

Jharkhand Advertisement Tax Act, 2012

14 of 2012

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Charge of Tax
4. Exemption
5. Collection of tax by a person liable to pay tax under this Act
6. Registration
7. Returns
8. Payment of Tax
9. Offence
10. Compounding of offences
11. Applicability of the provisions of the Jharkhand Value Added Tax Act, 2005 (Act 05 of 2006) and Rules made thereunder
12. Power to make rules
13. Power to amend schedules
14. Repeal and Savings

SCHEDULE 1 :- SCHEDULE I

Jharkhand Advertisement Tax Act, 2012

14 of 2012

AN ACT to enact the Taxation on Advertisement published in newspapers and broadcast by radio or on television with regard to its applicability and enforcement within the State of Jharkhand.

Be it enacted in the 62nd year of the Republic of India:-

1. Short title, extent and commencement :-

(1) This Act may be called the Jharkhand Advertisement Tax Act, 2012.

(2) It shall extend to the whole of the State of Jharkhand.

(3) It shall come into force with effect from the date of its

publication in the official gazette.

2. Definitions :-

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

(a) "Advertisement" shall mean any word, letter, model, sign, neon-sign, sky-sign, placard, notice, structure, device or representation, whether illuminated or not, in the nature of, and employed wholly or in part exhibits or displayed or retained for the public view for the purposes of advertisement, announcement or direction, but shall not include such advertisements published in a newspaper or broadcast by radio or television or cinematograph and any advertisements exhibited or broadcast by any political party;

(b) "Advertising Agent" means a person who carries on the business of making advertisement on behalf of other persons for cash or deferred payment or other valuable consideration and includes a society, a club, an association, an undivided Hindu family, a firm, company or a corporation and any department of Government carrying on such business of advertisement.

Explanation -- The proprietor of a cinema house or any other place of entertainment who exhibits advertisement by means of cinema slides, film trailers or films on behalf of other persons for cash or deferred payment or other valuable consideration who make an advertisement to promote his own business shall be deemed to be an advertisement agent for the purpose of this Act.

(c) "Assessee" means any advertisement agent or any other person, who in course of a business, trade and profession, exhibits any advertisement, and by whom a tax or any other sum of money is payable under this Act.

(d) "Commissioner" for the purpose of this Act means the Commissioner of Commercial Taxes or Additional Commissioner of Commercial Taxes as appointed by the Government under section 4 of the Jharkhand Value Added Tax Act 2005 (Jharkhand Act 05, 2006) and includes any other officer appointed under section 4 of

Jharkhand Value Added Tax Act, 2005 upon whom the State Government may by notification, confer all or any of the powers and duties of the Commissioner to carry out the purposes of this Act.

(e) "Government" means Government of Jharkhand.

(f) "Newspapers" includes any printed periodical work containing public news or comments on public news.

(g) "Month" means a Calendar month.

(h) "Prescribed" means prescribed by rules made under this Act;

(i) "Prescribed Authority" means the authorities as appointed under section 4 of the Jharkhand Value Added Tax Act, 2005 (Jharkhand Act 05, 2006) and as specified under sub-section (2) of Section 4 of the said Act, to exercise and perform the powers and duties respectively conferred upon such authorities by or under the said Act, within the specified respective areas mentioned in the corresponding entries of the said notification and as prescribed to carry out the functions, duties and powers: in order to carry out the purposes of this Act.

(j) "Quarter" means the quarter ending on the 30th June, 30th September, 31st December and 31st March:

(k) "Registered advertiser" means an advertiser or advertising agent in possession of a valid certificate of registration granted under the provisions of this Act;

(l) "Sky Sign" means any advertisement supported on or attached to any post, pole, standard, frame-work or other support wholly or in part upon or over any land, building, wall or structure which, or any part of which shall be visible against the sky from some point

in any public place and includes all and every part of any such post, pole, standard, frame-work or other support. The expression sky-sign shall also include any ballon, parachute or other similar device employed wholly or in part for the purposes of any advertisement upon or over any land, building or structure or upon or over any public place but shall not include-

(i) any flag-staff, pole, van or weather-cock, unless adapted or used wholly or in part for the purpose of any advertisement

(ii) any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof: Provided that such board, frame or other contrivance be of one continuous face and not open work, and does not extend in height more than one meter above any part of the wall, or parapet or ridge to, or against, or on which it is fixed or supported; or

(iii) any advertisement relating to the name of the land or building, upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building; or

(iv) any advertisement relating exclusively to the business of a railway, and placed wholly upon or over any railway, railway station, yard, platform or station approach belonging to a railway, and so placed that it cannot fall into any street or public place; or

(v) any notice of land or buildings to be sold, or let, placed upon such land or buildings.

Explanation -- Sky-sign shall also include sign, neon-sign and placard.

(m) "Structure" means and includes any erection, fixes, frame, posts, building, wall, hoarding or upon or in any vehicle any advertisement is exhibited or displayed or retained for a public view.

(n) "Tribunal" means the Tribunal constituted under section 3 of

the Jharkhand Value Added Tax Act 05 and the rules made thereunder;

(o) "Value of advertisement" means cash or deferred payment or any other valuable consideration received or receivable by an advertising agent in respect of advertisements made by him.

(p) "Year" means a financial year.

3. Charge of Tax :-

(1) Subject to the provisions of sub-section (2), there shall be levied and paid to the State Government by an assessee: a tax on advertisement at the rates as specified in the schedule; appended to this Act.

Provided that the State Government may specify different rate or rates of tax in respect to different categories of advertisement.

Provided further that the rate of tax shall not exceed twenty percent of the value of advertisement.

(2) No tax shall be payable on such advertisements, which: -

(a) relates to a public meeting, or to an election to Parliament or the Legislative Assembly; or

(b) is exhibited within the premises of any building if such advertisement relates to the trade, profession or business carried on in that building; or

(c) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting so such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or

(d) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of the owner or occupier of such land or building; or

(e) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration; or

(f) relates to any activity of the Central Government or the State Governments.

(3) When an assessee holds more than one registration for his advertisement, the tax shall be payable separately in respect of his each registration.

4. Exemption :-

The State Government may, by notification and subject to such conditions or restrictions, if any, as it may think fit to impose, exempt, from the levy and payment of tax payable under Section 3 or 8, any person or class of persons or any advertisement or class of advertisements.

5. Collection of tax by a person liable to pay tax under this Act :-

Any assessee or person, who is liable to pay tax under this Act for any advertisement done on behalf of other person for payment or for any other valuable consideration, may recover the amount of tax payable by him from such other person in respect of advertisement done on his behalf.

6. Registration :-

(1) No assessee or person liable to pay tax under Section 3 of this Act shall make an advertisement unless he has obtained and is in possession of a valid certificate of registration.

(2) Every assessee or person, referred to in sub-section (1), shall apply for the grant of certificate of registration to the prescribed authority in the prescribed manner and the prescribed authority, shall, after verifying that the application has been duly filled in, grant certificate of registration in the manner as may be prescribed.

7. Returns :-

(1) Every registered advertiser shall furnish to the prescribed authority, a true, correct and complete return in respect of all his transactions relating to advertisements made by him or on his behalf during each quarter, on or before the end of the month following the end of the quarter.

(2) If a registered advertiser fails to furnish the return within the time specified under sub-section (1), the prescribed authority shall, after giving such a registered advertiser an opportunity of being heard in the manner prescribed, impose a penalty at the rate of two hundred rupees for every month of such failure.

(3) Any penalty levied under this section shall be without prejudice to any action, which is, or may be, taken under section 9.

8. Payment of Tax :-

(1) Every person liable to pay tax under this Act shall, deposit the tax payable in respect of every month on or before the fifteenth day of the following month in such manner as may be prescribed and shall furnish the proof of payment in the form and manner prescribed.

(2) If a person liable to pay tax under this Act fails to pay the amount of tax payable according to the provisions of sub-section (1), such person shall be liable to pay interest, in respect of tax payable under sub-section (1), at the rate of two percent per month of the amount due from the date the tax so payable had become due to the date of its payment.

Explanation: - For the purpose of this sub-section, where the period of default in payment of tax covers a period less than a month, the interest payable on such tax in respect of such period shall be computed proportionately;

(3) Any interest levied under this section shall be without prejudice to any action, which is, or may be, taken under section 9.

9. Offence :-

(1) Whoever -

(a) while being liable to pay tax under section 3 or 8 contravenes the provisions of section 6; or

(b) fails to furnish a return required under section 7; or

(c) collects tax in excess of the amount to which he is entitled under section 5; or

(d) fails to make payment of tax as required under section 8; or

(e) obstructs any officer making inspection or search of seizure; or

(f) aids or abets any person in the commission of any offence specified in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) Shall, on conviction, be punished with imprisonment, of either description, for a term which shall not be less than one month but which may extend to three months and with fine not exceeding two thousand rupees.

(2) The offence shall be bailable and non-cognizable. It shall be triable by the Court of Judicial Magistrate first class.

10. Compounding of offences :-

(1) The Commissioner may, either before or after initiating of proceedings under section 9, accept from a person charged with an offence under section 9 or under any rule made under this Act by way of compounding of the offence, a sum not exceeding ten thousand rupees and where the offence charged was likely to cause or caused evasion of any amount of tax payable under this Act, a sum not exceeding three times of such amount, whichever is higher.

(2) On payment of such sum as may be determined by the Commissioner no further proceeding shall be taken against the person in respect of such offence.

11. Applicability of the provisions of the Jharkhand Value Added Tax Act, 2005 (Act 05 of 2006) and Rules made thereunder :-

Subject to other provisions of this Act and Rules framed thereunder the authority empowered to assess, reassess, collect and enforce payment of tax, interest and penalty payable by a dealer under the Jharkhand Value Added Tax Act, 2005 (Act 05 of 2006) shall assess, reassess, collect and enforce payment of tax, interest and penalty payable under this Act and for this purpose they may exercise all or any of the powers assigned to them under the said Act and Rules made thereunder for the time being in force including the provisions relating to returns, assessment, escaped assessment, recovery of tax, interest and penalty, special mode of recovery, maintenance of accounts, inspection, search and seizure, liability in representative character, refund, appeal, revision and reviews, compounding offences and other miscellaneous matters and the provisions of the said Act shall mutantis mutandis apply accordingly.

12. Power to make rules :-

(1) The State Government may make rules not inconsistent with the provisions of this Act for --

(i) all matter expressly required or allowed by this Act to be

prescribed generally for carrying out the purposes of this Act and regulating the procedure to be followed, forms to be adopted and fees to be paid in connection with proceeding under this Act and all other matters ancillary or incidental thereto;

(ii) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the State Government necessary for giving effect to the purposes of this Act.

(2) Any rule made Under this section may provide that the contravention thereof shall be punishable with fine which may extend to three thousand rupees and where the contravention is continuing one, with a further fine which may extend to fifty rupees per day for every day during which such contravention continues.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is laid or the session immediately following both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect as the case may be so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. Power to amend schedules :-

(1) The State Government may, by notification, add to or delete or amend or alter any of the items or rates in the Schedule appended to this Act.

14. Repeal and Savings :-

All provisions relating to levy of tax on advertisement other than advertisements published in newspapers under the Bihar Advertisement Tax Act 1981 and rules made thereunder (as adopted by the State of Jharkhand) or any other enactment in

force, at the time of commencement of this Act shall stand repealed;

Provided that nothing in this repeal shall affect or be deemed to affect --

(i) Any right, title, obligation or liability already required, accrued or incurred for anything done or suffered, in respect of the period immediately preceding this repeal;

(ii) Any legal proceeding or remedy whether initiated or availed of before or after this repeal, in respect of any such right, title, obligation or liability;

(iii) The levy, assessment or recovery of any tax or the imposition or recovery of any penalty, in respect of such period, under the provisions of such enactments and all proceedings under them in respect of all matters aforesaid shall be initiated and disposed of, or continued and disposed of, as the case may be, as if this Act had not been enforced."

SCHEDULE 1

SCHEDULE I

The tax payable by the assessee, shall be calculated at the rate of 7.5 percentum on the value of advertisements made by or through him.