

Himachal Pradesh Entertainments Tax (Cinematograph Shows) Act, 1968

11 of 1968

[31 October 1970]

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Himachal Pradesh Entertainments Tax (Cinematograph Shows) Act, 1968

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An Act to provide for levying entertainment tax on cinematograph shows exhibited in public in Himachal Pradesh. Amended, repealed or otherwise effected by,- (i) A.O. 1973, published in R.H.P. Extra., dated 20th January, 1973 at P. 91-112). BE it enacted by the Legislative Assembly of the Union Territory of Himachal Pradesh in

the Eighteenth Year of the Republic of India as follows:- 1. For Statement of Objects and Reasons, see R. H. P. Extra., dated 19th January, 1968 P, 37 and for its authoritative Hindi Text see R. H. P. Extra., dated 7-6-1986 P. 977.

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Himachal Pradesh Entertainments Tax (Cinematograph Shows) Act, 1968.
- (2) It extends to the whole of Himachal Pradesh.
- (3) It shall come into force at once.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or the context,-

- (a) "Commissioner" means the Excise and Taxation Commissioner, Himachal Pradesh, or any other officer empowered by the State Government, by notification, to exercise the powers of the Commissioner under this Act;
- (b) "Permanent Cinema Premises" includes a building or any presentation of moving pictures or series of pictures;
- (c) "Show" means a cinematograph exhibition;
- (d) "Permanent Cinema Premises" includes a building or any other place permanently equipped for exhibition of cinematograph films;
- (e) "Prescribed" means prescribed by rules made under this Act;
- (f) "Proprietor" includes any person responsible for the management of the premises where the show is held;
- 1(g) * * * *
- (h) "Touring Cinema" includes a cinema, which can be taken from place to place for the purpose of displaying cinematograph shows;
- (i) "Notification" means a notification published under proper authority in the Official Gazette.

1 The definition of "State Government" omitted by A. O. 1973.

3. Levy Of Tax On Public Cinema Shows :-

Except as otherwise expressively provided in this Act, there shall be levied, charged and paid to the State Government, on all public cinematograph exhibitions to which persons are admitted on payment, an entertainment tax not exceeding Rs. 10.00 per show at such rate or rates as may from time to time be prescribed by notification in the Official Gazette.

(2) The powers conferred by sub-section (1) are subject to the condition that a draft of the proposed order fixing or varying the rate of cinematograph shows entertainment tax shall be published by notification for the information of all persons likely to be affected thereby; and it shall only take effect after the State Government have considered all objections received within a period of thirty days from the date of its publication.

(3) Tax levied under sub-section (1) above shall be recoverable from the proprietor.

4. Taxing Authorities :-

(1) For carrying out the purposes of this Act, the Commissioner may be assisted by such other person or persons as the State Government may appoint in this behalf.

(2) The Commissioner or the persons appointed under sub-section (1) shall exercise such powers and perform such duties as may be assigned to them under the Act or the rules thereunder.

5. Deposit Of Security By The Proprietor :-

(1) The Commissioner may require the proprietor of any permanent cinema premises liable to tax under sub-section (1) of section 3 to deposit in a Government treasury an amount not exceeding five hundred rupees as security pledged with him.

(2) The Commissioner may forfeit the whole or part of this security if he is satisfied that sums payable under this Act due from the proprietor cannot be recovered otherwise.

(3) The Commissioner shall, if he is satisfied that the proprietor of any cinema premises who has furnished any security under sub-section (1) has ceased the business of exhibiting cinematograph films and that nothing is due from him under this Act or the rules thereunder, refund the security to the proprietor or his legal heirs.

6. Exemptions :-

(1) No tax shall be levied on a public cinematograph exhibition under this Act where the Commissioner is satisfied that the whole of the net proceeds of the show will be devoted to philanthropic, charitable educational or scientific purposes.

(2) The State Government may, by general or specific order, exempt any show or class of show or any proprietor or class of proprietors from the operation of any of or of all the provisions of

this Act.

7. Payment Of Tax And Returns :-

(1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Every person liable to pay tax under this Act shall furnish to the prescribed authority such returns as may be prescribed.

(3) A separate return shall be furnished every fortnight, one pertaining to the period from the first to the fourteenth of the month and the other for the period from the fifteenth day of the month to the end of the month.

(4) The return for each period shall be submitted within seven days of the close of the period to which it pertains:

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the time for furnishing of the returns by a period not exceeding thirty days.

(5) Tax payable under this Act for fourteen days shall be paid in advance by the proprietor of a touring cinema into a Government treasury or the Reserve Bank of India atleast forty-eight hours before the commencement of the first show on the first of the fourteen days for which the tax is due. The Treasury or Bank receipt showing the payment of tax shall be sent to the prescribed authority or such other officer as the prescribed authority may direct, so as to reach him before the commencement of the first show on the first of the fourteen days for which tax has been paid.

(6) Before the proprietor of any permanent cinema premises furnishes the returns required by sub-section (3), he shall, in the prescribed manner pay into a Government treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such returns, and shall furnish alongwith the returns a receipt from such treasury or bank showing the payment of such amount.

(7) If the person liable to pay the tax discovers any omission or other error in any return furnished by him, he may, at any time before the date prescribed for the furnishing of the next return by him, submit a revised return and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment of the extra amount in the manner hereinbefore provided.

(8) Every proprietor of cinema premises shall maintain such account of shows held as may be prescribed.

8. Assessment Of Tax :-

If no returns are furnished by the proprietor of a Cinema premises in respect of any period within the time allowed by sub-section (4) of section 7 or if the prescribed authority is not satisfied that the returns furnished are correct and complete it shall, within twelve months after the expiry of such period, and after giving the proprietor a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of its judgment the amount of tax due from a particular proprietor.

9. Refunds And Remissions :-

(1) The prescribed authority shall, in the prescribed manner, refund to a proprietor applying in this behalf, any amount of tax paid by such proprietor in excess of the amount due from him under this Act, either by a refund voucher or at the option of the proprietor, by deduction of such excess from the amount of tax due in respect of any other period.

(2) The prescribed authority may remit the tax for any show which could not be completed for any reason provided it is satisfied that the ticket-holders have been refunded the price of their tickets in full.

10. Notice Of Holding Of Cinematograph Shows :-

The proprietor of a touring cinema intending to exhibit cinematograph films to which the public is to be admitted on payment shall deliver to the prescribed authority at least three days clear notice in writing of such intention.

11. Production And Inspection Of Documents :-

(1) The State Government may, subject to such conditions as may be prescribed, require the proprietor of any cinema premises to produce before any officer of the Excise and Taxation Department, not below the rank of Sub-Inspector as may be prescribed, any accounts or document relevant to the shows as may be necessary for the purposes of this Act.

(2) If any officer of the State Government mentioned in sub-section (1) has reason to suspect that the proprietor of any cinema premises is attempting to evade the payment of any tax due from him under this Act, he may for reasons to be recorded in writing,

seize such accounts, registers or documents of the proprietor, as may be necessary, and shall grant a receipt for the same and shall retain the same for such period as may be found necessary for examination thereof or for a prosecution.

12. Entry Into And Inspection Of Places Where Cinematograph Shows Are Being Held :-

(1) (a) Any officer, as prescribed, may enter into and inspect any cinema premises while the show is proceeding or any place ordinarily used as a place for exhibiting cinematograph films at any reasonable time for the purpose of examining whether the provisions of this Act or any rule made thereunder are being complied with.

(b) Every officer so authorised shall be a public servant within the meaning of section 21 of the Indian Penal Code 1860 (45 of 1860)

(2) The proprietor of cinema premises or the owner or person incharge of any place ordinarily used for exhibition of cinematograph films shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) If any person prevents or obstructs the entry of the inspecting officer, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be punished with fine, which may extend to five hundred rupees.

13. Power To Impose Pecuniary Penalties :-

(1) Where a proprietor commits any omission or act specified in clause (a), or clause (b), of sub-section (1) of section 15, the Commissioner or any person appointed under sub-section (1) of section 4 may, after affording the proprietor a reasonable opportunity of being heard, direct him to pay, by way of penalty in addition to the tax to which he is assessed or is liable to be assessed, an amount not exceeding two thousand rupees.

(2) No prosecution for an offence under this Act shall be instituted against a proprietor in respect of the same facts on which a penalty has been imposed upon him under sub-section (1).

14. Bar Of Certain Proceedings :-

(1) No prosecution shall lie against any officer or servant of the State Government, for any act done or purporting to be done under

this Act without the previous sanction of the State Government.

(2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceedings if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

(3) No suit shall be instituted against the State Government and no suit, prosecution, or other proceedings shall be instituted against any officer or servant of the State Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceedings is instituted within six months from the date of the act complained of.

15. Offences And Penalties :-

(1) If the proprietor of cinema premises-

(a) fails to pay the tax due from him within the time allowed under this Act, or

(b) fraudulently evades the payment of any tax due under this Act, or

(c) fails to furnish the returns provided in section 7, or

(d) fails to give notice as provided in section 10, or

(e) contravenes any other provision of the Act or the rules made thereunder,

he shall be liable in respect of each separate offence to a fine which may extend to one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(2) No court shall take cognizance of an offence under this Act or the rules except with the previous sanction of the Commissioner and no court inferior to that of a Magistrate of the 1st Class shall try such an offence.

16. Power To Compound Offences :-

(1) The Commissioner may at any time, accept from any person who has committed an offence punishable under this Act, or the rules made thereunder by way of composition of such offence, a sum of money not exceeding two hundred and fifty rupees or double the amount of tax involved whichever is greater.

(2) On payment of such sum of money as may be determined by the Commissioner under sub-section (1), he shall, where necessary, report to the court that the offence has been compounded and thereafter no further proceedings under this Act, shall be taken

against the offender in respect of the same offence and the said court shall discharge or acquit the accused, as the case may be.

17. Revision :-

The Commissioner may, of his own motion or on application made, call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order and may pass such order in reference thereto as he may deem fit.

18. Recoveries :-

Any sum due under this Act or the rules framed thereunder shall be recoverable as arrears of land revenue.

19. Delegation Of Powers :-

Subject to such restrictions and conditions as may be prescribed, the Commissioner may by an order in writing delegate all or any of his powers under this Act to any person appointed under section 4 to assist him.

20. Power To Make Rules :-

(1) The State Government may make rules¹, for securing the payment of the tax and generally for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for any or all of the following matters, namely:-

(a) form of any notice, return, accounts or other documents which are required to be used or kept under or for the purposes of this Act;

(b) the mode of service of any notice or order required or authorised to be served;

(c) the procedure to be followed on and in connection with revision applications;

(d) the presentation and disposal of applications for exemption from payment of tax or for refunds of the tax or security;

(e) any matter which is required by this Act to be prescribed.

(3) All rules made under this section shall be laid before the Legislative Assembly as soon as may be after they are made.

1 The rules made vide notification No. 14-45/60-E&T, dated the

26th June, 1969 (Appended)

21. Repeal And Savings :-

(1) The Punjab Entertainments Tax (Cinematograph Shows) Act, 1954 (8 of 1954), as in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966 (31 of 1966) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken including any orders, notifications or rules made or issued in exercise of the powers conferred by or under the repealed Act shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act.