

CHAPTER IV

REGISTRATION OF DEALERS, CANCELLATION AND AMENDMENT OF REGISTRATION CERTIFICATE

Persons
liable to be
registered.

24. No dealer shall, while being liable to pay tax under section 10, carry on business as a dealer unless he has been registered under this Act and possesses a certificate of registration, and no dealer shall be issued more than one certificate of registration for his business in the State.

Compulsory
registration
of dealers.

25.(1) Every dealer required by section 24 to be registered shall make an application in the prescribed manner to the registering authority within thirty days from the date of his liability to pay tax, and such application shall be accompanied by a declaration in the prescribed form duly filled in and signed by the dealer specifying therein such particulars as may be prescribed :

Provided that where a dealer has more than one place of business inside the State, he shall declare one of such places as the principal place of business and make the application for the principal place of business, in the manner prescribed.

(2) If the registering authority, after causing such enquiry as he deems necessary, is satisfied that the applicant is a bona fide dealer and the application for registration is correct and complete and that the requirements of the provisions of this Act and rules have been complied with, he shall register the applicant and grant him a certificate of registration in the prescribed form, which shall specify the class or classes of goods dealt in or manufactured by him and such registration certificate shall be assigned a number in the manner as may be prescribed :

Provided that the registration certificate issued in respect of dealers liable to pay turnover tax under section 16 shall be in such different form and bear such number in such manner, as may be prescribed.

(3) Nothing in sub-section (2) shall debar the registering authority from refusing to grant a certificate of registration to the applicant after giving him a reasonable opportunity of being heard, if -

(a) the applicant has not paid any dues payable by him under this Act or under the Orissa Sales Tax Act, 1947 or under the Central Sales Tax Act, 1956 in respect of any business ;

Orissa Act 14
of 1947.
74 of 1956.

(b) any person associated with the business for which the application for grant of registration is made is in arrears of any dues under the provisions of this Act or the Orissa Sales Tax Act, 1947 in respect of any business ;

Orissa Act 14
of 1947.

or

(c) any earlier certificate of registration granted to the applicant or any person associated with the business for which the application for grant of registration is made, has been cancelled under the provisions of this Act or the Orissa Sales Tax Act, 1947 and the circumstances and reasons for which the certificate was cancelled continue to exist; or

Orissa Act
14 of 1947.

(d) for any other good and sufficient reasons to be recorded in writing.

(4) Where the application for registration is made under this section, the registering authority shall grant him the certificate of registration effective from the date of filing of such application :

Provided that the registering authority shall grant to such dealer the certificate of registration from the date of commencement of liability to pay tax where the application for registration has been made within thirty days of such date.

(5) Where a dealer registered under the Orissa Sales Tax Act, 1947 continues to be so registered on the day immediately before the appointed day and is liable to tax under this Act on such appointed day, shall be deemed to be registered under this Act and the registering authority shall issue to such dealer, in the prescribed manner, a certificate of registration under this Act in the prescribed form and the certificate of registration so issued shall be effective from the appointed day :

Orissa Act
14 of 1947.

Provided that where any such dealer has more than one place of business inside the State, the registering authority shall issue to the dealer, one registration certificate in respect of any such place of business, as he deems appropriate, unless the dealer intimates in writing, to the registering authority, within fifteen days from the appointed day, the principal place of his business in the State in respect of which the certificate of registration shall be issued.

(6) When any dealer has been convicted or has paid composition money under section 86, in respect of any contravention of the provision of section 24, the registering authority shall register such dealer and grant him a certificate of registration and such registration shall take effect from the date of the order granting such registration.

Voluntary
registration.

26.(1) Any person, who intends to establish a business for the purpose of manufacturing or processing of taxable goods of value exceeding rupees two lakhs per year for sale, may, notwithstanding that he is not liable to pay tax under section 10, apply in the prescribed form and manner to the registering authority for registration :

Provided that for the purpose of this sub-section, the person shall have to furnish such evidence as may be required by the registering authority in support of his intention to establish a business for manufacturing or processing of taxable goods for sale.

(2) In respect of an application for registration under sub-section (1), the provisions of sub-sections (2), (3) and (4) of section 25 shall apply.

(3) Every dealer who has been registered on application made under this section shall, so long as his registration remains in force, be liable to pay tax under this Act.

(4) The registration of a dealer on application made under this section shall be in force for a period of not less than three complete years, unless cancelled earlier.

Security.

27.(1)The registering authority may, for proper realisation of tax payable under this Act and for enforcement of lawful conduct of any dealer from time to time, demand from a registered dealer or from a dealer who has applied for registration under this Act, a reasonable security, or additional security, as the case may be, to be paid in the prescribed manner and if the security so demanded is not paid within such time as may be specified in the order demanding such security, he may, notwithstanding anything contained in this Act, -

(a) if the defaulter happens to be a registered dealer, cancel the certificate of registration granted to him; or

(b) if the defaulter is a dealer who has applied for registration, refuse to grant him such registration :

Provided that no such cancellation or refusal shall be made unless the dealer has been given a reasonable opportunity of being heard.

(2) In case there is reasonable apprehension or likelihood of evasion of tax as a result of misutilisation of way bills, the registering authority may, for reasons to be recorded in writing, demand adequate security or additional security, as the case may be, in the prescribed manner from the dealer before issue of way bills to him on application made in that behalf.

(3) The registering authority may, by order, adjust or forfeit, as the case may be, the whole or any portion of the security furnished by a dealer -

(a) for realising any amount of tax, penalty or interest payable by the dealer ; or

(b) if the dealer has misused any forms or has failed to keep them in proper custody :

Provided that no order shall be passed under this sub-section without giving the dealer a reasonable opportunity of being heard.

(4) Where, by reason of any order under sub-section (3), the security furnished by a dealer is forfeited in whole or is rendered insufficient, such dealer shall, on demand made by order of the registering authority, furnish fresh or further security of the requisite amount or shall make up the deficiency, as the case may be, in such manner and within such period as may be specified in such order.

(5) The registering authority may, on application by a dealer who has furnished security as required under sub-section (1) refund in the prescribed manner any amount of security or part thereof if such security is not required for the purposes for which it was furnished.

Penalty for failure to be registered.

28.(1) Without prejudice to any other provision in this Act, when a dealer has, without reasonable cause, failed to get himself registered within the time provided under sub-section (1) of section 25, the registering authority may, after giving such dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum of rupees five thousand :

Provided that no such penalty shall be imposed under this sub-section in respect of the same offence for which a prosecution under section 82 has been instituted and no such prosecution shall be initiated in respect of an offence for which a penalty has been imposed under this section.

(2) If a penalty is imposed under sub-section (1), the registering authority shall issue a notice in the prescribed form directing the dealer to pay such penalty by such date as may be specified in the notice and the penalty imposed shall be paid to Government treasury.

Liability in case of grant of registration - on by mistake.

29. Where a dealer after being registered under this Act is found that he was not entitled under the provisions of section 25 or section 26 to be so registered, he shall be liable to pay tax during the period from the date on which his certificate of registration took effect till it is cancelled, notwithstanding that he was not liable to pay tax under this Act.

Suspension of registration certificate.

30.(1) If a dealer -

- (a) fails to file the returns under this Act within the time prescribed ; or
- (b) knowingly furnishes incomplete or incorrect particulars in his returns ;
or
- (c) fails to pay any tax including penalty or interest, if any, due from him under the provisions of this Act ; or
- (d) having issued tax or retail invoices, fails to account for the said invoices in his books of account ; or
- (e) holds, accepts or furnishes or causes to be furnished, a way bill which he knows or has reason to believe to be false ; or
- (f) is found to have no business at the place declared in the application for registration as his place of business; or
- (g) contravenes any of the provisions of this Act ; or

(h) discontinues his business and fails to furnish information regarding such discontinuation,

or if there is any other reason for apprehension of evasion of tax or any attempt to evade tax, which, in the opinion of the registering authority, is good and sufficient, the registering authority may, at any time, for reasons to be recorded in writing, suspend the certificate of registration of such dealer, by notification, in the manner prescribed.

(2) Where a certificate of registration is suspended under sub-section (1), the registering authority shall issue a notice to the dealer concerned requiring him to appear in person or through authorised representative and produce records, documents and evidence on the date and time specified therein, which in no case shall be later than thirty days from the date of such suspension, relying on which he intends to rebut such suspension.

(3) The certificate of registration suspended under sub-section (1) may be restored on an application made by the dealer alongwith evidence, to the satisfaction of the registering authority, of payment of taxes due and submission of returns or the evidence to the effect that the grounds on which the certificate of registration has been so suspended is erroneous or not applicable, as the case may be.

(4) Where the certificate of registration of a dealer is suspended or is restored after such suspension, the information shall be widely publicised through publication in the Commercial Tax Gazette and in any other manner as may be prescribed.

Cancellation
of certificate
of
registration.

31.(1) Where –

- (a) any business in respect of which a certificate of registration has been granted to a dealer under this Act is discontinued ; or
- (b) in the case of transfer of business by a dealer, the transferee already holds a certificate of registration under this Act ; or
- (c) an incorporated body is closed down or otherwise ceases to exist ; or
- (d) the owner of a proprietorship business dies leaving no successor ; or
- (e) in case of a firm or association of persons, if it is dissolved ; or
- (f) a dealer has ceased to be liable to pay tax under this Act,

the registering authority may, by order, cancel the certificate of registration of such dealer or the transferor dealer, as the case may be, from such date as may be specified in that order.

(2) The certificate of registration shall be deemed to be inoperative -

- (a) in case of clause (a) and clause (b) of sub-section (1), with effect from the date of discontinuance or transfer of the business, as the case may be;

(b) in case of clauses (c), (d), (e) and (f) of sub-section (1), from the date on which the liability of the dealer to pay tax has ceased,

notwithstanding the fact that the certificate of registration is cancelled from a later date.

(3) A registered dealer, whose certificate of registration becomes liable for cancellation under clauses (a), (b), (c), (e) and (f) of sub-section (1) shall apply for cancellation of the registration to the registering authority in such manner and within such time as may be prescribed.

(4) On receipt of such application, if the registering authority is satisfied that the certificate of registration of the dealer is liable to be cancelled under sub-section (1), he may cancel such certificate .

(5) Where the dealer whose certificate of registration has been suspended under sub-section (1) of section 30 fails to furnish the requisite evidence within the time specified under sub-section (3) of the said section, the registering authority shall, after causing such inquiry as he may consider necessary and after giving an opportunity of being heard to the dealer, cancel the certificate of registration held by him and the cancellation shall take effect from the date of order of cancellation.

(6) Every dealer whose certificate of registration is cancelled under this section shall pay in respect of every taxable goods held as stock in trade or as capital goods on the date of cancellation, an amount equal to the tax that would have been payable in respect of those goods if the goods were sold at prevailing market price on that date or the total input tax credit previously claimed in respect of those goods, whichever is higher.

(7) Every dealer who applies for cancellation of his registration shall surrender with his application the certificate of registration granted to him alongwith the unused way bills held on the date of such application and the account of utilisation of such way bills, if any, for which no account has been rendered.

(8) Every dealer whose certificate of registration is cancelled otherwise than on application shall surrender the certificate of registration alongwith the unused way bills, if any, held on the date of such cancellation, the account of utilisation of such way bills and the statutory declaration forms, if any, for which no account has been rendered, within seven days from the date of receipt, by him, of the order of cancellation.

(9) If a dealer –

(a) fails, without sufficient cause, to comply with the provisions of sub-section(3) or sub-section (6); or

(b) fails to surrender his certificate of registration as required under sub-section (7); or

(c) fails to surrender his registration certificate alongwith unused way bills and the statutory declaration forms and the account of utilisation of such way bills and declaration forms, for which no account has been rendered under sub-section (8),

the registering authority may, by an order in writing and after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum equal to rupees one hundred for each day of default subject to a maximum of rupees ten thousand.

(10) The registering authority shall, at intervals of one month, publish in the Commercial Tax Gazette such particulars, as may be prescribed, in respect of every dealer whose certificate of registration has been cancelled under the provisions of this Act during the intervening period.

(11) The cancellation of a certificate of registration shall not affect the liability of any dealer to pay tax for any period till the date of such cancellation which remains unpaid or is assessed after the said date, notwithstanding that he is not liable to pay tax under this Act.

Amendment
of certificate
of
registration.

32.(1) If any dealer registered under this Act –

(a) sells or disposes of his business or any part thereof or the place of business, or discontinues his business; or

(b) effects, or comes to know of, any other change in the ownership of the business, or changes the name, style, constitution or nature of business, or changes his place of business or warehouse, or opens a new place of business, or makes any addition or deletion in the class or classes of goods dealt in or manufactured,

he or any person duly authorized by him shall, within the prescribed time, inform the registering authority accordingly.

(2) If under circumstances mentioned in clause (b) of sub-section (1) a registered dealer makes an application for amendment of the certificate of registration, the registering authority may, subject to provisions of sub-section (6), make or cause to be made such enquiry as he deems necessary and amend the certificate of registration of the dealer or reject the application for such amendment :

Provided that before an application for amendment of certificate of registration in rejected, an opportunity of being heard shall be allowed to the dealer.

(3) Notwithstanding anything contained in sub-section (2), where the registering authority is satisfied on his own information that the certificate of registration

issued to a dealer requires amendment with regard to certain particulars specified therein, he may amend the said certificate after giving the dealer an opportunity of being heard.

(4) Where no order either granting or rejecting the application for amendment of the registration certificate is passed within thirty days from the date of receipt of such application, it shall be deemed that the amendment as applied for has been granted and the certificate of registration shall accordingly be amended :

Provided that if the delay in disposal of the application for amendment of the certificate of registration is attributable to the lapse on the part of the dealer, the limitation as provided under this sub-section shall not apply.

(5) When a certificate of registration is amended under sub-section (3) on any of the events specified in sub-section (1), such amendment shall take effect from the date of such event and in any other case of amendment coming under sub-section (2), the amendment shall take effect from the date of application.

(6) Notwithstanding anything contained in sub-section (1), where any change alters the basic status of a dealer, such as, conversion of proprietorship concern to partnership firm or vice-versa, dissolution of an existing firm and creation of a new firm, formation of a firm into a company or vice versa, a fresh certificate of registration shall be required to be obtained by the dealer.

(7) Where a dealer fails, without any reasonable cause, to inform the registering authority the changes as provided under sub-section (1) within the time prescribed, he shall be liable to a penalty of rupees one hundred for each day of default.