

CHAPTER II

TAXING AUTHORITIES AND TRIBUNAL

Taxing
authorities.

3. (1) The Government shall, for carrying out the purposes of this Act, appoint a person to be the Commissioner of Sales Tax.

(2) The Government may appoint such other persons under any prescribed designation including a Special Commissioner, an Additional Commissioner, a Joint Commissioner, a Deputy Commissioner, an Assistant Commissioner, a Sales Tax Officer, or an Assistant Sales Tax Officer to assist the Commissioner and they shall exercise such powers as may be conferred, and discharge such functions as may be required, by or under this Act within such local area as may be assigned by the Commissioner.

(3) The Commissioner shall have jurisdiction over the whole of the State and the other persons appointed under sub-section (2) shall, within such areas as the Commissioner may, by general or special order specify, exercise such powers as are, or may be conferred and discharge such functions as may be required, by or under this Act.

(4) Without prejudice to any other functions that the Commissioner may perform under the provisions of this Act, he shall exercise the following powers and discharge the following functions:-

(a) to superintend and control all persons employed in the executive administration of tax;

(b) subject to the provisions of this Act and the rules, to make rules of procedure and conduct of administration for the guidance of persons subordinate to him;

(c) to call for any record from any subordinate officer and also to call for any paper or document in connection with any assessment under this Act;

(d) to inspect the records and to superintend the work of officers subordinate to him and their offices.

Orissa
Sales Tax
Tribunal.

4. (1) (a) The Government shall, by notification, constitute a Tribunal to be called the Orissa Sales Tax Tribunal, which shall exercise such powers and discharge such functions as may be conferred or imposed by or under the provisions of this Act.

(b) The Tribunal shall consist of six members, of whom, three shall be appointed from among the members of the Orissa Superior Judicial Service (Senior Branch) (hereinafter called the Judicial members of the Tribunal) and the other three members shall be appointed from among the members of the Orissa Finance Service, Class-I (Upgraded Supertime) (hereinafter called the Accounts members of the Tribunal).

(c) The Senior-most Judicial member of the Tribunal shall be the Chairman of the Tribunal, who shall constitute benches, allot cases to the benches and exercise supervision in respect of their disposal.

(d) The Chairman of the Tribunal shall look to the overall administration of the Tribunal subject to regulations to be made by the Tribunal with the previous sanction of the Government consistent with the provisions of this Act and rules.

(e) Any vacancy in the membership of the Tribunal shall be filled up by the Government.

(2) Notwithstanding anything contained in sub-section (1), the Orissa Sales Tax Tribunal constituted under the Orissa Sales Tax Act, 1947 shall be deemed to have been constituted under this Act with effect from the appointed day and shall be called as such from that date.

(3) The functions of the Tribunal may be exercised by a bench consisting of –

(a) the Chairman or any other single member, as may be constituted by the Chairman, when the total disputed amount of tax and interest and penalty, if any, involved in a case does not exceed rupees two lakhs;

(b) the Chairman or any other Judicial member and an Accounts member, as may be constituted by the Chairman, when the total disputed amount of tax and interest and penalty, if any, involved in a case exceeds rupees two lakhs, but does not exceed rupees ten lakhs; and

(c) three members of the Tribunal, which shall include the Chairman or any other Judicial member and one Accounts member, when the total disputed amount of tax and interest and penalty, if any, involved in a case exceeds rupees ten lakhs and shall be presided over by the Chairman or, as the case may be, the senior Judicial member.

(4) (a) Where an appeal or application is heard by a bench consisting of two members and the members are divided in opinion on any point or points, such point or points shall be referred to the Tribunal consisting of three members.

(b) Where an appeal or application is heard by three members of the Tribunal and the members are divided in opinion on any point or points, such point or points shall be decided in accordance with the opinion of the majority.

(5) Any member who has previously dealt with any case coming up before the Tribunal in any other capacity or is personally interested in any case coming up before the Tribunal shall be disqualified to hear that case.

Delegation of the Commissioner's powers and functions.

5. Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers and functions under this Act or the rules to any person appointed under sub-section (2) of section 3, and any order passed by any such person in exercise of the powers so delegated shall be deemed to be an order passed by that person.

Power to transfer proceedings.

6. (1) Notwithstanding anything contained elsewhere in this Act or in the rules, the Commissioner may, by order in writing, transfer any proceeding or class of proceedings under any provision of this Act from any person appointed under sub-section (2) of section 3 to any other person so appointed, whether or not such other person has jurisdiction in respect of the local areas to which such proceedings or class of proceedings relate.

(2) The person to whom any proceeding is transferred under sub-section(1) shall proceed to dispose of such proceeding as if it has been initiated by himself.

(3) The transfer of a proceeding shall not require reissue of any notice, if such a notice has already been issued before transfer and the person to whom the proceeding is transferred may, at his discretion, continue the proceeding from the stage at which it was left by the person from whom it was transferred.

Person appointed under section 3 and members of the Tribunal to be public servants.

7. The Commissioner and all persons appointed under section 3, and the members of the Tribunal appointed under section 4 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

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Indemnity.

8. No suit, prosecution or other legal proceedings shall lie against any officer or servant of Government employed for execution of the provisions of this Act or the rules for anything which is in good faith done or intended to be done.