



The Andhra Pradesh Tax on Luxuries in Hotels and Lodging Houses Act, 1987

Act 24 of 1987

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THE ANDHRA PRADESH TAX ON LUXURIES IN HOTELS
AND LODGING HOUSES ACT, 1987.

ACT No 24 OF 1987.

[23rd April, 1987.]

An Act to provide for the levy and collection of
Tax on Luxuries provided in Hotels and
Lodging Houses.

Be it enacted by the Legislative Assembly of
the State of Andhra Pradesh in the Thirty-
eighth Year of the Republic of India as follows:-

1. (1) This Act may be called the Andhra Short
Pradesh Tax on Luxuries in Hotels and Lodging
Houses Act, 1987.

extent and
commencement.

*Received the assent of the Governor on the 23rd April,
1987. For Statement of Objects and Reasons, please see the
Andhra Pradesh Gazette, Part IV-A, Extraordinary, dated
26th March, 1987, at page 19.

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

(3) It shall come into force on such date as the State Government may, by notification in the Andhra Pradesh Gazette, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,

(a) "appellate authority" means an appellate authority appointed under section 4;

(b) "assessing authority" means an assessing authority appointed under section 4;

(c) "Commissioner" means the Commissioner appointed under section 4;

(d) "concessional rate" in relation to luxury provided in a hotel means a rate lower than the normal rate fixed for such luxury by the hotel or lower than that fixed by the Government or any other authority under any law for the time being in force;

(e) "Government" means the State Government of Andhra Pradesh;

(f) "hotel" means a building or part of a building where residential accommodation with or without board is provided for cash or for deferred payment and includes lodging house and a club;

(g) "luxury provided in a hotel" means the accommodation for residence provided in a hotel, including air-conditioning, television, radio, music, extra beds and the like but does not include the charges for food, drink and telephone calls;

(h) "notification" means a notification published in the Andhra Pradesh Gazette and the word 'notified' shall be construed accordingly;

(i) "prescribed" means prescribed by rules made by the Government under this Act;

(j) "proprietor" in relation to a hotel includes any person responsible for the management thereof;

(k) "tax" means the tax levied and collected under this Act;

(l) "year" means the twelve months ending on the 31st day of March.

3. (1) Subject to the provisions of this Act, there shall be levied and collected from every person residing in a hotel where the rate of charge in respect of any luxury provided in a hotel to him is rupees sixty or more per day, per person, a tax at the rate of ten percentum of such rate: ^{Levy and collection of tax.}

Provided that, where the charges are levied otherwise than on daily basis or per person, then, the charges for determining the tax liability under this section, shall be computed as for a day and per person based on the period of occupation of the residence for which the charges are made and the number of persons actually occupying or permitted to occupy according to the rules or custom of the hotel.

(2) The tax levied under this section shall be payable by the proprietor within such period and in such manner as may be prescribed.

(3) In computing the amount of tax payable under this section, any fraction of a rupee arrived at shall be rounded off to the next higher rupee.

(4) Where any proprietor fails or neglects to pay the tax within the time prescribed, such amount of tax shall be recoverable with interest calculated at the rate of two rupees for every one hundred rupees or part thereof for each month or part thereof from the date specified, for its payment.

Appointment of Commissioner Assessing or Appellate Authority and their powers and functions of Assessing Authorities.

4. (1) The Government may by notification appoint a Commissioner for the purpose of exercising the powers conferred and performing the functions entrusted to him by or under this Act.

(2) The Government may also appoint the assessing authority, appellate authority and such other officers as they may deem fit for the purposes of this Act, and such authorities and Officers shall perform such functions within such area or areas or the whole of the State of Andhra Pradesh as they may assign to them.

(3) The Commissioner, assessing authority and the appellate authority shall exercise such powers and perform such functions as may be prescribed.

Mode of collection of tax.

5. (1) Where no separate charges for luxury provided in a hotel and for food or drink, or telephone calls are specified, but a consolidated payment is required to be made both for luxury provided in a hotel and for food or drink, or telephone calls, then, the assessing authority may, from time to time, after giving the proprietor an opportunity of being heard, fix separate rate of charges for such luxury and for food or drink or telephone calls for the purpose of calculating the tax under this Act.

(2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated by the proprietor and not paid to the staff over and above the wages or salaries, then such charges shall be deemed to be part of the charges for luxury provided in the hotel.

(3) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, or is charged at a concessional rate, then the tax on such luxury shall be levied and collected as if full charges for such luxury were paid to the proprietor of the hotel.

(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then in addition to the tax paid for the luxury provided to such specified number of persons, there shall also be levied and collected separately, the tax in respect of the charges made for the additional number of persons accommodated.

(5) Where any proprietor fails or neglects to collect the tax payable under this Act, the tax shall be paid by the proprietor as if the tax was collected by the proprietor from the person to whom the luxury was provided and who was accordingly liable to pay the same.

6. (1) Every proprietor liable to pay tax under this Act, shall furnish a monthly return in the prescribed form to the assessing authority within fifteen days after the expiry of the month to which the return relates.

(2) Every such return shall contain such particulars as may be prescribed.

(3) A proprietor furnishing a return as required under sub-section (1) shall first pay in such manner as may be prescribed, the full amount of the tax due from him according to such return and enclose proof of such payment with the return.

(4) Every return shall be verified in such manner as may be prescribed.

7. (1) If the assessing authority is satisfied that the return furnished under sub-section (1) of section 6 is complete and if there is no reason to believe it to be incorrect, he shall assess the amount of tax due from the proprietor on the basis of such return.

Assessment
and
collection of
tax.

(2) (a) If the assessing authority is not satisfied that the return furnished under sub-section (1) of section 6 is complete or it has reason to believe that

is incorrect and it considers it necessary to require the presence of the proprietor or the production of further evidence, it shall serve a notice on such proprietor in the manner prescribed requiring him on a date and at a place specified therein either to attend and produce or cause to be produced all evidence on which such proprietor relies in support of his return or to produce such evidence as is specified in the notice.

(b) On the date specified in the notice, or as soon as may be thereafter, the assessing authority shall, after considering all the evidence which may be produced, assess the amount of tax due from the proprietor.

(c) If the proprietor fails to comply with the terms of the notice issued to him under clause (a), the assessing authority shall assess to the best of its judgment, the amount of tax due from him.

(3) If a proprietor liable to pay tax under this Act, fails to furnish a return in respect of any period within the period specified in sub-section (1) of section 6, the assessing authority shall, after giving the proprietor a reasonable opportunity of being heard, assess to the best of his judgment, the amount of tax, if any, due from him.

(4) The amount of tax assessed and due from the proprietor under this section shall be paid by the proprietor on receipt of the notice issued by the assessing authority in the prescribed form, within such time as may be prescribed.

(5) Any assessment made under this section shall be without prejudice to any penalty or prosecution for any offence punishable under this Act.

Assessment
of escaped or
under
assessed tax.

8. If for any reason any tax payable under this Act, has escaped assessment or has been under assessed or assessed at a lower rate than the rate at which it is assessable, the assessing authority may at any time

within four years from the expiry of the year to which the tax relates, proceed to assess or re-assess the tax, as the case may be, to the best of its judgment after issuing a notice to the proprietor concerned and after making such enquiry as it considers necessary;

Provided that the tax shall be charged at the rate at which it would have been charged if such tax had not escaped assessment or, as the case may be, had not been under assessed or assessed at a rate lower than the rate at which it was assessable.

9. (1) Where any proprietor liable to pay tax under this Act:—

Imposition
of penalty
in certain
cases.

(a) fails without sufficient cause or neglects to furnish a return as required by sub-section (1) of section 6; or

(b) while furnishing a return under sub-section (1) of section 6 fails, without sufficient cause or neglects, to pay the whole amount of tax due from him according to such return as required by sub-section (3) of section 6; or

(c) fails, without sufficient cause, to comply with the terms of notice issued to him under clause (a) of sub-section (2) of section 7; or

(d) conceals the particulars of any transaction or deliberately furnishes inaccurate particulars of any transaction liable to tax;

the assessing authority may impose upon such proprietor by way of penalty, in addition to any tax assessed under section 7 or 8, a sum not exceeding three times the amount of tax due where the failure or concealment is wilful and a sum not exceeding the amount of tax due, where the failure or concealment is not wilful.

(2) The amount of penalty, if any, levied under sub-section (1) shall be paid by the proprietor in such manner as may be prescribed within such time as may be specified by the assessing authority, in the notice issued by it for this purpose, not exceeding thirty days from the date of service of the notice.

Payment of
tax, penalty
and other
dues payable
under the
Act in
instalments.

10. (1) The Commissioner or any other Officer authorised by him may allow extension of time for payment of any tax, penalty or other amount due under this Act and may also permit the payment thereof in such instalments in appropriate cases subject to such conditions as he may specify, having regard to the circumstances of each case.

(2) Any tax, penalty, interest or any other amount due under the Act which remains unpaid on the date specified in the notice and any instalment not duly paid, shall be recoverable as an arrear of land revenue.

(3) If the tax assessed or penalty levied under this Act or any instalment thereof is not paid by the proprietor within the time specified therefor in the notice or in the order permitting payment of instalments or in any other provision of this Act or rule made thereunder, the proprietor shall pay, in addition to the amount of such tax, penalty or instalment, interest at the rate of two rupees for every one hundred rupees or part thereof for each month or part thereof, from the date specified for its payment.

Appeal.

11. (1) Any proprietor aggrieved by the order of assessment made under section 7 or section 8 or by an order imposing penalty under section 9 may within thirty days from the date of receipt of the order, appeal to the appellate authority:

Provided that the appellate authority may admit an appeal preferred after the period of thirty

days aforesaid, if it is satisfied that the proprietor had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in such form and verified in such manner as may be prescribed and shall be accompanied by a fee calculated at the rate of two per cent of the tax or penalty under dispute subject to a minimum of rupees fifty and maximum of rupees one thousand.

(3) On receipt of an appeal under sub-section (1), the appellate authority may, after giving the appellant a reasonable opportunity of being heard, confirm, annul or modify the assessment or penalty.

(4) Where an appeal is admitted under this section, the appellate authority may, on an application filed by the appellant and subject to such terms and conditions as he may think fit, order stay of collection of the tax or penalty under dispute pending disposal of the appeal.

12. (1) The Commissioner may, either suo motu ^{Revision.} or on an application made to him, call for and examine the record of the assessing authority or as the case may be, of the appellate authority in respect of any proceeding to satisfy himself as to the regularity of any such proceeding or the correctness, legality or propriety of any decision taken or order passed therein and may pass such order thereon as he deems fit.

(2) No application under sub-section (1), shall be entertained if it is not made within a period of four months from the date of receipt of the order and unless it is accompanied by a fee calculated at the rate of two per cent of the tax or penalty under dispute subject to a minimum of rupees one hundred and a maximum of rupees two thousand.

(3) The powers of revision shall be exercised within such a period not exceeding four years from the date on which the order was served on the proprietor.

(4) No order which adversely affects any person shall be passed under this section, unless such person has been given a reasonable opportunity of being heard.

(5) Where the Commissioner rejects any application for revision under this section, he shall record the reasons for such rejection.

Court fee on appeal and application for revision. Act VII of 1956.

13. Notwithstanding anything contained in the Andhra Pradesh Court Fees and Suits Valuation Act, 1956 an appeal preferred under section 11 or an application for revision made under section 12 shall bear a court fee stamp of such value as may be prescribed.

Refund of tax.

14. (1) If any proprietor satisfies the assessing authority that on account of any clerical or arithmetical error in calculating the amount of tax, the amount of tax paid by him or recovered from him in respect of any period exceeds the amount with which he is properly chargeable under this Act, for that period, he shall be entitled to a refund of the excess so paid, or recovered.

(2) Where as a result of an order passed under section 11 or section 12, the refund of any amount becomes due to proprietor, the assessing authority shall refund such amount to him.

(3) The assessing authority shall refund the excess amount to the proprietor, or, at the option of the proprietor, adjust such excess amount towards the tax due in respect of any other period:

Provided that the assessing authority may first apply the excess amount in respect of any period towards recovery of any amount for which a notice of demand has already been issued and shall then refund the balance, if any.

(4) If any amount liable for refund under this section is not refunded within six months from the date on which the claim is made by the proprietor, the Government shall pay the proprietor, simple interest at twelve per cent per annum on the amount directed to be refunded from the date immediately following the expiry of the period of six months aforesaid to the date of the order granting the refund.

Explanation:—If the delay in granting the refund within the period of six months aforesaid is attributable to the proprietor, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which the interest is payable.

(5) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner, whose decision shall be final.

15. (1) Any person who being a proprietor liable ^{offences.} to pay tax under this Act,—

(a) furnishes or allows or causes to be furnished an incorrect or incomplete return or fails to submit the returns as required by or under the provisions of this Act;

(b) fraudulently evades or allows to be evaded the payment of any tax due from him;

(c) fraudulently makes or causes or allows to be made any wrong entry in, or fraudulently omits or causes or allows to be omitted any entry from, any statement furnished or any accounts or register;

(d) knowingly collects from any person any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act; or

(e) wilfully acts in contravention of any of the provisions of this Act or the rules made thereunder or any lawful orders passed in accordance therewith;

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.

(2) (a) No court shall take cognizance of any offence punishable under sub-section (1), except upon a report in writing of the assessing authority having jurisdiction over the area concerned.

(b) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under sub-section (1).

Offences by
companies.

16. (1) Where an offence under this Act, has been committed by a company, every person, who at the time when the offence was committed, was in charge of and was responsible to the company, for the conduct of business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided under this Act, if he proves

that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything in sub-section (1), where any offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:—For the purpose of this section:—

(a) "company" means a body corporate, and includes a firm or other association of individuals; and.

(b) "director" in relation to a firm, means a partner in the firm.

17. (1) Subject to such conditions as may be prescribed, the assessing authority may, either before or after the institution of proceedings for an offence under this Act, permit any person, who has committed or is suspected to have committed the offence, to compound the offence on payment of such sum not exceeding one thousand rupees or double the amount of tax to which the offence relates whichever is greater. Compounding
of offences.

(2) On payment of such sum as may be determined by the assessing authority under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

(3) Any order passed or proceeding recorded by the assessing authority under sub-section (1), shall

be final and no appeal or application for revision shall lie therefrom.

Power to enforce attendance, etc.

Central Act V of 1908.

18. All authorities under this Act, shall for the purpose of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908. while trying a suit, in respect of enforcing the attendance of any person and to examine him on oath or affirmation or for compelling the production of any document.

Maintenance of true and correct accounts and records by proprietor, etc.

19. Every proprietor of a hotel liable to pay tax under this Act, and every other person required so to do by the assessing authority shall keep and maintain a true and correct account promptly in any of the languages specified in the Eighth Schedule to the Constitution or in English showing such particulars as may be prescribed.

Powers to order production of accounts and powers of entry inspection, etc.

20. (1) The assessing authority may, subject to such conditions as may be prescribed, require any proprietor to produce before it the working records, accounts, registers or other documents or to furnish any information relating to the luxury provided in the hotel as may be necessary for the purposes of this Act.

(2) All working records, accounts, registers or other documents relating to the luxury provided in hotel shall at all reasonable times, be open to inspection by the assessing authority and the assessing authority may take or cause to be taken such copies or extracts of such records as may be necessary for the purpose of satisfying itself regarding the accuracy of the charges for such luxury or for informing itself as to the particulars regarding which information is required for the purpose of this Act or any rules made thereunder as would appear to it necessary.

(3) If the assessing authority has reason to believe that any proprietor has evaded or is attempting to evade the payment of tax due from him, it may for reasons to be recorded in writing seize such records, accounts, registers, or other documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same so long only as may be necessary in connection with any proceeding under this Act or for a prosecution.

(4) For the purpose of this Act, the Commissioner or any other person authorised by him in this behalf may enter and search any hotel or any place of business of the proprietor or any other place where such authority has reason to believe that the proprietor keeps or is for the time being keeping any records, accounts, registers or other documents of his business in relation to the hotel.

21. The provisions of sections 4, 5 and 12 of the Limitation Act, 1963, shall as far as may be, apply in computing the period for making an appeal under section 11 or an application for revision under section 12.

Certain provisions of Limitation Act to apply to appeal and revision application. Central Act. 36 of 1963.

22. (1) No suit shall lie in any civil court to set aside or modify any assessment made or order passed under this Act.

Bar of Jurisdiction of courts.

(2) No suit, prosecution or other legal proceedings shall lie against the Government or an employee of the Government for anything which is done in good faith intended to be done in pursuance of this Act or any rule made thereunder.

23. No suit, prosecution or other proceedings shall lie against the Government or any officer, authority or person empowered to exercise the powers and

Protection of acts done in good faith.

perform the functions by or under this Act, for anything which is in good faith done or intended to be done under this Act or the rules or orders made thereunder.

Powers to delegate.

24. The Commissioner may, subject to such conditions and restrictions as the Government may, by general or special order impose, by order in writing delegate to any officer or authority subordinate to him, either generally or as respects any particular matter or class of matters any of his powers under this Act.

Power to transfer proceedings.

25. The Commissioner may, after giving the parties a reasonable opportunity of being heard, wherever it is possible so to do, and after recording his reason for doing so, by order in writing transfer any proceedings or class of proceedings under any provisions of this Act, from himself to any other officer, and he may likewise transfer any such proceedings (including a proceeding pending with any officer or already transferred under this section) from any officer, to any other officer or to himself:

Provided that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer and the offices of both are situated in the same city, locality or place.

Explanation:—In this section, the word “proceedings” in relation to any proprietor concerned is specified in any order issued thereunder means all proceedings under this Act, in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date and includes also all proceedings under this Act, which may be commenced after the date of such order in respect of any year in relation to such proprietor concerned.

26. (1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act. ^{Power to make rules.}

(2) Any rule made under this Act, may be made with retrospective effect and when such a rule is made, the reasons for so making the rule shall be specified in a statement to be laid before the Legislative Assembly of the State.

(3) Every rule made under this Act, 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.

27. If any difficulty arises in giving effect to the provisions of this Act, the Government, may by notification make such provision not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient to remove the difficulty. ^{Power to remove difficulties.}

28. (1) The Government may, by notification, alter the rate of tax specified in sub-section (1) of section 3 and unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly following the date of the issue of the notification a Bill on behalf of the Government, to give effect to the alteration of rate of tax specified in the notification and the ^{Power to alter the rates of tax.}

notification shall cease to have effect when such becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder:

Provided that if the notification under sub-section (1), is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Legislative Assembly during that session:

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly the notification shall cease to have effect on the expiration of the said period of six months.

(2) Any reference to the rate of tax made under this Act, shall be construed as relating to the rate of tax as for the time being amended in exercise of the powers conferred by this section.

THE ANDHRA PRADESH TAX ON LUXURIES IN
HOTELS AND LODGING HOUSES (AMENDMENT)
ACT, 1996.

ACT No. 28 OF 1996.

[17th October, 1996.]

AN ACT TO AMEND THE ANDHRA PRADESH TAX ON
LUXURIES IN HOTELS AND LODGING HOUSES
ACT, 1987.

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

1. (1) This Act may be called the ^{Short title} Andhra Pradesh Tax on Luxuries in Hotels and
and Lodging Houses (Amendment) Act, 1996. ^{and} commencement.

*Received the assent of the Governor on the 15th
October, 1996. For Statement of objects and Reasons,
Please see Andhra Pradesh Gazette, Part IV-A, Extra-
ordinary, dated the 24th September, 1996 at Pages
24 & 25.

(2) (i) Sections 2 to 30 and item 2 of the Schedule shall be deemed to have come into force from 1st August, 1967.

(ii) Item (1) of the Schedule shall come into force on such date as the Government may, by notification publish in Andhra Pradesh Gazette.

Amendment of the long title. Act 24 of 1967. 2. In the Andhra Pradesh Tax on Luxuries in Hotels and Lodging Houses Act, 1967. (hereinafter referred to as the Principal Act) in the long title, the words "in Hotels and Lodging Houses", shall be omitted.

Amendment of Section 1. 3. In section 1 of the principal Act in sub-section (1) the words "in Hotels and Lodging Houses" shall be omitted.

Amendment of Section 2. 4. In section 2 of the Principal Act, (i) after clause (c) the following clause shall be inserted, namely:-

"(cc) 'Corporate Hospital' means, Hospital registered under the provisions of the Societies Registration Act which is in force in the State or the Companies Act, 1956 and where residential accommodation with or without board is provided for cash or deferred payment to any person or his attendant for undergoing treatment;

(ii) for clause (d), the following shall be substituted, namely:-

"(d) 'concessional rate' in relation to luxury means a rate lower than the normal rate fixed for such luxury or a rate lower than that fixed by the Government or any other authority under any law for the time being in force;"

(iii) for clause(g), the following shall be substituted, namely:-

"(g) 'luxury provided in a hotel' means the accommodation for residence provided in a hotel including air conditioning, television, radio, music, extra beds and the like but does not include the charges for food, drink and telephone calls;

(gg) 'Luxury provided in a hospital' means the accommodation provided in a corporate hospital for any patient or his attendant including air conditioning, television, radio, or any other service provided thereto in connection with the residence but does not include any charges for the medical services rendered in connection with the treatment or any amount charged for conducting any medical test or any medicines used by the hospital either for check up or treatment; and

(ggg) Luxuries include luxuries provided in a hotel, and corporate hospital and any commodities as specified in the Schedule for enjoyment over and above the necessities of life."

(iv) for clause (j) the following shall be substituted, namely:-

"(j) 'proprietor' include tobacco-
sist and in relation to a hotel or a
corporate hospital any person responsible
for the management thereof"

(v) after clause(j) the following shall be inserted, namely:-

"(jj) 'receipt' in relation to a
tobacconist means,--

(a) in respect of supply of the luxuries, like tobacco products made by him or by others on his behalf by way of sale, the amount of valuable consideration received or receivable by him for such sale including any sum charged for anything done by him in respect of the tobacco products so sold at the time of or before the delivery thereof and the price, if charged separately, of any primary or secondary packing; and

(b) in respect of the supply of luxuries of tobacco products made by him otherwise than by way of sale, the normal price at which such tobacco products are sold.

Explanation:-For the purpose of this Act the term "normal price" shall have the same meaning as assigned to it in Central Act section 4 of the Central Excise and Salt Act, 1944.

(jjj) "receipt" in relation to a hotel or a corporate hospital means the total amount of valuable consideration received or receivable for the luxuries provided in hotel or corporate hospital;

(jjjj) "Registered Tobacconist" means a tobacconist registered under section 4-A of this Act;

(jjjjj) "Schedule" means the Schedule appended to this Act!

(vi) after clause(k), the following shall be inserted, namely:-

"(kk) 'turnover of receipts in the case of a tobacconist' means, the aggregate of the amounts of receipts of a tobacconist in a year in respect of the supply of luxuries relating to tobacco products whether such supply is by way of sale or otherwise;

"(kkk) 'Tobacconist' means a person who supplies whether by way of sale or otherwise luxuries like, tobacco products manufactured by him or purchased from other States or from other persons in this State and includes any person who for the purpose of Business gets the manufacturing done from any person whether or not on job work basis."

"(kkkk) 'tobacco products', means all goods and preparations made of tobacco or tobacco substitutes including cigarettes, cigars, cheroots and chewing tobacco commonly known as 'Khara Masala' kimam, Zarda, Dokta, Sukha and Surti".

(vii) After clause (l) the following shall be inserted, namely:-

"(m) words and expressions used but not defined in this Act and defined in the General Sales Tax Act, shall have the meanings respectively assigned to them under that Act."

5. In the Principal Act, in section Amendment o. 3, in sub-section(1) for the opening section 3. portion, the following shall be substituted, namely:-

"Subject to the provisions of the Act, there shall be levied and collected from every person residing in a hotel or a

corporate hospital where the rate of charge in respect of any luxury provided in a hotel to him is Rs.60/- or more per day per person, a tax at the rate of ten per centum of such rate and from every person residing in a corporate hospital where the rate of charge in respect of any luxury provided in a corporate hospital to him is Rs.500/- or more per day, a tax at the rate of ten per centum of such rate;

(ii) in the proviso for the words, "customs of the hotel" the words "customs of the hotel or corporate hospital" shall be substituted.

Insertion of 6. After section 3 of the principal Act, the following section shall be inserted, namely:-

"Tax on Tobacconist - 33A(1) Subject to the provisions of this Act, there shall be levied and collected a tax on the turnover of receipts of a tobacconist relating to the supply of luxuries, namely, tobacco products, specified in the schedule by way of sale or otherwise, at the rate of tax and at the point of levy specified in the schedule:

Provided that a tobacconist whose turnover of receipts in a year is less than rupees two lakhs shall be exempt from tax;

Provided further that a tobacconist who sells tobacco products in a small bunk shall be exempt from payment of tax on his turnover of receipts irrespective of the quantum of the turnover of receipts in a year:

Provided also that no tax under this sub-section shall be payable on that part of the turnover of receipts which relates to:

(i) the tobacco products which are supplied by way of consignment to another State, whether the consignment is to himself or to any other person and in support of such claim, the proprietor produces, on demand a certificate as may be prescribed; and

(ii) the tobacco products which are supplied by way of sale in the course of inter-State trade or commerce or by way of sale in the course of export, outside the territory of India and in support thereof the proprietor produces such proof of such sale or export as may be prescribed.

(2) The net turnover on which a tobacco-merchant shall be liable to tax shall be determined after making such deductions from his turnover of receipt and in such manner as may be prescribed.

(3) For the purpose of sub-clauses (i) and (ii) of sub-section (1), a sale shall be deemed to have taken place:-

(i) in the course of inter-State trade, if such supply has occasioned the movement of tobacco products from Andhra Pradesh to any other State; and

(ii) in the course of export outside the territory of India if the supply of Luxuries occasions such export;

(4) The tax levied under this section shall be payable by the proprietor in such period and such manner as may be prescribed."

Insertion of new section 4A. 7. After section 4 of the Principal Act, the following section shall be inserted, namely:-

"Registration. 4A(1) No tobacconist shall conduct or cause to be conducted business in Andhra Pradesh unless he obtains, on application, a registration in the prescribed form:

Provided that any tobacconist who sells tobacco products in a small bunk shall be exempt from registration.

Explanation: For the purpose of this Act, a tobacconist who sells in a small bunk means a person who does business in a shop or other premises whose floor area is not more than 64 sq.ft. without employing paid labour for conducting the business.

(2) Every tobacconist required to obtain a registration under sub-section(1) shall make an application in this behalf to such authority and accompanied by a fee of rupees five hundred.

(3) where it appears necessary to the prescribed authority to whom an application is made for registration under sub-section(2), he may for the proper realisation of tax and other dues payable under this Act, by an order in writing and for reasons to be recorded therein, impose a condition for the issue of a certificate of registration to the effect that the dealer shall furnish such security in such manner and within such time as may be specified in the order.

(4) If the prescribed authority is satisfied that the application is in order he shall register the application and issue the Certificate of Registration in such form as may be prescribed.

(5) Where a registration has been granted to a tobacconist under sub-section(4), the prescribed authority may, if it is of opinion that it is necessary, or expedient so to do for the proper realisation or recovery of the luxury tax under this Act, at any time while such registration is in force, by an order in writing and for reasons to be recorded therein, require a tobacconist to furnish within such period and in such manner as may be prescribed, a security for the proper payment of the luxury tax payable by him under this Act:

Provided that no order shall be passed without giving the tobacconist an opportunity of being heard.

(6) A tobacconist until his registration is cancelled shall be liable to pay the fees of rupees five hundred every year subsequent to that in which he applied for registration.

(7) Where any tobacconist has more than one place of business (other than place used mainly for storage of tobacco products) he shall apply for registration and obtain a separate registration certificate in respect of each place of business on payment of a sum of rupees one hundred for each such place of business.

(8) The prescribed authority may, on application or otherwise, amend the certificate of registration of a tobacconist.

(9) Where the liability of a tobacco-nist to whom a Certificate of Registration has been granted under sub-section(4) to pay, the luxury tax under this Act has ceased, such registration certificate may, on application by him, be cancelled by the prescribed authority in the manner prescribed.

(10) A registration granted to a tobacco-nist under sub-section(4) may be cancelled by the prescribed authority after due notice to such tobacco-nist if it is satisfied that he has failed to pay the luxury tax, penalty or interest payable under this Act or to furnish the security under sub-section(5):

Provided that the registration so cancelled may be restored if the tobacco-nist to whom the licence was granted pays the arrears of luxury tax, penalty and interest and furnishes a receipted challan therefor."

Amendment of section 5. 8. In the principal Act in section 5, after sub-section(1), the following shall be added, namely:-

"(1A) Where no separate charges for luxury provided in a corporate hospital and for the medical services rendered are specified, but a consolidated payment is required to be made both for luxury provided and for the medical services rendered, the assessing authority may from time to time, after giving the proprietor an opportunity of being heard, fix a separate rate of charges for such luxury and for the medical services for the purpose of calculating tax under this Act."

(2) in sub-section(2) for the words "luxury provided in a hotel" the words "luxury provided in a hotel or a corporate hospital" and for the words "luxury provided in the hotel" the words "luxury provided in the hotel or the corporate hospital" shall respectively be substituted;

(3) in sub-section(3) for the words "provided in a hotel to any person not being an employee of the hotel" the words "provided in a hotel or a corporate hospital to any person not being an employee of the hotel or the corporate hospital" and for the words "proprietor of the hotel" the words "the proprietor of the hotel or the corporate hospital" shall respectively be substituted.

(4) in sub-section(4) for the words "provided in a hotel" the words "provided in a hotel or in a corporate hospital" shall be substituted.

9. In section 6 of the principal Act, Amendment of
section 6.

(i) in sub-section(1) for the words "under this Act" the expression "under section 3" shall be substituted;

(ii) after sub-section(1) the following shall be inserted, namely:-

"(1A) Every proprietor liable to pay tax under section 3A shall file returns in such form and in such manner and within such time as may be prescribed";

(iii) in sub-section(3) for the expression "under sub-section(1)" the expression "under sub-sections(1) or (1A)" shall be substituted.

Amendment of section 7. 10. In section 7 of the principal Act, in sub-sections (1), (2) and (3), for the expression "sub-section (1) of section 6", the expression "sub-sections (1) or (1A) of section 6, as the case may be" shall be substituted.

Insertion of new section 7.A. 11. After section 7 of the principal Act, the following section shall be inserted, namely:

"Provisional assessment. 7A.(1) Tax payable under this Act for each year may be provisionally assessed in advance during the year and paid in monthly or prescribed instalments in respect of such class or category of proprietors liable to tax under section 3A on the basis of estimated or actual turnover of the proprietor and for that purpose such proprietor may be required to submit a return of estimated or actual turnover and pay the tax on the basis of such return or periodical returns, in such manner as may be prescribed.

(2) If the assessing authority has reason to believe that the provisional assessment for any period was made on too low a turnover or at too low a rate, or on too high a turnover or too high rate he may enhance or reduce, as the case may be, such provisional assessment:

Provided that before making an enhancement of the provisional assessment as

aforesaid the assessing authority shall, except where such enhancement is based on the turnover finally determined for the preceding year, issue a notice thereof to the proprietor and make such enquiry as he deems necessary.

(3) The tax provisionally assessed may be levied and collected, either in advance during the year in monthly or other prescribed instalments or at any time thereafter in lumpsum."

12. In section 9 of the principal Act, in sub-section(1) in clauses(a) and (b), for the expression "sub-section(1) of section 6" the expression "sub-sections(1) or (1A) of section 6, as the case may be" shall be substituted. Amendment of section 9.

13. In section 10 of the principal Act, in sub-section(1), for the words "the Commissioner, or any other officer authorised by him", the words "the Deputy Commissioner" shall be substituted. Amendment of section 10.

14. After section 10 of the principal Act, the following sections shall be inserted, namely:- Insertion of new section

"Attachment of 10A. (1) Where, during the property. pendency of any proceedings for the assessment of any turnover or for the reassessment of any turnover which has escaped assessment, the assessing authority is of the opinion that for the purpose of protecting the interest of revenue it is necessary so to do, he may with the previous approval of the Commissioner, by order in writing, attach provisionally any property belonging to the assessee.

"(1) The Commissioner may suo motu call for and examine the record of any order passed or proceeding recorded by any authority, officer or person subordinate to it, under the provisions of this Act, including sub-section(2) of this section. (and if such order or proceeding recorded is prejudicial to the interest of revenue, may make such enquiry, or cause such enquiry to be made and subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order or proceeding) and may pass such order in reference thereto as it thinks fit.

(2) Powers of the nature referred to in sub-section(1) may also be exercised by an Additional Commissioner, Joint Commissioner, Deputy Commissioner, and Commercial Tax Officer in the case of orders passed or proceedings recorded by authorities, Officers or persons subordinate to them.

(3) In relation to an order of assessment passed under this Act, the powers conferred by sub-sections(1) and (2) shall be exercisable only within such period not exceeding four years from the date on which the order was served on the dealer, as may be prescribed.

(4) No order shall be passed under sub-section(1) or sub-section(2) enhancing any assessment unless an opportunity has been given to the assessee to show cause against the proposed enhancement."

16. In the principal Act, after section 12 the following Section shall be inserted, namely:-

Insertion
of new
section
12A.

Appeal and Revision. "12A. All the provisions of the Andhra Pradesh General Sales Tax Act, 1957 relating to Appeals before the Sales Tax Appellate Tribunal, Revisions by the High Court of Andhra Pradesh and appeals to High Court of Andhra Pradesh shall apply mutadis mutandis in regard to appeals under this Act."

Amendment of section 15. 17. In section 15 of the principal Act, in sub-section(1) for the opening words "Any person who being a proprietor liable to pay tax under this Act:", the words "Any proprietor who" shall be substituted.

Amendment of section 17. 18. In section 17 of the principal Act, for sub-section(1), the following shall be substituted, namely:

"(1) The prescribed authority may accept, from any proprietor who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence,-

(a) where the offence consists of the failure to pay or the evasion of any tax, recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding two thousand rupees or double the amount of the tax recoverable, whichever is greater; and

(b) in other cases a sum of money not exceeding two thousand rupees".

Amendment of section 19. 19. In section 19 of the Principal Act, the words "of a hotel liable to pay tax under this Act", shall be omitted.

Amendment of section 20. 20. In section 20 of the principal Act,-

(i) in sub-section(1), for the words "luxury provided in the hotel", the words "luxury provided in the hotel, corporate hospital or supply of luxuries by way of sale or otherwise", shall be substituted;

(ii) in sub-section(2) for the words "the luxury provided in hotel", the words "proprietor" shall be substituted;

(iii) after sub-section(3), the following sub-sections shall be inserted, namely:

"(3A) The assessing authority shall have the power to seize and confiscate any tobacco products which are found in any office, shop, godown, vehicle, vessel or any other place of business or any building or place of the tobacconist but not accounted for by the tobacconist in his accounts, registers and other documents maintained in the course of his business:

Provided that before taking action for the confiscation of goods under this sub-section, the officer shall give an opportunity to the person affected of being heard and make an enquiry in the prescribed manner";

(iv) for sub-section(4) the following shall be substituted, namely:

"(4) for the purpose of this Act, any officer of the Commercial Tax Department, not below the rank of the Deputy Commercial Tax Officer may enter and search any hotel, corporate hospital or any place of business of proprietor or any other place where such authority has reason to believe that the proprietor

keeps or is for the time being keeping any records, accounts, registers or other documents of his business in relation to the Hotel, Corporate Hospital or supply of luxuries like tobacco products in relation to a tobacconist:

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1974.

Provided that no residential accommodation (not being shop-cum-residence) shall be entered into and searched by any such officer below the rank of a Deputy Commissioner except on the authority of an order issued by any officer not below the rank of a Deputy Commissioner having jurisdiction over the area. All searches under this sub-section so far as may be made in accordance with the provisions of Code of Criminal Procedure, 1973 subject to the rules if any made in this behalf."

Insertion
of new sec-
tion 20A.

21. After section 20 of the Principal Act, the following sections shall be inserted, namely:-

"Possession,
submission of
certain records"
by owners.

20A. The owner or other person-incharge of a vehicle carrying tobacco products shall carry with him:

(a) a bill of sale or delivery note;

(b) goods vehicle record or trip sheet and such other documents as may be prescribed, relating to the tobacco products under transport and containing such particulars as may be prescribed and shall submit to the assessing authority having jurisdiction over the area in which the tobacco products are delivered, the documents authorised or

copies thereof within such time as may be prescribed.

Inspection of goods while in transit. 20B.(1) Any Officer empowered by the State Government in this behalf may stop the vehicle or boat, as the case may be carrying tobacco products and keep it stationary as long as may reasonably be necessary, to examine the contents in the vehicle or boat and may inspect all records relating to the tobacco products carried, which are in the possession of such driver or other person-in-charge of the vehicle.

(2) If on such examination and inspection it appears,

(a)(i) that the tax, if any payable under this Act in respect of the sale or purchase of the tobacco products carried, has been paid; or

(ii) that the sale or purchase of the tobacco products carried for the purpose of payment of tax under this Act, has been properly accounted for in the documents referred to in clause(b) of this section; the said officer shall release the goods vehicle or boat with the tobacco products carried; or

(b)(i) that the tax, if any payable under this Act in respect of the sale or purchase of the tobacco products carried has not been paid; or

(ii) that the sale or purchase of the tobacco products, for the purpose of payment of tax under this Act, has not been properly accounted for in the documents and if the said officer is satisfied,

after making such enquiry as he deems fit, that with a view to prevent the evasion of tax payable in respect of the sale or purchase of the tobacco products carried, it is necessary to detain the tobacco products and direct the driver or any other person-in-charge of the goods, vehicle or boat,-

(i) to pay such tax; or

(ii) to furnish security for an amount equal to five times the amount of tax payable in such form and in such manner and to such authority as may be prescribed, on behalf of the person liable to pay such tax.

(3) If the tax is paid or the security is furnished, then the goods so detained shall be released forthwith.

(4) The driver or any other person in-charge of the goods vehicle or boat shall, if so required give his name and address and the name and address of the owner of the goods vehicle or boat as well as those of the consignor and the consignee of the tobacco products.

(5) If the tax directed to be paid or the security directed to be furnished under sub-section(2) is not paid or furnished and if the said officer is satisfied, after making such enquiry as he deems fit, that with a view to prevent the evasion of tax payable in respect of the sale or purchase of the tobacco products carried, it is necessary to detain the goods, he shall detain so much of the tobacco products as are approximately equal in value to the amount of tax

