

**Andhra Pradesh Small Scale Industries (Restriction On
Sales Tax Holidays) Act, 1995**

14 of 1995

[16 February 1995]

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An Act to limit the maximum Fixed Capital Investment for the purpose of Sales Tax Holiday in respect of certain Small Scale Industries in the State of Andhra Pradesh.

Whereas the Government in G.O.Ms. No. 498, Industries and Commerce (LA.) Department, dated the 16th October, 1989 issued orders extending certain concessions under the Liberalised State Incentive Scheme for setting up of new industries in the State of Andhra Pradesh, except in the Industries specified in the Annexure to the order and those to be located the Municipal Corporation limits of Hyderabad, Visakhapatnam and Vijayawada;

And whereas, a concession of five years Sales Tax Holiday subject to a ceiling of rupees thirty five lakhs on Sales Tax during the entire holiday period had been allowed to the small scale industries to be set up on or after the 3rd October, 1989 and going into commercial production before the 31st March, 1995;

And whereas, it has been brought to the notice of the Government that there is every likelihood of undue exploitation of the concession of the Sales Tax Holiday of rupees thirty five lakhs allowed in the aforesaid G.O., by some of the units with very small fixed capital investment but with high turnover by virtue of components bought out;

And whereas while approving the comprehensive guidelines for

effective implementation of the Incentive Scheme issued in Memo No. 2125/IA/89, Industries and Commerce Department dt. 15-9-1990 it has been made clear in para 6(2) (B) (ii) of the said guidelines that small scale industries are exempted from payment of Sales Tax for a period of five years from the date of commercial production limited to 100% of fixed capital investment or rupees thirty five lakhs whichever is less;

And whereas the demand notices for payment Sales Tax in accordance with the guidelines evolved were issued to certain small scale industries;

And whereas, the said scale units have challenged the said demand notices in the High Court of Andhra Pradesh, on the pretext that they are eligible for the Sales Tax Holiday benefit up to a maximum of rupees thirty five lakhs in accordance with the orders issued in the said CO., irrespective of that capital investment;

And whereas, in W.P. No. 16570/91 and batch the High Court of Andhra Pradesh, while upholding the contention of the petitioners, directed no to demand to collect Sales Tax from the petitioners except as otherwise provided in the said G.O.

And whereas, the intention of the Government is only to allow the small scale units of Sales Tax Holiday to an extent of 100% of their capital investment or a maximum of rupees thirty five lakhs whichever is less during the entire holiday period vide para 6-B (ii) of the guidelines issued in Memo No. 2125/IA/89-1, dated the 15th September, 1990 for implementation of the Liberalised State Incentive Scheme, 1989;

And whereas, the High Court of Andhra Pradesh in W.P. No. 16570/91 and batch held that limiting the extent of eligibility to a sum lesser than rupees thirty five lakhs could have been effected only by another notified order issued under Clause (2) of Article 166 of the Constitution rather than by a Memorandum and held that the respondents are not entitled to rely upon the alteration or reduction in the eligibility of the petitioners for exemption to any amount lesser than that which was promised in Clause 3 of G.O.Ms. No. 498, Industries and Commerce (LA.) Department dated 16-10-1989; '[and also amount to allow the ineligible Small Scale Industries specified under Annexure to G.O.Ms. No. 146, Industries and Commerce (IA) Department, dated the 25th April, 1991 for availing the incentives].

And whereas, the implementation of the said directions of the High Court would run against the policy of the Government and it amounts to allowing the small scale units with less capital

investment and high turnover, taking undue advantage of the policy of the Government.

And whereas, the implementation of the judgment of the High Court would result in the colossal loss of revenue to the Government;

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

1. Short title and Commencement :-

(1) This Act may be called the Andhra Pradesh Small Scale Industries (Restriction on Sales Tax Holiday) Act, 1995.

1[(2) it shall be deemed to have come into force on the 3rd October, 1989.]

1. Inserted by Act 18 of 1996 (w.e.f. 3-10-1989).

2. Restriction on Sales Tax Holiday :-

1[Notwithstanding the restrictions specified under para 3B of the G.O.Ms. No. 498, Industries and Commerce (IA) Department, dated the 16th October, 1989, o(sic) anything contained in any judgment, decree or order of any Court, Tribunal or other authority or any order to the contrary, the Small Scale Industries which complied the conditions stipulated in G.O.Ms. No. 498, Industries and Commerce (IA) Department, dated the 16th October, 1989 and Government Memo No. 2125/IA/89-1, dated the 15th September, 1990, shall be entitled to a Sales Tax Holiday limited to 100% of the fixed capital investment or Rs. 35.00 lakhs (Rupees thirty five lakhs) whichever is less, for a period of five years in respect of the Small Scale Industries set up on or after 3rd October, 1989 and go into commercial production before the 31st March, 1995 in the State of Andhra Pradesh except the industries specified in the Annexure to the G.O.Ms. No. 498, Industries and Commerce Department, dated the 16th October, 1989 and the industries located in the Municipal Corporation limits of Hyderabad, Visakhapatnam and Vijayawada.]

1. Substituted by ibid.