

The Tamil Nadu Sales Tax (Surcharge) Act, 1971

Act 24 of 1971

Keyword(s):

Act Repealed by 30 of 1996, Suburban Area, Levy of Surcharge, Sales Tax, Dealer

Amendments appended: 20 of 1989, 39 of 1989, 36 of 1991, 30 of 1996

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TAMIL NADU ACT No. 24 OF 1971.*

THE TAMIL NADU SALES TAX (SURCHARGE)
ACT, 1971.

[Received the assent of the Governor on the 10th September 1971, first published in the Tamil Nadu Government Gazette Extraordinary on the 14th September 1971 (Bhadra 23, 1893).]

An Act to provide for the levy of surcharge on sales tax.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Tamil Nadu Sales Tax (Surcharge) Act, 1971. Short title,
extent and
commencement.

(2) It extends to the whole of the State of Tamil Nadu.

(3) (a) This Act shall be deemed to have come into force—

(i) in the City of Madras, on the 19th June 1971;

(ii) in the City of Madurai and the municipal towns of Salem, Coimbatore and Tiruchirappalli, on the 29th June 1971 ; and

(iii) in the suburban area of the City of Madras, on the date of the publication of the Tamil Nadu Sales Tax (Surcharge) Bill, 1971, in the *Tamil Nadu Government Gazette*.

(b) The Government may, by notification, direct that this Act shall come into force on such date as may be specified in the notification in,—

(i) any other municipal town ; or

(ii) any township ; or

(iii) the suburban area of the City of Madurai or of the municipal town of Salem, Coimbatore or Tiruchirappalli or of such municipal town or township as is referred to in sub-clauses (i) and (ii).

(4) The Government may, by notification, cancel any notification issued under clause (b) of sub-section (3), but the cancellation shall not be deemed to affect the power of the Government under clause (b) of sub-section (3) again to bring this Act into force in such municipal town or township or suburban area.

*For Statement of Objects and Reasons, see *Tamil Nadu Government Gazette Extraordinary*, dated the 12th July 1971, Part IV — Section 3, page 517.

(5) A draft of any notification proposed to be issued under clause (b) of sub-section (3) or sub-section (4) shall be laid on the table of the Legislative Assembly and the notification shall not be issued unless the Assembly approves the draft either without modification or addition or with modifications or additions ; and upon such approval being given, the notification shall be issued in the form in which it has been approved and such notification on being so issued shall be published in the *Tamil Nadu Government Gazette* and shall thereafter be of full force and effect.

Definitions.

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

(a) “ date of the commencement of this Act ” means—

(i) in relation to the City of Madras, the 19th June 1971 ;

(ii) in relation to the City of Madurai or the municipal town of Salem, Coimbatore or Tiruchirappalli, the 29th June 1971 ;

(iii) in relation to the suburban area of the City of Madras the date of the publication of the Tamil Nadu Sales Tax (Surcharge) Bill, 1971, in the *Tamil Nadu Government Gazette* ; and

(iv) in relation to—

(A) any other municipal town or township ;

or

(B) the suburban area of—

(i) the City of Madurai or the municipal town of Salem, Coimbatore or Tiruchirappalli ; or

(ii) any other municipal town or township, the date of the publication of the notification in the *Tamil Nadu Government Gazette*, under clause (b) of sub-section (3) of section 1 ;

(b) “ Government ” means the State Government ;

(c) “ suburban area ” means—

(i) an area within thirty-two kilometres of the City of Madras ; or

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(ii) an area within such distance not exceeding thirty-two kilometres of the City of Madurai or of the municipal town of Salem, Coimbatore or Tiruchirappalli or of any other municipal town or township, as the Government may, by notification, specify.

3. (1) Every dealer who is liable to pay tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) (hereinafter in this section referred to as the said Act), on the sale or purchase of goods within the limits of the area in which this Act is in force shall, on and from the date of the commencement of this Act, pay a surcharge on such tax at the rate of five per cent of such tax :

Levy of
surcharge on
sales tax.

Provided that in the City of Madras, for the period commencing on the 19th June 1971 and ending with the 28th June 1971, the rate of such surcharge shall be ten per cent :

Provided further that if, in respect of declared goods, as defined in clause (h) of section 2 of the said Act,—

(i) the tax under the said Act ;

(ii) the additional tax under the Tamil Nadu Additional Sales Tax Act, 1970 (Tamil Nadu Act 14 of 1970) ; and

(iii) the surcharge under this sub-section, payable by such dealer, exceeds ¹[four per cent] of the sale or purchase price thereof, the rate of surcharge in respect of such goods, shall be reduced to such an extent that the tax, the additional tax and the surcharge together shall not exceed ¹[four per cent] of the sale or purchase price of such goods.

(2) Save as otherwise provided in this Act, the provisions of the said Act shall apply in relation to the surcharge payable under sub-section (1) as they apply in relation to the tax payable under the said Act.

²[3-A. (1) In addition to the surcharge leviable under section 3, every dealer who is liable to pay tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) (hereinafter in this section referred to as

Levy of
additional
surcharge
on sales tax.

¹ These words were substituted for the words "three per cent" by section 4 of the Tamil Nadu Additional Sales Tax and Sales Tax (Surcharge) Amendment Act, 1975 (Tamil Nadu Act 45 of 1975), which was deemed to have come into force on the 1st July 1975.

This section was inserted by section 2 of the Tamil Nadu Sales Tax (Surcharge) Amendment Act, 1981 (Tamil Nadu Act 33 of 1981).

the said Act), on the sale or purchase of goods within the limits of the area in which this Act is in force shall, with effect on and from such date as the Government may, by notification, from time to time specify, pay an additional surcharge on such tax at the rate of five per cent of such tax:

Provided that different dates may be specified for the different areas in which this Act is in force :

Provided further that if, in respect of declared goods, as defined in clause (h) of section 2 of the said Act—

- (i) the tax under the said Act ;
- (ii) the additional tax under the Tamil Nadu Additional Sales Tax Act, 1970 (Tamil Nadu Act 14 of 1970) ;
- (iii) the surcharge under sub-section (1) of section 3 ; and

(iv) the additional surcharge under this sub-section payable by such dealer, exceed four per cent of the sale or purchase price thereof, the rate of additional surcharge in respect of such goods, shall be reduced to such an extent that the tax, the additional tax, the surcharge and the additional surcharge together shall not exceed four per cent of the sale or purchase price of such goods.

(2) Save as otherwise provided in this Act, the provisions of the said Act shall apply in relation to the additional surcharge payable under sub-section (1) as they apply in relation to the tax payable under the said Act.]

4.] * * *]

¹ The following section was omitted by section 4 (a) of the Tamil Nadu Sales Tax Laws (Amendment and Repeal) Act, 1981 (Tamil Nadu Act 7 of 1981), which was deemed to have come into force on the 1st November 1980:—

“4. Levy of surcharge on tax payable under Tamil Nadu Act VI of 1939.—(1) Every importer or wholesale dealer who is liable to pay tax under the Tamil Nadu Sales of Motor Spirit Taxation Act, 1939 (Tamil Nadu Act VI of 1939) (hereinafter referred to in this section as the said Act), on the sale of motor spirit within the limits of the area in which this Act is in force shall, on and from the date of the commencement of this Act, pay a surcharge on such tax at the rate of five per cent of such tax :

Provided that in the City of Madras, for the period commencing on the 19th June 1971 and ending with the 28th June 1971, the rate of such surcharge shall be ten per cent.

(2) Save as otherwise provided in this Act, the provisions of the said Act shall apply in relation to the surcharge payable under sub-section (1) as they apply in relation to the tax payable under the said Act.”

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5. (1) For the purposes of this Act, the sale or purchase of goods (including motor spirit), shall be deemed to have taken place in the area in which this Act is in force, wherever the contract of sale or purchase might have been made if the goods are within such area—

Place of sale
or purchase.

(i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made ; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(2) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of sub-section (1) shall apply as if there were separate contracts in respect of the goods at each of such places.

6. For the removal of doubts, it is hereby declared that the surcharge ¹[or additional surcharge] under this Act shall be levied only on the tax payable under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) ² [* * *] and such surcharge ¹[or additional surcharge] shall be levied in addition to any tax or additional tax payable on the sale or purchase of goods under any law for the time being in force.

Removal of
doubts.

7. (1) The Government may make rules to carry out the purposes of this Act.

Power to
make rules.

(2) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

¹ These words were inserted by section 3 of the Tamil Nadu Sales Tax (Surcharge) Amendment Act, 1981 (Tamil Nadu Act 33 of 1981).

² The expression "and the Tamil Nadu Sales of Motor Spirit Taxation Act, 1939 (Tamil Nadu Act VI of 1939)" was omitted by section 4(b) of the Tamil Nadu Sales Tax Laws (Amendment and Repeal) Act, 1981 (Tamil Nadu Act 7 of 1981), which was deemed to have come into force on the 1st November 1980.



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(3) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, 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.

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 25th May 1989 and is hereby published for general information :—

ACT No. 20 OF 1989.

An Act further to amend the Tamil Nadu Sales Tax (Surcharge) Act, 1971.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fortieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Tamil Nadu Sales Tax (Surcharge) Amendment Act, 1989.

Short title and commencement.

(2) It shall be deemed to have come into force on the 1st April 1989.

Tamil Nadu Act 24 of 1971.

2. In section 1 of the Tamil Nadu Sales Tax (Surcharge) Act, 1971 (hereinafter referred to as the principal Act), for sub-sections (3), (4) and (5), the following sub-section shall be substituted, namely :—

Amendment of section 1.

“(3) This Act shall be deemed to have come into force on the 1st April 1989.”

3. In section 2 of the principal Act.—

Amendment of section 2.

(1) clause (a) shall be omitted ;

(2) for clause (c), the following clause shall be substituted, namely :—

“(c) ‘local authority’ means—

(i) the Municipal Corporations of Madras, Madurai, Coimbatore or any other Municipal Corporation that may be constituted under any law for the time being in force, or

Tamil Nadu Act V of 1920.

(ii) a Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920, or

Tamil Nadu Act V of 1920.

(iii) a township committee constituted under the Tamil Nadu District Municipalities Act, 1920, or the Tamil Nadu Panchayats Act, 1958, or the Mettur Township Act, 1940, or the Courtallam Township Act, 1954, or the Bhavanisagar Township Act, 1954, or under any other law for the time being in force, or

Tamil Nadu Act XXXV of 1958.

Tamil Nadu Act XI of 1940.

Tamil Nadu Act XVI of 1954.

Tamil Nadu Act XV of 1954.

Tamil Nadu Act XXXV of 1958.

(iv) a panchayat union council or a panchayat constituted under the Tamil Nadu Panchayats Act, 1958.”

4. In section 3 of the principal Act.—

Amendment of section 3.

(1) in sub-section (1),—

(a) for the expression “within the limits of the area in which this Act is in force shall, on and from the date of the commencement of this Act, pay a surcharge on such tax at the rate of five per cent of such tax”, the following shall be substituted, namely :—

“shall pay a surcharge on such tax.—

(i) at the rate of ten per cent of such tax in the Municipal Corporations of Madras, Madurai, Coimbatore or any other Municipal Corporation that may be constituted under any law for the time being in force and Municipalities which have been declared to be Municipalities of the Special Grade by the Government for the purpose of Tamil Nadu District Municipalities Act, 1920.

Tamil Nadu Act V of 1920.

(ii) at the rate of eight per cent of such tax in all other areas.” ;

(b) the first proviso shall be omitted ;

(c) in the second proviso, for the words “Provided further”, the word “Provided” shall be substituted ;



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

“(1-A) The proceeds in any year of any surcharge under sub-section (1) so collected shall be paid to the local authority concerned after deducting towards the expenses incurred by the Government such percentage of the proceeds as the Government may fix.”

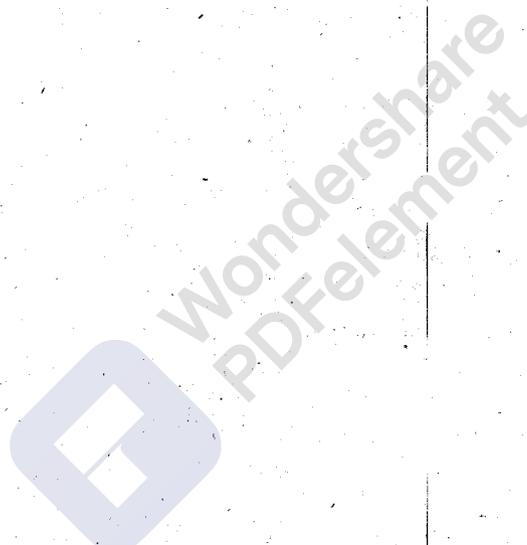
5. Section 3-A of the principal Act shall be omitted.

6. In section 6 of the principal Act, the words “or additional surcharge” occurring in two places, shall be omitted.

(By order of the Governor.)

P. JEYASINGH PETER,
Secretary to Government, Law Department.

omission of
section 3-A.
amendment of
section 6.





TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

ACT No. 39 OF 1989

An Act further to amend the Tamil Nadu Sales Tax (Surcharge) Act, 1971

Be It enacted by the Legislative Assembly of the State of Tamil Nadu in the Fortieth Year of the Republic of India as follows:-

Short title and
Commencement

1. (1) This Act may be Called the Tamil Nadu Sales Tax (Surcharge) Second Amendment Act, 1989

(2) It shall be deemed to have into force on the 1st July 1989.

Insertion of new
Section 3-A

2. After section 3 of the Tamil Nadu Sales Tax (Surcharge) Act, 1971 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:-

Tamil Nadu Act,
24 of 1971

Levy of addi
tional surcharge
on Sales Tax.

3-A (1) In a addition to the surcharge leviabale under section 3, every dealer who is liable to pay tax under the Tamil Nadu General Sales Tax Act, 1959 (Hereinafter in this section referred to as the said Act) on the sale or purchase of goods, in the municipal corporation of the Madras and within thirty two kilometers from the outer peripheral limits of the municipal corporation of Madras, shall pay an additional surcharge on such tax at the rate of five percent of such tax:

Tamil Nadu
1 of 1959

Provided that if, in respect of declared goods, as of section 2 of the said Act--

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- (i) the tax under the said Act ;
- (ii) the additional tax under the Tamil Nadu Additional Sales Tax Act, 1970 ;
- (iii) the surcharge under sub-section (1) of section 3 ; and
- (iv) the additional surcharge under this sub-section, payable by such dealer, exceed four per cent of the sale or purchase price thereof, the rate of additional surcharge in respect of such goods, shall be reduced to such an extent that the tax, the additional tax, the surcharge and the additional surcharge together shall not exceed four per cent of the sale or purchase price of such goods.

Tamil Nadu Act
14 of 1970

(2) Save as otherwise provided in this Act, the provisions of the said Act shall apply in relation to the additional surcharge payable under sub-section (1) as they apply in relation to the tax payable under the said Act."

Amendment of
section 6.

3. In section 6 of the principal Act, after the word "surcharge" in two places where it occurs, the words "or additional surcharge" shall be inserted.

Repeal and
Saving.

4. (1) The Tamil Nadu Sales Tax (Surcharge) Second Amendment Ordinance, 1989 is hereby repealed.

Tamil Nadu
Ordinance
of 1989

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

(By order of the Governor)

P. JEYASINGH PETER,
Secretary to Government, Law Department,

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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 22nd October 1991 and is hereby published for general information :—

ACT No. 36 OF 1991.

An Act further to amend the Tamil Nadu Sales Tax (Surcharge) Act, 1971.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Tamil Nadu Sales Tax (Surcharge) Amendment Act, 1991.

Short title
and com-
mencement.

(2) It shall be deemed to have come into force on the 5th day of September 1991.

2. In section 3 of the Tamil Nadu Sales Tax (Surcharge) Act, 1971, for sub-section (1) excluding the proviso thereto, the following sub-section shall be substituted, namely :—

Amendment of
section 3.

“ (1) Every dealer who is liable to pay tax under the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) (hereafter in this section referred to as the said Act), on the sale or purchase of goods, shall pay a surcharge on such tax at the rate of fifteen per cent of such tax : ”.

(By order of the Governor.)

P. JEYASINGH PETER,
Secretary to Government, Law Department.

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24 of
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TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 8th September 1996 and is hereby published for general information :—

ACT No. 30 OF 1996.

An Act To Repeal The Tamil Nadu Sales Tax (Surcharge) Act, 1971.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-seventh Year of the Republic of India as follows :—

1. (1) This Act may be called the Tamil Nadu Sales Tax (Surcharge) Repeal Act, 1996. **Short title and commencement.**

(2) It shall be deemed to have come into force on the 17th day of July 1996.

2. The Tamil Nadu Sales Tax (Surcharge) Act, 1971 (hereinafter referred to as the said Act) is hereby repealed. **Repeal.**

3. Notwithstanding the repeal of the said Act by this Act, and notwithstanding anything contained in any judgment, decree or order of any court or other authority, no assessment, re-assessment, levy or collection of any tax made or purporting to have been made under the provisions of the said Act, at any time between the 17th July 1996 and the date of publication of this Act in the *Tamil Nadu Government Gazette*, shall be deemed to be invalid or ever to have been invalid on the ground only that such assessment, re-assessment, levy or collection was not in accordance with law and such tax assessed, re-assessed, levied or collected or purporting to have been assessed, re-assessed, levied or collected shall, for all purposes, be deemed to be, and always to have been validly assessed, re-assessed, levied or collected, and accordingly,— **Validation.**

(a) all acts, proceedings or things done or taken by the State Government or by any other authority in connection with the assessment, re-assessment, levy or collection of such tax, shall for all purposes, be deemed to be, and to have always been done or taken in accordance with law ;

(b) no suit or other proceeding shall be maintained or continued in any court against the State Government or any person or authority, whatsoever, whether for the refund of any tax so paid ; and

(c) no court shall enforce any decree or order directing the refund of any tax so paid.

(By order of the Governor)

A. K. RAJAN,
Secretary to Government,
Law Department.