



The Andhra Pradesh Tax on Entry of Goods into Local Areas Act, 2001

Act 39 of 2001

Keyword(s):

Assessing Dealer, Goods, Goods Vehicle, Entry of Goods into a Local Area, General Sales Tax Act, Importer, Local Area, Local Value of the Goods, Tax

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ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS, Etc.

The following Act of the Andhra Pradesh Legislative Assembly received the assent of the Governor on the 15th October, 2001 and the said assent is hereby first published on the 16th October, 2001 in the Andhra Pradesh Gazette for general information.

ACT No. 39 OF 2001

AN ACT TO PROVIDE FOR THE LEVY AND COLLECTION OF TAX ON ENTRY OF CERTAIN GOODS INTO LOCAL AREAS IN THE STATE OF ANDHRA PRADESH AND FOR THE MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the fifty-second year of the Republic of India as follows-

1. (1) This Act may be called the Andhra Pradesh Tax on Entry of Goods into Local Areas Act, 2001.

Short title, extent and commencement.

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

(3) It shall be deemed to have come into force on and from the 2nd May, 2001.

CHAPTER - I

Definitions

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

(a) 'assessing authority' means,-

Act VI of
1957.

(i) In the case of an importer, who is a dealer, the assessing authority shall be authority as specified under the Andhra Pradesh General Sales Tax Act, 1957.

(ii) In the case of an importer, other than a dealer, the office-in-charge of the Check post, through which the goods are brought into the State or the Commercial Tax Officer having jurisdiction over the area, in which such importer ordinarily resides;

(b) 'Dealer' shall have the meaning assigned to it under the Andhra Pradesh General Sales Tax Act, 1957;

(c) 'Goods' means all kinds of movable property other than actionable claims, stocks, shares and securities, and includes all materials, articles, petroleum products and commodities including the goods as goods or in some other form, involved in the execution of works contract or those goods used or to be used in the construction, fitting out, improvement or repair of movable or immovable property and also includes all growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale.

(d) 'Goods vehicle' means any motor vehicle constructed or adapted for the carriage of goods or any other motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers;

(e) 'Entry of goods into a local area' with all its grammatical variations and cognate expressions, means entry of goods into a local area from any place outside the State for consumption, use or sale therein;

(f) 'General Sales Tax Act' means the Andhra Pradesh General Sales Tax Act, 1957, Act VI of 1957.

(g) 'Government' means the State Government of Andhra Pradesh.

(h) 'Importer' means person who brings or causes to be brought goods whether on his own account or on account of a Principal or any other person, into a local area, from any place outside the State for consumption, use or sale therein of who owns the goods at the time of entry into the local area;

(i) 'Local area' means the area of Jurisdiction of a local authority;

(j) 'Local authority' 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 or any other Municipal Corporation in the State, as in force or a Municipality as constituted or deemed to Act II of 1955.
Act 19 of 1979.
Act 23 of 1981

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 or the area within the limits of Gram Panchayats, under the Andhra Pradesh Panchayat Raj Act, 1994, or a Contonment Board constituted under Contonments Act, 1924.

Act 6 of 1993.

A.P. Act 13 of 1994

Central act 2 of 1924.

(k) 'Notification' means a notification published in the Andhra Pradesh Gazette:

(l) 'Person' includes any company or association or body of individuals whether incorporated or not, a firm, a local authority, a Hindu undivided family, society, club, an individual, the Central Government or the Government of any other State or Union Territory;

(m) 'Prescribed' means prescribed by rules made under this Act;

(n) 'Value of the goods' shall mean the purchase value of such goods, that is to say, the purchase price at which a person has purchased the goods inclusive of charges borne by him as cost of transportation, packing, forwarding and handling charges, commission, insurances, taxes, duties and the like, or if such goods are not purchased by him the value of goods as recorded in the documents or the prevailing fair market price of such goods in the local area as determined by the assessing authority in the absence of any documents;

(o) 'State' means the State Government of Andhra Pradesh;

(p) 'Tax' means tax payable under this Act.

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

CHAPTER - II

LEVY OF TAX

3. (1) (a) There shall be levied and collected a tax on the entry of the notified goods into any local area for sale, consumption or use therein. The goods and the rates at which, the same shall be subjected to tax shall be notified by the Government. The tax shall be on the value of the goods as defined in clause (n) of sub-section (1) of section 2 and different rates may be prescribed for different goods or different classes of goods or different categories of persons in the local area; Levy and collection of tax.

(b) The tax shall be payable by the importer in such manner and within such time as may be prescribed;

(c) The rate of tax to be notified by the Government in respect of any commodity shall not exceed the rate specified for that commodity under the Andhra Pradesh General Sales Tax Act, 1957 or the notifications issued thereunder. Act VI of 1957

Provided that the tax payable by the importer under this Act shall be reduced by the amount of tax paid, if any, under the relating to General Sales Tax in force in the Union Territory or State, in which the goods are purchased.

(2) Notwithstanding anything contained in sub-section (1), no tax shall be levied on the notified goods imported by a dealer registered under the Andhra Pradesh General Sales Tax Act, 1957 who brings such goods into any local area for the purpose of resale in the State of Andhra Pradesh or during the course of interstate trade or commerce;

Provided that if any such dealer, after importing the notified goods for the purpose of resale, consumes such goods in any form or deals with such goods in any other manner except reselling the same, he shall forthwith notify the assessing authority by the 20th of the month succeeding the month in which such goods are so consumed or dealt with and pay the tax, which would have been otherwise leviable under sub-section (1), along with interest for the period of delay at the rate of 18% per annum compounded quarterly.

(3) If any dealer having imported the notified goods for the ostensible purpose of resale deals with such goods in any other manner or consumes the same and does not notify to the assessing authority as provided in sub-section (2) or does not pay the tax as required under sub-section (2) within the specified period, the assessing authority shall assess the amount of tax

which such dealer is liable to pay and levy penalty equal to the amount of tax due, apart from collecting interest from the date of entry of the goods into the local area.

CHAPTER - III

OFFENCES AND PENALTIES

4. OFFENCES:- (1) Any person, who, -

Offences and Penalties.

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

(b) wilfully acts in contravention of the provisions of the 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, -

(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 five thousand rupees or with both.

(3) Any person who makes any statement or declaration in any of the records or documents, 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 six months or with fine which may extend to two thousand rupees or with both. 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
and trial of
offence.

5. (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 4 shall be instituted except with the written consent of the Deputy Commissioner, having jurisdiction over the local area.

CHAPTER - IV

TAX AUTHORITIES, RETURNS, ASSESSMENTS, PAYMENTS, RECOVERY AND REFUND OF TAX, APPEALS, REVIEW AND REVISIONS.

6. (1) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, reasons, inspect, search, seize, confiscate, collect and enforce payment of any tax under the Andhra Pradesh General Sales

Tax Authorities,
Returns,
Assessments,
Payments,
Recovery and
Refund of Tax,
Appeals,
Review and
Revisions.

Tax Act, 1957 shall assess, re-assess, inspect, search, seize, confiscate, collect and enforce payment of tax, including any interest or penalty, payable by a dealer or an importer under this Act as if the tax or interest or penalty by such a dealer or importer under this Act is a tax or interest or penalty payable under the General Sales Tax Act, and for this purpose they may exercise all or any of the powers they have under the General Sales Tax Act, and the provisions of General Sales Tax Act, including provisions relating to returns, provisional assessment, advance payment of tax, imposition of the tax liability of a person carrying on business on the transferee of, or successor to such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, reviews, revisions, references, refunds, rebates, penalties, charging or payment of interest, inspection of the premises of transporters, goods, vehicles, business premises, search of the residential accommodation, seizure and confiscation of unaccounted for goods, seizure of documents, compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly.

(2) All the provisions relating to offences, interest and penalties including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence of the General Sales Tax

Act shall, with necessary modifications, apply in relation to the assessment, re-assessment, determination of the value or the fair market price of goods, collection and the enforcement of payment of any tax required to be collected under this Act, or in relation to a process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act were a tax under the General Sales Tax Act.

Power to
remove
difficulties.

7. If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of doubt or difficulty.

Protection of
Acts done in
good faith.

8. (1) No suit, prosecution or other legal 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 date of 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.

9. (1) For the purposes of assessment of tax under this Act, the burden of proof that goods brought into or caused to be brought into a local area are not liable to tax under this Act, shall be on such importer. Burden of proof.

(2) where an importer issues or produces a false bill or purchase or sale voucher, declaration, certificate or other document with a view to support or make any claim that he is not liable to be taxed under this Act, the assessing authority shall on detecting such issue or production, direct the importer to pay as penalty,-

(i) in the case of first detection, an amount equal to the amount of tax levied or leviable in respect of such goods; and

(ii) in the case of second and subsequent detection, three times the tax levied or leviable in respect of such goods;

Provided that an opportunity of being heard shall be afforded to the importer before issuing any direction for the payment of penalty under this section.

10. (1) The Government may, by notification, make rules, to carry out the purposes of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:-

(a) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(b) all matter expressly required or allowed by this Act, to be prescribed;

(c) generally regulating the procedure to be followed and the forms to be adopted in the proceedings under this Act;

(d) any other matter including levy of fees for which there is no specific provision in this Act, and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act; and

(e) the procedure for any other matter incidental to the disposal of appeal and the value of Court Fee Stamp which a Memorandum of appeal or revision should bear.

(3) Every rule made under this section 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 in 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.

11. The Andhra Pradesh Tax on Entry of Goods into local Areas Ordinance, 2001 is hereby repealed. Repeal of Ordinance of 2001.

G. TRINADHA RAO,
Secretary to Government,
Legislative Affairs and
Justice (I/c),
Law Department.

STATEMENT OF OBJECTS AND REASONS

In the conference of Chief Ministers of all the States it has been decided at the national level to bring uniform sales tax structure with effect from 1-1-2000 onwards, Government of Andhra Pradesh has implemented the Floor Rates on all commodities from 1-1-2000. Certain States have implemented the decision taken and certain States like Tamilnadu and the Union Territories like Pondichery have not fully complied with the decision taken at the National levels. Substantial quantity of Cement is being imported in our State due to difference in price and rate of tax. Consequent upon the cancellation of notification of concessional rate of tax, on the purchase of High Speed Diesel substantial quantities of diesel oil is being purchased from the neighbouring States and used for captive generation. As a consequence thereof, the goods which are not subjected to Floor Rates in those places are being dumped into our State and are being sold directly, without subjecting them to the prevailing floor rates in the State, to the consumers leading to trade diversion and ultimately loss of revenue to a considerable extent to the state.

In order to protect the interest and revenues to the State, as a result of the neighbouring States including trade diversion by reducing the tax rates below the rate being levied in our State it has been decided to provide enabling powers to the State to notify or denotify commodities from time to time depending on the need to levy early tax, by undertaking a suitable legislation.

As the Legislative Assembly was not then in session having been prorouged and as it has been felt necessary to give effect to the above decision immediately, the Andhra Pradesh Tax on Entry of Goods in to Local Areas Ordinance, 2001 (A.P. Ordinance 1 of 2001) has been promulgated by the Governor on 2nd May, 2001.

This Bill seeks to replace the said Ordinance.

J. LAKSHMI PADMAVATHI,
Minister for Commercial Taxes.