.

Restriction
on Sales
Tax
Holiday.

2. Notwithstanding anything contained in G.O.Ms.No 498 Industries and Commerce (IA). Department, dated the 16th October, 1989 or, in any judgement, decree or order of any Court, Tribunal or other authority or any order to the contrary, the Government may declare a Sales Tax Holiday limited to 100% of the fixed capital investment or rupees thirty five lakhs, whichever is less, for a period of five years in respect of the small scale industries including the oil mills crushing non edible oil seeds set up on or after 31st October, 1989 and go into commercial production before 31st March, 1995 in the State of Andhra Pradesh except in the industries indicated in the Annexure to the said in Government Order and the industries located in the Municipal Corporation limits of Hyderabad, Visakhapatnam and Vijayawada.

THE ANDHRA PRADESH SMALL SCALE INDUSTRIES
(RESTRICTION ON SALESTAX HOLIDAY)
(AMENDMENT) ACT, 1996.

ACT No. 18 OF 1996.

[26th August, 1996.]

AN ACT TO AMEND THE ANDHRA PRADESH SMALL
SCALE INDUSTRIES (RESTRICTION ON SALES
TAX HOLIDAY) ACT, 1995.

Whereas the Honourable High Court of
Andhra Pradesh in Writ Petition No. 2031
of 1994 and batch dated the 5th day of
April, 1995 held that the Oil Industries
are also eligible for grant of incentives
under the Andhra Pradesh Small Scale
Industries (Restriction on Sales Tax
Holiday) Act, 1995 on the ground that

*Received the assent of the Governor on the 26th
August, 1996. For Statement of objects and Reasons,
Please see Andhra Pradesh Gazette, Part IV-A, Extra-
ordinary, dated the 23rd March, 1996 at Page 4.

the orders issued in G.O.Ms.No.498 Industries and Commerce (IA) Department dated the 16th October, 1989 and in G O Ms.No. 146, Industries and Commerce (IA) Department, dated the 25th April, 1991 are deemed to have been superceded on the commencement of the said Act:

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Forty-seventh Year of the Republic of India.

Short Title. 1. This Act may be called the Andhra Pradesh Small Scale Industries (Restriction on Sales Tax Holiday) (Amendment) Act, 1996.

Amendment of the preamble, Act 14 of 1995. 2. In the Andhra Pradesh Small Scale Industries (Restriction on Sales Tax Holiday) Act, 1995 (hereinafter referred to as the principal Act), to paragraph 10, the following shall be added, namely:-

"and also amount to allow the ineligible Small Scale Industries specified under Annexure to G.O.Ms.No. 146, Industries and Commerce (IA) Department, dated the 25th April, 1991 for availing the incentives."

Amendment of section-1. 3. In section-1 of the principal Act, for sub-section (2) the following shall be substituted, namely:-

"(2) it shall be deemed to have come into force on the 3rd October, 1989."

Amendment of section-2. 4. For section-2 of the principal Act, the following shall be substituted, namely:-

"Restriction on Sales Tax Holiday" 2. Notwithstanding the restrictions specified under para-3B of the G.O.Ms.No.498, Industries and Commerce (IA) Department, dated the 16th October, 1989, or anything contained in any judgement, decree or order of any Court, Tribunal or other authority or any order to the contrary, the Small Scale Industries which complied with the conditions stipulated in G.O.Ms.No. 498, Industries and commerce (IA) department, dated the 16th October, 1989 and Government Memo No.2125/IA/89-1, dated the 15th September, 1990, shall be entitled to a Sales Tax Holiday limited to 100% of the fixed capital investment or Rs. 35.00 lakhs (Rupees thirty five lakhs) whichever is less, for a period of five years in respect of the Small Scale Industries set up on or after 3rd October, 1989 and go into commercial production before the 31st March, 1995 in the State of Andhra Pradesh except the Industries specified in the Annexure to the G.O.Ms.No. 498, Industries and Commerce Department, dated the 16th October, 1989 and the industries located in the Municipal Corporation limits of Hyderabad, Vishakapatnam and Vijayawada."

5. The Andhra Pradesh Small Scale Repeal of Industries (Restriction on Sales Tax Ordinance Holiday) (Second Amendment) Ordinance, 14 of 1996. 1996 is hereby repealed.

G. BHAVANI PRASAD,
Secretary to Government,
Legislative Affairs & Justice,
Law Department.

J. 15600/7