

ODISHA STATE TAX ON PROFESSION, TRADES, CALLINGS AND EMPLOYMENTS ACT, 2000

The Orissa a. G a z e t t e EXTRAORDINARY PUBLISHED BY AUTHORITY -ORINA ACT -7 OF 2000 THE ORISSA STATE TAX ON PROFESSIONS, TRADES CALLNGS AND EP.æL01MNTS Acr, 2000 TABLE OF CONTENTS PREAMBLE SBCHIONS Short title, extent and commencement Definitions 2. Appointment of Commissioner and other officers 3

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includes pay or wages, dearness allowance and all other remunerations ,received _ by any person on regular basis, whether payable in cash or in kind and also includes perquisites and profits in lieu of salary as defined in section 17 of the Income Tax Act, 1961 ; 43 Of (l) "Tax" means the pgofpssion tax ; (m) "year" means a financial year

3. The Government may, by noäfication, appoint an omcer to the Commissioner of Profession Tax, Orissa who shall exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act.(2) The Government may ,also appoint an assessing authority, appellate authority and such number of other cficcrs under any proscribed designation as they deem fit and thoy shall exercise such powers and perform such duties as may be conferred ot imposed by or under lhe provisions of this Act within such local area as may be assigned to them by the Commissioner. (3) Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers and duties under this Act to any omcer appointed under sub-section (2). 4. (l) Subject to the provisions of Article 216 of lhe Constitution of India, them shall be.levied and collected a tax on professions, trades, callings. and employments in accordance With provisions of Ibis Act. (2) Every person engaged in any profession, trade, calling or employment and falling under one or the other of the classes mentioned in column (2) of the Schedule shall be liable to pay to the Goverment tax at the rate mentioned against the class of such person in column (3) of the said Schedule



5. The tax payable under (his Act by any person earning a salary or wages shall be deducted by his employer from the salary-or wages payable to such person before such salary or wage8 is paid to him, and such employer Sha]], irrespective of whether behalfof thesUch deduction has been made or not, when the salary or wages -is paid to such employee.persons, be liable to payrtax on behalf of all such persons : Provided that if the employer is an offcer of lthe State Government or the Central Government, the manner in which the employer shall discharge lthe said liability shall be such as may be prescribed : Provided further that where any person earning a salary or wages— (a) is covered. by one or more entries other than entry 1 in the Schedule and the rate of tax under any such other entry is more than the rate of tax undem the said entry ; or (b) is simultaneously engaged in employment of more than one employer, and such person furnishes to his employer or employers a certificate in the prescribed



form declaring, inter alia, that he shall obtain a certificate of enrolment under sub-section (2) of section 6 and pay the tax himself, then the employer or employers of such person shall not deduct the tax from the salary or wages payable to person and such employer or employers, as the case may be, shall not be liable to pay tax on behalf of such person.

6. (1) Every employer (not being an officer of the State Government or the Registration Department Central Government) liable to pay tax under section 5 shall obtain a certificate of enrolment from the assessing authority in the prescribed manner. (2) Every assessee liable to pay tax under this Act (other than a person earning salary or wages in respect of whom the tax is payable by his employer) shall obtain a certificate of enrolment from the assessing authority in the manner.

Returns. (3) Every assessee required to obtain a certificate of registration or enrolment, shall, within ninety days from the date of coming into force of this Act, or if he was not engaged in any profession, trade, calling or employment on that date, within ninety days of his becoming liable to pay tax, or in respect of any assessee referred to in sub-section (2), within ninety days of his becoming liable to pay tax at rate higher or lower than the one mentioned in his certificate of enrolment, apply for a certificate of registration or enrolment, or a revised or enrolment, as the case may be, to the assessing authority, in the prescribed form, and the assessing authority shall, after making such enquiry as may be necessary within thirty days of the applications grant him such certificate of registration or enrolment; if the application is in order, and where the application is not in order, it shall be rejected. Provided that the assessing authority may, if he is satisfied that any employer or assessee has failed to register or enroll himself, as the case may be, within the said period of ninety days for good and sufficient reasons he may allow such employer or assessee, as the case may be, further time not exceeding thirty days for the required registration or enrolment as he may deem appropriate. (4) The assessing authority shall mention in every certificate of registration or enrolment, as the case may be, the amount of tax payable by the holder according to the Schedule, and the date by which it shall be paid, and such shall serve as a notice of demand for purpose of section 12. (5) Where an assessee liable to registration or enrolment deliberately neglects or wilfully fails to apply for such certificate within the time as provided in sub-section (3), the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a not exceeding rupees twenty for each day of delay in case of an employer and not exceeding rupees five for each day of delay in case of others. (6) When an assessee liable to registration or enrolment has deliberately given false information in any application submitted under this section, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees one thousand.

7. (1) Every employer registered under this Act and every enrolled person shall furnish to the assessing authority a return in such form, for such period or periods and by such dates as may be prescribed showing therein the salaries or wages paid by him and the amount of tax deducted by him in respect thereof. (2) Every such return shall be accompanied by a treasury challan or a banker's cheque or manager's cheque issued by a scheduled bank or a cheque marked or certified by such bank as good for payment or by a crossed bank draft, in proof of payment of full amount of tax due to the return and return without such proof of payment shall not be deemed to have been duly filed. (3) Where an employer or enrolled person without reasonable cause, fails to file such return within the time, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding five for each day of delay.

8. (1) If the assessing authority is satisfied that the return furnished by an assessee is correct and complete, he may accept the return and if the return appears to him to be incorrect or incomplete he shall, after giving the assessee reasonable opportunity of proving the correctness or completeness of the return furnished by him and making such enquiry as he deems necessary, assess to the best of his judgment, the amount of tax due from the assessee. (2) The amount of tax due from any assessee shall be assessed separately for each year within a period of five years from the expiry of the year to which the assessment relates. (3) If any assessee has failed to get himself registered or having been registered has failed to furnish the required return, the assessing authority shall, after giving the assessee a reasonable opportunity of making representation and after making such enquiry he deems necessary pass an order assessing the amount of tax due to the best of his judgment. (4) The amount of tax so assessed shall be paid within fifteen days of receipt of the notice of demand from the assessing authority. (5) In making an assessment under sub-section (1), the assessing authority, if he is satisfied that the assessee's assessment was due to wilful non-disclosure of information or attempt to evade the tax by the assessee, may also direct to pay in addition to the tax assessed, a penalty which shall not be less than one and half times the tax so assessed.

but which shall not exceed three times the tax so assessed: provided that no penalty under this sub-section shall be imposed, unless the assessee affected has had a reasonable opportunity of showing cause against the imposition of such penalty

9. 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 five years from the expiry of the year to which the tax relates, proceed to assess or reassess the tax, as the case may be, to the best of his judgment, after issuing a notice to the assessee concerned and after making such enquiry as he 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. 10. The amount of tax due from the assessee for each year as specified in their payment or emolument certificates shall be paid in the prescribed manner—ages. (a) before 30th June, in respect of assessee who stands enrolled before the commencement of a year or is enrolled on or before the 31st May of a year ; and (b) within one month of the date of enrolment in respect of an assessee who is enrolled after the 31st May of a year. 11. (1) If an assessee (not being an officer of the State Government or the Central Government) fails to pay tax as required by or under this Act, he shall without prejudice to any other consequences and liabilities which he may incur, be deemed to be an assessee in default in respect of such tax. (2) Without prejudice to the provisions of sub-section (1), an assessee referred to in that sub-section shall be liable to pay simple interest at two per centum of the amount of tax due for each month or part thereof for the period for which the tax remains unpaid. (3) If an enrolled person fails to pay the tax as required by or under this Act, he shall be liable to pay simple interest at the rate and in the manner laid down in sub-section (2)

12. If any assessee fails without reasonable cause, to make payment of any Penalty for non-payment amount of tax within the time specified in the notice of demand, the assessing authority may, after giving him a reasonable opportunity of making his representation, impose upon him a penalty which shall not be less than twenty-five per centum but not exceeding fifty per centum of the amount of tax due and the penalty so imposed shall be in addition to the interest payable under sub-section (2) or sub-section (3) of 11

13. The arrears of tax penalty, interest or any other amount due under this Act, of tax, shall be recoverable as an arrear of land revenue. 14. (1) For carrying out the purposes of this Act, the Government may appoint any person of its departments or officers as a collecting agent responsible for levy and collection of the tax under this Act from such person or class of persons as may be prescribed. (2) Upon such appointment, it shall be the duty of such collecting agents to carry out such functions, under this Act in the manner and to the end prescribed. (3) Every officer authorised by the collecting agent in this behalf shall have, for the purposes of levy and collection of tax such powers as may be prescribed. (4) It shall be lawful for the Commissioner, or an officer duly authorised by him, to have access to, and to cause production and examination of books, registers, accounts or documents maintained or required to be maintained by the collecting agent for the purposes of this Act, and the collecting agent shall, whenever called upon to do so, produce such books, registers, accounts or documents for inspection by the Commissioner or by any officer authorised by him in this behalf. 15. (1) Any assessee (not being an officer of the State Government or the Central Government) aggrieved by any order passed by any authority under the provisions of this Act, not being an order passed under sub-section (3) of section 8, may within thirty days from the date on which the order was served on him* appeal to the appellate authority: Provided that the appellate authority may, for sufficient cause shown, admit an appeal preferred after the expiry of the period of thirty days aforesaid. (2) No appeal shall be entertained* unless the amount of tax or penalty or interest in respect of which the appeal has been preferred, has been paid in full. (3) 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 centum of the tax, penalty or interest under dispute, subject to a minimum of rupees fifty and a maximum of rupees one thousand. (4) The appellate authority may, after giving the appellant an opportunity of being heard and subject to such rules of procedure as may be prescribed,— (a) confirm, reduce, enhance or annul or otherwise modify the assessment, penalty or interest as the case may be ; (b) set aside the assessment penalty or interest, as the case may be, and

direct the assessing authority to pass a fresh order after such further enquiry as may be directed ; or (c) pass such other orders as he may think fit. (5) Before passing orders under sub-section (4), the appellate authority may make such enquiry as he deems fit or remand the case to any subordinate officer or authority for an enquiry and report on any specified point or points. (6) Every order passed in appeal under this section shall be subject to the provisions of section 16, be final. 16. (1) The Commissioner may, either suo motu or on an application made to him, Revision. 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 centum of the tax, penalty or interest, 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 a period not exceeding five years from the date on which the order was served on the assessee. (4) No order which adversely affects any assessee shall be passed under this section, unless such assessee 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. 17. (1) If the assessing authority is satisfied that the books of accounts and other documents maintained by an employer or enrolled person in the normal course of his business profession, trade or calling are not adequate for verification of the return or such statement(s) as may be prescribed furnished by the employer or enrolled person under this Act, he may direct the employer or enrolled person to maintain the books of accounts or other documents in such manner as he may, in writing, direct and thereupon the employer or enrolled person shall maintain such books of accounts or other documents accordingly. (2) Where an employer or enrolled person wilfully fails to maintain the books of accounts or other documents as directed under sub-section the assessing authority may, after giving him an opportunity of being heard, impose upon him a penalty not exceeding rupees five for each day of delay. 18. (1) Notwithstanding anything contained in any law or contract to the contrary, Special mode of recovery. the assessing authority may, by notice in writing, a copy of which shall be forwarded to the assessee at his last address known to the assessing authority, require— (a) "any person from whom any amount of money is due, or may become due to an assessee on whom notice of demand has been served under this Act ; or (b) any person who holds or may subsequently hold money for or on account of such assessee, to pay the assessing authority, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient for payment of the amount due by the assessee in respect of the arrears of tax, penalty and interest under this Act, or the whole of the money when it is equal to or less than that amount. Explanation—For the purpose of this sub-section the amount of money due to an assessee from, or money held for or on account of an assessee by, any person shall be calculated after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due for payment by such assessee to such person. (2) The assessing authority may amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice. (3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the assessee and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such a person, to the extent of the amount referred to in the receipt. (4) Any person discharging any liability to the assessee after receipt of the notice referred to in this section, shall be personally liable to the assessing authority to the extent of the liability discharged, or the extent of the liability of the assessee for the amount due under this Act, whichever is less. (5) Where any person to whom a notice under this section is sent proves to the satisfaction of the assessing authority that the sum demanded or any part thereof is not due by him to the assessee or that he does not hold any money for or on account of the assessee then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be to the assessing authority. (6) Any amount of money which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority if it remains unpaid, shall be recoverable as an authority under this section (Shall be), arrear of land revenue

19. Where the ownership of the profession, trade, calling, or employment of an assessee liable to pay tax is transferred, any tax, penalty or interest tax where trade, or other amount payable under this

Act in respect of such business and remain. ing unpaid at the time of transfer may, without prejudice to any action that etc. of may be taken for its recovery from the transferor, be recoverable from the transferee as if, he were •the assessee liable to pay such tax, penalty or interest or other amount. 33 Production 20. (1) Any authority under this Act may, for the purposes of this Act, and inspect require any person or any employer to produce before him any accounts or other documents relating to his professions, trades, callings or employments, or, documents disbursement of salaries or wages to his employees, as the case may be. and such of place of work, etc. Refund. Offences and penalties. (2) All accounts, registers and other documents, either relating to professions trades, callings or employments or disbursement of salaries or wages to the employees, as the case may be, shall at all reasonable time be open to inspection by an authority under this Act. (3) If the Commissioner or an officer appointed under sub-section (1) of section 3 has reason to suspect that any person or employer is attempting to evade payment of any tax under this Act, he may, for reasons to be recorded in writing, inspect and search any place of work or any other place where the Commissioner or the officer has, upon information received, reasons to believe that records relating to professions, trades, callings or employments or disbursement of salaries or wages to the employees •are being 'kept by' - the person or the employer, as the case may be, and seize such accounts, registers and documents as may be necessary for determination of tax payable under this Act. (4) The Commissioner or the officer exercising the power under sub-section (3) shall give to the person in charge of the place of work or other premises searched, a receipt describing the accounts, registers and documents seized and removed from such place of work or premises, as the case may be, and shall the accounts, registers and documents seized only for so long as may be necessary for the purposes of examination thereof or prosecution: Provided that such officer shall not retain the registers, accounts or documents seized by him under sub-section (3) for a period exceeding one year from the date of seizure, unless he states the reason therefor in writing and obtains sanction in writing from the Commissioner. (5) The occupant of the place of work or premises searched or some person in his behalf shall, in every instance, be permitted to be present during the search, and the receipt referred to in sub-section (4) shall be countersigned by the or any person witnessing the search and seizure, 21. The assessing authority shall refund to assessee the amount of tax, penalty, interest and fees, if any, paid by such assessee in excess of the amount due from him, either by cash payment or, at the option of such person, by deduction of such excess from the amount of tax, penalty, interest and fee due from him in respect of any other period: provided that such excess shall first be applied towards the recovery of any amount due in respect of which a notice under section 8 has been served and thereafter the balance, if any, shall be refunded

22. Any or employer who, without reasonable cause, fails to comply with any of the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine Which may extend to five thousand and where the offence is a continuing one, with a further fine which may extend to fifty rupees for every day during which the offence continues, 23.(1) Where an offence under this Act has been committed by a company, every Officer by person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be punished accordingly : provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised due diligence to prevent the commission of such 34 (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act 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 also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation—For the purposes of this section,— (a) "company" means any body corporate and includes a firm association of individuals ; and (b) "director" in relation to a firm means a partner in the firm. or Other Power to transfer Proceedings. Compend. Ing of records. Power to attend etc. Jurisdiction of courts. Exemptions. 24, 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 provision 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 assessee whose name 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 assessee. 25. (1) The assessing authority may, either before or after the institution of proceedings for an offence under this Act, permit any assessee, charged with the offence, to compound the offence on payment of such sum, not exceeding five thousand or double the amount of tax recoverable, whichever is greater. (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 shall be final and no appeal or application for revision shall lie therefrom

26. The Commissioner and the other authorities under this Act shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, for the purpose of enforcing the attendance of, and examining, any person on oath or affirmation or for compelling the production of any document. 27. - No court shall entertain any suit or other proceeding to set aside or modify, or question the validity of any assessment, order or decision made or passed by any officer or authority under this Act or the rules made thereunder or in respect of any other matter falling within its or his scope. 28. (1) Nothing contained in this Act shall apply to the members of armed forces of the Union serving in any part of Orissa. (1) The Government may, by notification, exempt from the levy of tax under this Act any class of persons, if it considers necessary so to do in the public interest. (3) Every notification issued under sub-section (2) shall, as soon as is published, be laid before the Assembly for a total period of fourteen days which may be comprised in one or more sessions. Local authorities not to levy profession tax. Power to amend Schedule. 29. Notwithstanding anything in any enactment governing the constitution or establishment of a local authority, no local authority shall, on or after the commencement of this Act, levy any tax on professions, trades, callings or employments. 30. (1) The Government may, by notification, alter, add to or cancel any item of entry in the Schedule. (2) Every notification issued under sub-section (1) shall, as soon as it is published, be laid before the Assembly for a total period of fourteen days which may be comprised in one or more sessions. (3) References made in this Act to the Schedule, or any entry or item thereof, shall be construed as references to the Schedule or, as the case may be, the entry or item thereof as for the time being amended in exercise of the powers conferred by this section

31. No suit, prosecution or other legal proceedings shall lie against the Commissioner or any other officer appointed under section 3 for anything which is in good faith done or intended to be done under this Act or the rules made thereunder. Power to make rules. 32. (1) The Government may, by notification, make rules to carry out all or any of the purposes of this Act. (2) In particular and prejudice to the generality of the foregoing power, such rules may provide for the fees payable in respect of any application made, forms to be supplied, certificates to be granted and any application for certified copies of documents filed and orders made under this Act. 33. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty: provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act. (2) Every order made under this section shall, as soon as it is made, be laid before the Assembly for a period of fourteen days which may be comprised in one or more sessions. 36 SCHEDULE SCHEDULE OF RATES OF TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS

3. EMPLOYMENTS (See Section 4) Class of assesseees (2) Salary and Wage earners. Such persons including Ministers, Members of Legislative Assembly and Members of Parliament from the State of Orissa whose monthly salaries or wages— do not exceed Rs. 5,000 (i) exceed Rs. 5,000 but do not exceed Rs. 6,000 (ii) exceed Rs. 6,000 but do not exceed Rs. 8,000 (iii) exceed Rs. 8,000 but do not exceed Rs. 10,000 (iv) exceed Rs. 10,000 but do not exceed Rs. 15,000 (v) exceed Rs. 15,000 but do not exceed Rs. 20,000 (vi)

