

CHAPTER XIII

REPEAL AND SAVINGS, ADOPTATION AND TRANSITIONAL PROVISIONS

Repeal
and
savings.

104.(1) The Orissa Sales Tax Act, 1947 is hereby repealed.

Orissa
Act 14
of
1947.

(2) The repeal of the Orissa Sales Tax Act, 1947 (hereinafter referred to as the repealed Act) under sub-section (1) shall not -

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of the repealed Act or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Act; or

(d) affect any tax, surcharge, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Act; or

(e) affect any investigation, enquiry, assessment proceeding, any other legal proceeding or remedy in respect of any such tax, surcharge, penalty, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid,

and any such investigation, enquiry, assessment proceeding, other legal proceeding or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, interest, forfeiture or punishment may be levied or imposed as if this Act had not been enacted.

Adaptations.

105. All Assessment Units, Investigation Units, Railway Receipt Units, Circles and Ranges including Intelligence Circles and Ranges and Vigilance Circles constituted under the repealed Act or the rules and notifications issued thereunder, all check-gates and barriers established under the said Act and all interception points authorised by the Commissioner of Sales Tax or by any officer appointed to assist him under the said Act, as exist on the day immediately before the appointed day, shall be deemed to have been so respectively constituted, established or authorised under and in accordance with the provisions of this Act and the rules.

Transitional provisions.

106.(1) A dealer registered under the repealed Act, who would have continued to be liable to pay tax under that Act had this Act not come into force, shall be deemed to be a registered dealer under this Act.

(2) Notwithstanding anything contained elsewhere in this Act and until, specifically, so or otherwise prescribed or notified or done in accordance with the provisions of this Act, -

(a) any person appointed by the Government as the Commissioner of Sales Tax under sub-section (1) of section 3 of the repealed Act and continuing in office as such on the day immediately before the appointed day shall, on and from the appointed day, be deemed to have been appointed as the Commissioner of Sales Tax under sub-section (1) of section 3 of this Act and he shall exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act;

(b) such other persons who have been appointed by the Government under sub-section (3) of section 3 of the repealed Act as Additional Commissioner of Sales Tax, Special Additional Commissioner of Sales Tax, Assistant Commissioner of Sales Tax, Sales Tax Officer, Assistant Sales Tax Officer and Inspector of Sales Tax to assist the Commissioner under the said Act and continuing as such in office on the day immediately before the appointed day shall, on and from the appointed day, be deemed to have been, respectively, so appointed under sub-section (2) of section 3 of this Act.

Explanation. - The designation by which such other persons shall be deemed to have been appointed under clause (b) shall, for the purposes of sub-section (2) of section 3, be deemed to be the prescribed designations, until otherwise prescribed;

(c) all such powers and duties, as have been conferred or imposed by or under the provisions of the repealed Act or the rules made and notifications issued thereunder or the persons appointed under any designation prescribed under the said Act to assist the Commissioner, and are exercised and performed on the day immediately before appointed day within or over a Circle or a Range or the State, as have been assigned to them by the Commissioner, shall, on and from the appointed day, for all intents and purposes, be deemed to have been conferred or imposed by or under the corresponding provisions of this Act on the persons who, under clause (b) are deemed to have been appointed under such designation to assist the Commissioner under this Act and shall be exercised and performed by them within or over the same circle or Range or the State as the case may be, as if such area has been assigned to them

by the Commissioner in accordance with the provisions of this Act for purpose of exercising their jurisdiction.

Explanation. - For the purposes of exercising any power or performing any function under the provisions of this Act, such power and such function under the corresponding provisions of this Act shall be deemed to have been delegated to the persons deemed to have been appointed under the respective designation under clause (b);

(d) the Chairman or any member of the Orissa Sales Tax Tribunal constituted under the repealed Act and continuing in office as such immediately before the appointed day, shall, on and from the appointed day, be deemed to have been respectively appointed as the Chairman or member of the Tribunal and shall exercise such powers and perform such functions as are conferred or imposed by or under the provisions of this Act;

(e) all forms including way bill and transit pass prescribed under the repealed Act or the rules made or notifications issued thereunder and in force and use for any purpose on the day immediately before the appointed day, shall be used for the same purpose under the provisions of this Act.

(f) any application for issue of way bill, pending on the day immediately before the appointed day, shall for all intent and purposes of this Act be deemed to have been made under this Act and shall be disposed of in accordance with the provisions of this Act;

(g) any way bill referred to in clause (e) which is valid on the day immediately before the appointed day and endorsed for the transport of goods into or outside the State shall continue to be valid for all intents and purposes of this Act on and from the appointed day if the period of validity of such way bill has not expired;

(h) a dealer, required to furnish a return for any period by a specific date to the prescribed authority under the provisions of the repealed Act or the rules made or notice issued thereunder, shall furnish such return under this Act by the said date to the corresponding authority as if he is so required to furnish the return under the provisions of this Act :

Provided that if the appointed day falls during the period for which the return is required to be furnished, he shall furnish separate returns for the period ending on the day immediately before the appointed day and for the period commencing on the appointed day, respectively in accordance with the provisions of the repealed Act and this Act;

(i) for the purposes of clauses (a) to (h), all rules made or notifications or notices issued or orders passed under or in pursuance of the provisions of the repealed Act shall be deemed to have been made, issued or passed under or in pursuance of the corresponding provisions of this Act, unless they are inconsistent with this Act;

(j) a registered dealer, who was eligible to the benefit of deferment of tax in terms of a notification issued under the repealed Act on the day immediately before the appointed day and who would have continued to be so eligible on appointed day under the repealed Act had this Act not come into force, shall be allowed the benefit of such deferment in respect of tax payable by him under this Act, by the Commissioner, for the balance unexpired period subject to the limit of such percentage of gross value of the fixed capital investment to which such dealer would have been entitled and the same restrictions and conditions as specified in such notification;

(k) nothing contained in clause (j) shall prevent the Commissioner from withdrawing the benefit of deferment of tax, if the registered dealer eligible for such deferment violates the restrictions and conditions subject to which such deferment was allowed;

(l) a registered dealer, who was eligible to the benefit of, or was entitled to, exemption from payment of tax on purchase of raw materials, spare parts, packing materials and sale of its finished products under the repealed Act on the day immediately before the appointed day, shall, on and from the appointed day, be allowed the benefits of deferment of tax, in lieu of such exemption subject to such restrictions and conditions as the Government may, by notification, specify in this behalf.

Input tax credit in respect of stock held on the appointed day.

107.(1) Within a period of one month from the appointed day, all dealers whose registration has been continued under sub-section (5) of section 25, other than those who are liable to pay turnover tax under section 16, shall furnish a statement of their opening stock of raw materials, finished goods, semi-finished goods including capital goods, if any, and goods for resale held on the date of such appointed day to the Commissioner in the prescribed form.

(2) In respect of that part of the opening stock of goods on the appointed day, purchased within a period of twelve months immediately preceding the appointed day, which suffered tax under section 3-B of the repealed Act or on which tax has been paid under section 8 of that Act, input tax credit shall be admissible at such rate and in such manner as may be prescribed.

(3) The part of the opening stock of goods which is not covered under sub-section (2), when sold inside the State after the appointed day shall be subject to output tax as applicable under this Act and in respect of such goods, subsequent input tax credit in accordance with the provisions contained therein shall be available.

(4) If the Commissioner is satisfied that a dealer has claimed input tax credit in excess of what is admissible or to which he is not entitled under sub-section (3), the Commissioner may, after allowing the dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum equal to ten times the amount of input tax credit which is not so admissible or to which he is not so entitled.

(5) For the purpose of sub-section (4), the dealer shall, in support of his claim, produce before the Commissioner, if so deemed necessary, the sale vouchers in original under the repealed Act or the Central Sales Tax Act, 1956 against the purchases or 74 of relevant document showing despatch of goods from outside the State otherwise than 1956. way of sales to that dealer.