

Andhra Pradesh Tax On Luxuries Act, 1987

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SCHEDULE 1 :- SCHEDULE

Andhra Pradesh Tax On Luxuries Act, 1987

STATEMENT OF OBJECTS AND REASONS

The Supreme Court of India in Abdul Kadar v. State of Kerala, AIR 1976 SC 182, has held that tobacco products have been found to have deleterious effect upon health and a tax on tobacco has been recognised as a tax in the nature of a Luxury tax. Accordingly, luxury tax is being levied at the rate of 10 paise in the rupee on chewing tobacco preparations, commonly known as Khara, Masala, Kimam, dokta, zarda, sukha and surthi. The aforesaid chewing preparations are considered to be injurious to health and therefore Government have decided to curb their sales and consumption in the State. Therefore, Government have decided to impose a heavy dosage of tax at the rate of 50 paise in every rupee at the first point of supply in the State.

1. Omitted for the words "in Hotels and Lodging Houses" by Act No. 28 of 1996, w.e.f. 01-08-1996.

1. Short title, extent and commencement :-

(1) This Act may be called the Andhra Pradesh Tax on Luxuries ¹[xxx] Act, 1987.

(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.

1. Omitted by Act No. 28 of 1996, the words "in Hotels and Lodging Houses" in the long title as well as in sub-section (1) were omitted w.e.f. 01-08-1996

2. Definitions :-

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;

1[(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];

2[(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];

(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;

3[(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];

4[(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];

(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;

5[(j) "proprietor" includes a tobacconist and in relation to a hotel or a corporate hospital any person responsible for the management thereof];

6[(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 second" 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 section 4 of the Central Excise and Salt Act, 1944; Central Act 1 of 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];

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

⁷[(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, ⁸[Sukha, Surti, Gutka and other manufactured tobacco and manufactured tobacco substitutes; homogenised or reconstituted tobacco; tobacco extracts and

essences];

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

9[(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].

1. Clause (cc) was inserted by Act No. 28 of 1996 w.e.f. 01-08-1996.

2. Clause (d) was subs. by Act No. 28 of 1996, w.e.f. 01-08-1996. The earlier clause read as under:--

"(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".

3. Subs. by Act 28 of 1996 w.e.f. 01-08-1996. The earlier clause was as follows:--

"(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".

4. Inserted by Act No. 28 of 1996, w.e.f. 01-08-1996.

5. Subs. by Act No. 28 of 1996, w.e.f. 01-08-1996. The earlier clause was as follows:--

"(j) "Proprietor" in relation to a Hotel includes any person responsible for the management thereof.

6. Clause (jj), (jjj), (jjjj) and (jjjjj) were inserted by Act No. 28 of 1996, w.e.f. 01-08-1996.

7. Inserted by Act No. 28 of 1996, w.e.f. 01-08-1996.

8. Subs. for the words "Sukha and Surti" by Act No. 40 of 2001 dt. 16-10-2001, w.e.f. 02-05-2001.

9. Ins. by Act No. 28 of 1996, w.e.f. 01-08-1996.

3. Levy and collection of tax :-

¹[(1) 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 ²[is Rs. 300/- or more per day per person, a tax at the rate of five 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]:

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 of ³[custom of the hotel or corporate hospital].

(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 the 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.

1. Subs. by Act No. 28 of 1996 w.e.f. 01-08-1996. The earlier was as follows:-

"(1) Subject to the provisions of this Act tax 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 per cent of such rate:"

2. Sub. By Act No. 18 of 2000 w.e.f 18-12-1998. The earlier was as follows:- "is Rs. 60/- or more per day per person, a tax at the rate of ten per centum of such rate."

3. Subs. for the words "Custom of the hotel" by Act No. 28 of 1996, w.e.f. 01-08-1996.

3A. Tax on Tobacconist :-

1 (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:

2[Provided further that a tobacconist who sells tobacco products in a small bunk shall be exempt from payment of tax on turnover of receipts in respect of Tobacco products purchased from registered Tobacconist inside the State]:

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 tobacconist 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 occasioned such export.

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

1. Ins. by Act No. 28 of 1996, w.e.f. 01-08-1996.

2. Subs. by Act No. 9 of 1997, dt. 01-04-1997 w.e.f. 04-01-1997.

4. Appointment of Commissioner, Assessing or Appellate Authorities and their powers and functions of Assessing Authorities :-

(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 purpose 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.

4A. Registration :-

1(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**[and who buys the goods he deals in from dealers in the State registered under this Act].

(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 had 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 tobacconist 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 tobacconist under sub-section (4) may be cancelled by the prescribed authority after due notice to such tobacconist 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 tobaccoist to whom the licence was granted pays the arrears of luxury tax, penalty and interest and furnishes a receipted challan therefor].

1. Inserted by Act No. 28 of 1996, w.e.f. 01-08-1996.

2. Added by Act No. 9 of 1997, dt. 01-04-1997, w.e.f. 04-01-1997.

5. Mode of collections of tax :-

(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.

¹[(1-A) 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) Where, in addition to the charges for ²[luxury provided in a hotel or a corporate hospital] 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 ²[luxury provided in the hotel or the corporate hospital].

(3) Where luxury ³[provided in a hotel or a corporate hospital to any person not being an employee of the hotel or the corporate

hospital] 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 3[proprietor of the hotel or the corporate hospital].

(4) Where luxury ³[provided in a hotel or in a corporate hospital] 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.

1. Added by Act No. 28 of 1996, w.e.f. 01-08-1996.

2. Subs. for the words "Luxury provided in a Hotel" by Act No. 28 of 1996, w.e.f. 01-08-1996.

3. Subs. for the words "Provided in a Hotel to any Person not being an employee of the hotel, and the words "Proprietor of the Hotel", by Act No. 28 of 1996, w.e.f. 01-08-1996.

6. Returns :-

(1) Every proprietor liable to pay tax ¹[under Section 3], 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[(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].

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

(3) A proprietor furnishing a return as required ³[under subsections (1) or (1 A)] 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.

1. Subs. for the words "under the Act" by Act No. 28 of 1996, w.e.f. 01-08-1996.

2. Added by Act No. 28 of 1996, w.e.f. 01-08-1996.

3. Subs. for the expression "under sub-section (1)" by Act No. 28 of 1996, w.e.f. 01-08-1996.

7. Assessment and collection of tax :-

(1) If the assessing authority is satisfied that the return furnished under ¹[sub-sections (1) or (1A) of Section 6, as the case may be] 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.

(2) (a) If the assessing authority is not satisfied that the return furnished under ²[sub-sections (1) or (1A) of Section 6 as the case may be] 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 ³[subsections (1) or (1A) of Section 6, as the case may be] 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.

1. Subs. for the expression "sub-section (1) of Section 6" by Act No. 28 of 1996, w.e.f. 01-08-1996.

2. Subs. for the expression "sub-section (1) of Section 6" by Act No. 28 of 1996, w.e.f. 01-08-1996.

3. Subs. for the expression "sub-section (1) of Section 6" by Act No. 28 of 1996, w.e.f. 01-08-1996.

7A. Provisional Assessment :-

1 (1) Tax payable under this Act for each year may be provisionally assessed in advance during the year and paid in monthly or prescribed installments 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 turnover or at too low a rate, or on too high a turnover or too high a 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].

1. Sec. 7A ins. by Act No. 28 of 1996, w.e.f. 01-08-1996.

8. Assessment of escaped or under assessed tax :-

If for any reason any tax payable under this Act, has escaped assessment or has been tender 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. Imposition of penalty in certain cases :-

(1) Where any proprietor liable to pay tax under this Act: --

(a) fails without sufficient cause or neglects to furnish a return as required by 1[sub-sections (1) or (1A) of Section 6 as the case may be]; or

(b) while furnishing a return under ¹[sub-sections (1) or (1 A) of Section 6 as the case may be] 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 Sections 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.

1. Subs. for the expression "sub-section (1) of Section 6" by Act No. 28 of 1996, w.e.f. 01-08-1996.

10. Payment of Tax, penalty or other dues payable under the Act in Instalment :-

(1) ¹[The Deputy Commissioner] 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.

1. Subs. for the words "the Commissioner or any other officer authorized by him" by Act No. 28 of 1996, w.e.f. 01-08-1996.

10A. Attachment of property :-

1 Where, during the 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.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period, or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

1. Sections 10-A and 10-B were inserted by Act No. 28 of 1996, w.e.f. 01-08-1996.

10B. Powers of Deputy Commissioner :-

(1) A Deputy Commissioner shall have the power of a Collector under the Andhra Pradesh Revenue Recovery Act, 1864 (Act 11 of 1864) for the purpose of recovery of any amount due under this Act.

(2) Subject to the provisions of sub-section (3), all Deputy Commercial Tax Officers shall, for the purposes of recovery of any amount due under this Act, have the powers of the Mandal Revenue Officer under the Andhra Pradesh Rent and Revenue Sales Act, 1839 for the sale of property distrained for any amount due under this Act.

(3) Notwithstanding anything contained in the Andhra Pradesh Rent and Revenue Sales Act, 1839, Act VII of 1839 the Deputy Commercial Tax Officer in the exercise of the powers conferred by sub-section (2) shall be subject to the control and superintendence of the Deputy Commissioner].

11. Appeal :-

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 percent 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. Revision :-

1[(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 subsection (2) enhancing any assessment unless an opportunity has been given to the assessee to show cause against the proposed enhancement].

"12. Revision.--

(1) The Commissioner may, either suo-motu 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 the order and unless it is accompanied by a fee calculated at the rate of two percent of the tax or penalty under dispute subject to a minimum of rupees one hundred and maximum of rupees two thousand.

(3) The powers of revision shall be exercised within such 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."

1. Subs. by Act No. 28 of 1996, w.e.f. 01-08-1996. The earlier section was as follows: --

12A. Appeal and Revision :-

1 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].

1. Ins. by Act No. 28 of 1996, w.e.f. 01-08-1996.

13. Court fee on appeal and application for revision :-

Notwithstanding anything contained in the Andhra Pradesh Court Fees and Suits Valuation Act, 1956 Act VII of 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.

14. Refund of Tax :-

(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 percent 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. Offences :-

(1) ¹[Any proprietor who]:--

(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 subsection (1).

1. Subs. for the words "Any person, who being a proprietor liable to pay tax under this Act" by Act No. 28 of 1996, w.e.f. 01-08-1996.

16. Offences by companies :-

(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. Compounding of offences :-

1[(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].

(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.

1. Subs. by Act No. 28 of 1996, w.e.f. 01-08-1996. The earlier section read under:--

"(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".

18. Power to enforce attendance etc :-

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, Central Act V of 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.

19. Maintenance of true and correct accounts and records by proprietor etc. :-

Every proprietor ¹[xxx] 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.

1. The words "of a hotel liable to pay tax under this Act" were omitted by Act No. 28 of 1996 w.e.f. 01-08-1996.

20. Powers to order production of Accounts and powers of entry, Inspection etc. :-

(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 ¹[luxury provided in the

hotel, corporate hospital or supply of luxuries by way of sale or otherwise] as may be necessary for the purposes of this Act.

(2) All working records, accounts, registers or other documents relating to ²[proprietor] 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 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.

³[(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].

⁴[(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:

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].

1. Subs. for the words "Luxury provided in the hotel" by Act No. 28 of 1996 w.e.f. 01-08-1996.

2. Subs for the words "the luxury provided in a hotel" by Act No. 28 of 1996 w.e.f. 01-08-1996.

3. Ins. by Act No. 28 of 1996, w.e.f. 01-08-1996.

4.. Subs. by Act No. 28 of 1996, w.e.f. 01-08-1996. The earlier was as follows:-

"(4) For the purpose of this Act, the Commissioner or any other person authorized 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".

20A. Possession, submission of certain records by owners :-

¹The owner or other person-in-charge 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.

1. Sections 20-A and 20-B were inserted by Act No. 28 of 1996, w.e.f. 01-08-1996.

21. Certain provisions of Limitation Act to apply to appeal and revision application :-

The provisions of Sections 4, 5 and 12 of the Limitation Act, 1963 (Central Act 36 of 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.

22. Bar of jurisdiction of Courts :-

No suit shall lie in any Civil Court to set aside or modify any assessment made or order passed under this Act.

(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. Protection of acts done in good faith :-

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

24. Powers to delegate :-

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.

25. Power to transfer proceedings :-

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. Power to make rules :-

(1) The Government may, by notification make rules for carrying out all or any of the purposes of this Act.

(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. Power to remove difficulties :-

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.

28. Power to alter the rates of tax :-

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 notification shall cease to have effect when such Bill 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.

29. Power of State Government to notify exemptions and

reductions of tax or Interest :-

¹ The State Government may, by notification in the Andhra Pradesh Gazette, make an exemption, or reduction in rate, in respect of any tax or interest payable under this Act:--

(i) on the sale or supply of specified tobacco products at all points or at any specified point or points in a series of sales or purchases by successive dealers; or

(ii) by any specified class of persons, in regard to the whole or any part of their turnover.

(2) Any exemption from tax or interest or reduction in the rate of tax notified under sub-section (1):--

(a) may extend to the whole of the State or to any specified area or areas therein;

(b) may be subject to such restrictions and conditions as may be specified in the notification.

1. Sections 29 and 30 were inserted by Act No. 28 of 1996, w.e.f. 01-08-1996.

30. Power to amend schedule :-

(1) The Government may, by notification, alter, add to or cancel any of the schedules.

(2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly, as soon as may be, but in any case during the next session of 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, addition or

cancellation as the case may be, of the schedule specified in the notification, and the notification shall cease to have effect when such Bill 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.

(3) All references made in this Act, to any of the Schedules shall be construed as relating to the schedules as for the time being amended in exercise of the powers conferred by this section].

SCHEDULE 1

SCHEDULE

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1[SCHEDULE
[See Section 3-A]

Sl. No.	Description	Point of levy	Rate of Tax
1.	Chewing Tobacco preparations commonly known as Khara Masala Kimam, Dokta, Zarda 2[Sukha, Surti, Gutka and other manufactured tobacco and manufactured tobacco substitutes; homogenised or reconstituted tobacco; tobacco extracts and essences]	At the first point of supply of luxuries in the State by sale or otherwise.	3[50 paise in every rupee]
2.	Cigarettes	At the first point of supply of luxuries in the State by sale or	5 paise in every rupee.

		otherwise.	
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1. Schedule was inserted by Act No. 28 of 1996, dt. 17-10-1996.
Item (1) of the Schedule w.e.f. 20-11-1996 by G.O.Ms.No. 952, Rev., dt. 18-11-1996.
Item (2) of the Schedule shall be deemed to have come into force from
01-08-1996.
2. Subs. for words "Sukha and Surti", by Act No. 40 of 2001, dt. 16-10-2001, w.e.f. 02-05-2001.
3. Subs. for words "10 paise in every rupee." by Act No. 9 of 1997, dt. 01-04-1997, w.e.f. 04-01-1997.