

## **KARNATAKA TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1976**

**35 of 1976**

[ ]

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**SCHEDULE 1 :- List of Diseases**

**KARNATAKA TAX ON PROFESSIONS, TRADES, CALLINGS AND  
EMPLOYMENTS ACT, 1976**

**35 of 1976**

**[ ]**

STATEMENT OF OBJECTS AND REASONS KARNATAKA ACT No. 8 OF 1981 Karnataka Gazette, Extraordinary, dated 26-3-1981 At present the Insurance Agents are liable to pay profession tax according to their standing in the profession and the places at which they carry on the profession. It was represented that the existing provisions cause hardship to them. On a careful consideration of the question, it is proposed to allow them to pay tax on a slab system, similar to that provided for salary or wage earners under the Act.

**1. Short title, extent and commencement :-**

- (1) This Act may be called the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976.
- (2) It extends to the whole of the State of Karnataka.
- (3) It shall be deemed to have come into force on the First day of April, 1976.

**2. Definitions :-**

In this Act, unless the context otherwise requires,-

- (a) "Assessee" means a person or employer by whom tax is payable under this Act;
- (b) "Assessing authority" means a <sup>1</sup>[Deputy Commissioner of Professions Tax, Assistant Commissioner of Professions Tax] or <sup>2</sup>[Profession Tax Officer] or any other officer authorised by the State Government in this behalf to make any assessment by or under this Act;
- (c) "Bangalore Urban Agglomeration" means the area specified as

such in Schedule I to the Urban Land (Ceiling and Regulations) Act, 1976 (Central Act 33 of 1976);

(d) "Commissioner" means the Commissioner of Profession Tax appointed under Section 14 and includes a <sup>3</sup>[Additional Commissioner] of Profession Tax (if any) appointed under that Section;

(e) " <sup>4</sup>[Joint Commissioner]" means any person appointed to be a <sup>5</sup>[Joint Commissioner] of Profession Tax under Section 14 ;

(f) "Employer", in relation to an employee earning any salary or wages on regular basis under him, means the person or the officer who is responsible for the disbursement of such salary or wages and includes the head of the office or any establishment as well as the manager or agent of the employer;

(g) "Month" means a calendar month;

(h) "Person" means any person who is engaged in any profession, trade, calling or employment in the State of Karnataka and includes a Hindu Undivided Family, firm, company, corporation or other corporate body, any society, club or association, so engaged but does not include any person who earns wages on a casual basis;

(i) "Profession Tax" or "Tax" means a tax leviable under the provisions of this Act;

**6** [(j) "Salary" or "Wage" includes pay or wage, dearness allowance and all other remunerations received or receivable by any person including any amount received by way of arrears of salary or bonus by whatever name called whether payable in cash or kind and also includes perquisites and profits in lieu of salary as defined in Section 17 of the Income Tax Act, 1961 .

Explanation.-

(i) Where 'bonus' by whatever name called is received in part or full, then such bonus shall be spread over for twelve months of the year or to such number of months the bonus relates for purposes of computation of 'Salary' or 'Wage' for such months.

(ii) Where arrears of salary is received in part or full, then such arrears shall be spread over for the relevant months for which it relates for purposes of computation of 'Salary' or 'Wage' for such months].

(k) "Schedule" means the Schedule appended to this Act;

(l) "Tribunal" means the Karnataka Appellate Tribunal constituted under the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 10 of 1976);

(m) "Year" means the year commencing on the First day of April.

1. Substituted for the expression "Assistant Commissioner of Professions Tax" by Act No. 11 of 1993, w.e.f. 1-4-1993

2. Substituted for the expression "Assistant Profession Tax Officer" by Act No. 5 of 1993, w.e.f. 4-2-1993.

3. Substituted for the expression "Joint Commissioner" by Act No. 5 of 1993, w.e.f. 4-2-1993.

4. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, w.e.f. 4-2-1993.

5. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, w.e.f. 4-2-1993.

6. The words, letter and figures "referred to in SI. Nos. 2,2-C and 8 of the Schedule" omitted by Act No. 5 of 1996. w.e.f. 1-4-1996.

### **3. Levy and charge of tax :-**

(1) There shall be levied and collected a tax on professions, trades, callings and employments for the benefit of the State.

(2) Every person who exercises any profession or calling or is engaged in any trade or holds any appointment, public or private, or is employed in any manner in the State, specified in the second column of the Schedule, shall be liable to pay to the State Government the tax at the rate mentioned in the corresponding entry in the third column of the said Schedule:

Provided that no tax shall be payable by persons <sup>1</sup>[x x x x x] who have attained sixty-five years of age:

<sup>2</sup>[Provided further that the levy and collection of tax from any person under this section shall be subject to the restriction specified in clause (2) of Art.276 of the Constitution of India :]

<sup>3</sup> [Provided further that, no tax shall be payable by a person in respect of any year if the period during which he exercises such profession or calling or is engaged in the trade or holds the appointment or is employed does not exceed one hundred and twenty days in that year.]

1. The words, letter and figures "referred to in SI. Nos. 2,2-C and 8 of the Schedule" omitted by Act No. 5 of 1996. w.e.f. 1-4-1996.

2. Second proviso inserted by Act No. 8 of 1981, w.e.f. 4-4-1981.
3. Third proviso inserted by Act No. 26 of 1982, w.e.f. 27-7-1982.

### **3A. Levy of cess :-**

**1** -x x x x x.

1. Section 3-A omitted by Act No. 3 of 1998, w.e.f. 1-4-1998.

### **4. Employers liability to deduct and pay tax on behalf of employees :-**

The tax payable under this Act by any person earning a salary or wage, shall be deducted by his employer from the salary or wage payable to such person before such salary or wage is paid to him, and such employer shall, irrespective of whether such deduction has been made or not when the salary or wage is paid to such persons be liable to pay tax on behalf of all such persons:

Provided that, if the employer is an officer of Government the State Government may, notwithstanding anything contained in this Act, prescribed by rules the manner in which such employer shall discharge the said liability.

### **5. Registration and enrolment :-**

(1) Every employer (not being an officer of Government) liable to pay tax under Section 4 shall obtain a certificate of registration from the assessing authority in the prescribed manner.

(2) Every person liable to pay tax under this Act (other than a person earning salary or wages, in respect of whom the tax is payable by his employer), shall obtain a certificate of enrolment from the assessing authority in the prescribed manner.

(3) Every employer or person required to obtain a certificate of registration or enrolment shall, within ninety days from the date of commencement of this Act or, if he was not engaged in any profession, trade, calling or employment on that date, within thirty days from the date of commencement of his profession, trade, calling or employment, or in respect of a person referred to in sub-section (2) within thirty days of his becoming liable to pay tax at a rate higher or lower than the one mentioned in his certificate of enrolment, apply for a certificate of registration or enrolment, or revised certificate of enrolment, as the case may be, to the assessing authority in the prescribed form and the assessing authority shall, after such inquiry as it may deem fit within thirty days of the receipt of the application (which

**1**[Provided that where after the issue of the enrolment certificate, the tax payable under this Act is revised, the person liable to pay tax under this Act shall, notwithstanding that the enrolment certificate is not revised, pay tax at such revised rates from the date of such revision.]

(4) The assessing authority shall mention in every certificate of enrolment, the amount of tax payable by the holder according to the Schedule and the date by which it shall be paid, and such certificate shall serve as a notice of demand for purposes of Section 12 .

**2** [(5) x x x x x.]

(6) Where an employer or a person liable to registration or enrolment has deliberately given false information in any application submitted under this section, the assessing authority may, after giving him a reasonable opportunity of being heard, impose a penalty not exceeding rupees one thousand.

1. Proviso substituted by Act No. 18 of 1994, w.e.f. 1-4-1994.

2. Sub-section (5) omitted by Act No. 18 of 1994, w.e.f. 1-4-1994.

## **6. Return :-**

**1**

(1) Notwithstanding anything contained in Section 6A , every employer registered under this Act, shall furnish to the assessing authority within sixty days of the expiry of a year, a return in the prescribed form showing therein the salaries and wages paid by him and the amount of tax deducted by him in respect thereof during the preceding year.

(2) Before any employer submits any return under sub-section (1), he shall, in the prescribed manner, pay in advance the full amount of tax payable by him on the basis of such return as reduced by any tax already paid under Section 6A and shall furnish along with the return satisfactory proof of the payment of such tax and a return without such proof of payment shall not be deemed to have been filed. After the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed.

1. Sections 6 and 6-A substituted for Section 6 by Act No. 6 of 1995, w.e.f. 1-4-1995.

## **6A. Payment of tax in advance :-**

(1) Every employer registered under this Act, shall furnish to the assessing authority within twenty days of expiry of a month, a statement in the prescribed form showing therein the salary and wages paid by him and the amount of tax deducted by him in respect thereof during the month immediately preceding that month:

**1**[Provided that where the amount of tax deducted in a month is not more than rupees five thousand, the registered employer shall furnish such statement within twenty days of expiry of a quarter showing therein the salary and wages paid by him and the amount of tax deducted by him in respect thereof during the immediately precedings that quarter.

Explanation.-For the purpose of this proviso, "Quarter" means the period of three months ending on the 31st day of May, 31st day of August, 30th day of November and 28th day or 29th day of February.]

(2) Every such statement shall be accompanied by a treasury challan in proof of payment of the full amount of tax due according to the statement, and a statement without such proof of payment shall not be deemed to have been duly filed and the amount so payable shall for the purpose of Section 11 and Section 13 be deemed to be tax due under this Act from such employer.

(3) If no such statement is submitted by any employer under sub-section (1) before the date specified therein or if the statement submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may assess the employer provisionally for that month **2**[or for that quarter, as the case may be] to the best of his judgment, recording the reasons for such assessment and proceed to demand and collect the tax on the basis of such assessment:

Provided that before taking action under sub-section **3** [(3)] the employer shall be given an opportunity of being heard.]

1. Proviso and Explanation inserted by Act No. 5 of 1996, w.e.f. 1-4-1996.

2. Inserted by Act No. 5 of 1996, w.e.f. 1-4-1996.

3. Substituted for the brackets and figure "(1)" by Act No. 5 of 1996, w.e.f. 1-4-1996.

## **7. Assessment of employer or person :-**

**1.-**

(1) If the assessing authority is satisfied that the return filed by any employer is correct and complete, it shall accept the return.

(2)

(a) If the assessing authority is not satisfied that the return filed by any employer is correct and complete, it shall serve upon the employer a notice requiring him to attend in person or through an authorised representative on a date specified in the notice and to produce accounts and papers in support of the return.

(b) The assessing authority shall, on examination of accounts and papers, assess the amount of tax payable by the employer.

(c) If the employer fails to comply with the terms of the notice or if in the opinion of the assessing authority the accounts and papers are incorrect or incomplete or unreliable, the said authority shall, after such enquiry as it deems fit or otherwise, assess the tax due to the best of its judgment.

**2**[(3) If an employer has failed to get himself registered or being registered, has failed to file any return or a person has failed to get himself enrolled under Section 5 , the assessing authority shall, after giving the employer or the person, as the case may be, a reasonable opportunity of making representation and after holding such enquiry as it deems fit or otherwise, pass an order assessing the amount of tax due to the best of its judgment.]

(3-A) When making an assessment under sub-section (3), the assessing authority may also direct the employer or the person, as the case may be, to pay in addition to the tax assessed a penalty equal to the amount of tax assessed under sub-section (3).]

(4) The amount of tax so assessed **3**[or the amount of penalty so levied] shall be paid within fifteen days of receipt of the notice of demand from the assessing authority.

(5) If within one month from the service of a notice of demand under sub-section (4), the **4**[employer or person] satisfies the assessing authority that he was prevented by sufficient cause from getting himself registered or, from filing the return under Section 6 **5** [or from getting himself enrolled under Section 5 ] as the case



may be, the assessing authority shall cancel the assessment made under sub-section (3) and proceed to make a fresh assessment in accordance with the provisions of this section as the circumstances of the case may warrant.

1. Inserted by Act No. 18 of 1994, w.e.f. 1-4-1994.
2. Sub-section (3) substituted by Act No. 18 of 1994, w.e.f. 1-4-1994.
3. Inserted by Act No. 18 of 1994, w.e.f. 1-4-1994.
4. Substituted for the word "employer" by Act No. 18 of 1994, w.e.f. 1-4-1994.
5. Inserted by Act No. 18 of 1994, w.e.f. 1-4-1994.

## **8. Rectification of mistakes :-**

(1) With a view to rectify any mistake apparent from the record, an authority under this Act, may, at any time within a period of four years from the date of an order passed by it, amend such order:

Provided that an amendment which has the effect of enhancing an assessment or otherwise increasing the liability of the employer or person, as the case may be, shall not be made unless the authority concerned has given notice to the employer or the person of its intention to do so and has given the employer or the person an opportunity of making representation.

(2) An order passed under sub-section (1), shall be deemed to be an order passed under the same provision of law under which the original order, the mistake in which was rectified, had been passed.

## **9. Assessment of escaped tax :-**

(1) If for any reason any tax payable under this Act has escaped assessment or has been assessed at a rate lower than the rate at which it is assessable the assessing authority may at any time within four years from the end of the year to which the tax relates, proceed to assess or reassess the tax, as the case may be, to the best of its judgment after issuing a notice to the employer or the person 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 assessed at a rate lower than the rate at which it was assessable.

(2) In making an assessment under sub-section (1), the assessing

authority, if it is satisfied that the escape from assessment was due to wilful non-disclosure of information or attempt at evading the tax by the employer or the person direct such employer or the person to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and half time the tax so assessed:

Provided that no penalty under this sub-section shall be imposed unless the employer or the person affected has had a reasonable opportunity of showing cause against such imposition.

#### **10. Payment of tax by enrolled persons :-**

(1) The tax payable under this Act by enrolled persons shall be paid in the prescribed manner.

(2) The amount of tax due from enrolled persons for each year as specified in their enrolment certificates shall be paid,-

**1** [(a) \in respect of a person who stands enrolled before the commencement of a year. \Before the 30th April of that y

(b) \in respect of a person who is enrolled after the commencement of a year. \Within one month from the date of enrolment.

1. Clauses (a) and (b) substituted by Act No. 13 of 1986, w.e.f. 2-5-1986.

#### **11. Consequences of failure to deduct or to pay tax :-**

(1) If an employer (not being an officer of Government) does not deduct the tax at the time of payment of salary or wage or after deducting fails to pay the tax as required by or under this Act, he shall without prejudice to any other consequences and liabilities which he may incur, be deemed to be an assessee in default in respect of the tax.

(2) Without prejudice to the provisions of sub-section (1), if an employer referred to in sub-section (1) does not deduct the tax at the time of payment of the salary or wage, or after deducting fails to pay the tax as required by or under this Act, he shall be liable to pay simple interest at two per cent of the amount of the tax due for each month or part thereof for the period for which the tax remains unpaid.

(3) If an enrolled person fails to pay the tax as required by or under this Act, he shall be liable to pay simple interest at the rate and in the manner laid down in sub-section (2).

**1** [(4) Notwithstanding anything contained in sub-sections (2) and (3).-

(i) the balance of interest payable upto 31st March, 1987, in respect of tax paid belatedly shall not be collected.

(ii) any interest mat has become payable in respect of tax due as on 31st March, 1987, shall not be collected provided such tax is paid in full on or before 30th June, 1989.

1. Sub-section (4) inserted by Act No. 15 of 1989, w.e.f.. 1-4-1989.

**12. Penalty for non-payment of tax :-**

If an enrolled person or a registered employer fails, without reasonable cause, to make payment of any amount of tax within the required time or date as specified in the notice of demand the assessing authority may, after giving him a reasonable opportunity of making representation, impose upon him a penalty not exceeding fifty per cent of the amount of tax due. This penalty shall be in addition to the interest payable under sub-section (2) or (3) of Section 11 .

**13. Recovery of tax, etc :-**

**1** Any tax, penalty, interest or other amount due under this Act from an employer or other person may, without prejudice to any other mode of collection, be recovered,-

(a) as if it were an al rear of land revenue, or

(b) on application to any Magistrate, by such Magistrate, as if it were a fine imposed by him.

1. Section 13 substituted by Act No. 1 of 1985, w.e.f. 9-1-1985.

**14. Authorities for implementation of the Act :-**

(1) For carrying out the purposes of this Act, the State Government may appoint.-

(i) an officer to be the Commissioner of Profession Tax for the whole of the State of Karnataka;

(ii) one or more officers to be the <sup>1</sup>[Additional Commissioners] of Profession Tax as the State Government may think necessary;

(iii) such number of <sup>2</sup>[Joint Commissioners] of Profession Tax, <sup>3</sup>[Assistant Commissioners of Profession Tax], <sup>4</sup>[Profession Tax

Officers] and other officers and persons (with such designations) as the State Government may think necessary.

(2)

(i) All officers and persons employed in the execution of this Act shall be subject to the general supervision and control of the State Government and the Commissioner;

(ii) The <sup>5</sup>[Joint Commissioners] shall perform their functions and exercise their powers conferred on them by or under this Act in such areas as the State Government may direct;

(iii) The <sup>6</sup>[Profession Tax Officers] and the <sup>7</sup> [Assistant

(3) All officers appointed under this Act shall be subordinate to the Commissioner.

1. Substituted for the expression "Joint Commissioners" by Act No. 5 of 1993, w.e.f. 4-2-1993.

2. Substituted for the expression "Deputy Commissioners" by Act No. 5 of 1993, w.e.f. 4-2-1993.

3. Substituted for the expression "Profession Tax Officers" by Act No. 5 of 1993, w.e.f. 4-2-1993.

4. Substituted for the expression "Assistant Profession Tax Officers" by Act No. 5 of 1993, w.e.f. 4-2-1993.

5. Substituted for the expression "Deputy Commissioners" by Act No. 5 of 1993, w.e.f. 4-2-1993.

6. Substituted for the expression "Assistant Profession Tax Officers" by Act No. 5 of 1993, w.e.f. 4-2-1993.

7. Substituted for the expression "Profession Tax Officers" by Act No. 5 of 1993, w.e.f. 4-2-1993.

#### **14A. Instructions to subordinate authorities :-**

**1**

(1) The State Government and the Commissioner may, from time to time, issue such orders, instructions and directions to all Officers and persons employed in the execution of this Act as they may deem fit for the administration of this Act, and all such Officers and persons shall observe and follow such orders, instructions and directions of the State Government and the Commissioner:

Provided that no such orders, instructions or directions shall be issued so as to interfere with the discretion of any Appellate Authority in the exercise of its appellate functions.

(2) Without prejudice to the generality of the foregoing power, the

Commissioner may, on his own motion, or on an application by a person who has obtained a certificate of enrolment or an employer who has obtained a certificate of registration under this Act, if he considers it necessary or expedient so to do, for the purpose of maintaining uniformity in the work of assessments and collection of revenue, clarify the rate of tax payable under this Act and all Officers and persons employed in the execution of this Act shall observe and follow such clarification:

Provided that no such application shall be entertained unless it is accompanied by proof of payment of such fee, paid in such manner, as may be prescribed.

(3) Any Officers and persons employed in the execution of this Act, shall observe and follow such administrative instructions as may be issued to him for his guidance by the Joint Commissioner within whose jurisdiction he performs his functions.]

1. Substituted for the word and figures "17 and 18" by Act No. 1 of 1985, w.e.f. 9-1-1985

### **15. Appointment of Collecting, Agents :-**

(1) For carrying out the purposes of this Act, the State Government may, at its discretion, appoint any Government Department or Officer, or a Municipal Corporation, Municipality or Taluk Board (hereinafte called 'Collecting Agent') as its agent responsible for collection of the tax under this Act from such persons or class of persons as may be prescribed; and thereupon, it shall be the duty of such Collecting Agent to carry out in such manner as may be prescribed, such functions under this Act, as may be prescribed and to render full and complete account of the tax levied and collected to the Commissioner in such manner and at such time as that oficer may require.

(2) Any officer authorised by the Collecting Agent in this behalf shall have for the purposes of levy and collection of the tax all the powers of the assessing authority and such other powers as may be prescribed.

(3) A Municipal Corporation, Municipal Councilor Taluk Board appointed as agent to carry out the purposes of this Act under sub-section (1) shall be paid such collection charges as may be prescribed by the State Government after consultation with the local authority concerned.

(4) It shall be lawful for the Commissioner or an officer duly authorised by him, to have access to and to require production and examination of books, registers, accounts or documents maintained or required to be maintained by the Collecting Agent for the purposes of this Act and the Collecting Agent shall, whenever called upon to do so produce such books, registers, accounts or documents for inspection by the Commissioner or by the authorised officer.

## **16. Appeals :-**

(1) Any employer, not being an officer of Government or any person aggrieved by an order of an assessing authority may appeal to the <sup>1</sup>[Joint Commissioner] of the area concerned:

Provided that no appeal shall lie against an order passed under sub-section (3) of Section 7 .

(2) The appeal shall be preferred within sixty days of receipt of the demand notice or the order against which the appeal is intended:

Provided that the Appellate Authority may for sufficient cause shown admit an appeal preferred after the period of sixty days aforesaid.

(3) No appeal shall be entertained unless the amount of tax or penalty or interest not disputed in the appeal has been paid in full.

(4) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the Appellate Authority may, after giving the appellant a reasonable opportunity of being heard-

(a) in the case of an order of assessment of penalty-

(i) confirm, reduce, enhance or annul the assessment or penalty or both;

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed; or

(iii) pass such other orders as it may think fit;

(b) in the case of any other order, confirm, cancel or vary such order.

(6) Every order passed on appeal under this section shall be subject to the provisions of Section 8 <sup>1</sup>, Section 17, Section 18 and Section 18A be final.

1. Substituted for the word and figures "17 and 18" by Act No. 1 of 1985, w.e.f. 9-1-1985

**17. Appeal to the Appellate Tribunal :-**

(1) Any employer or any person objecting to an order passed by the <sup>1</sup> [Joint Commissioner] under Section 16 may appeal to the Tribunal within sixty days from the date on which the order was communicated to him.

(2) The provisions of the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 10 of 1976) shall be applicable to all appeals preferred to the Tribunal under sub-section (1).

1. Substituted for the expression "Deputy Commissioner" by Act No. 5 of 1993, w.e.f. 4-2-1993.

**18. Revision by Commissioner, Additional Commissioner, joint Commissioner and Deputy Commissioner :-**

**12**[(1) The Deputy Commissioner may, on his own motion call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any officer who is not above the rank of Profession Tax Officer, is erroneous insofar as it is prejudicial to the interests of revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment.

(2) The Joint Commissioner may, on his own motion call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any assessing authority subordinate to him is erroneous insofar as it is prejudice to the interest of revenue he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the

assessment or directing a fresh assessment.

(3) The Additional Commissioner may on his own motion call for and examine the record of any proceeding under this Act, and if he "considers that any order passed therein by any officer who is not above the rank of a joint Commissioner is erroneous insofar as it is prejudicial to the interests of revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being

(4) The Commissioner may on his own motion call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by any officer subordinate to him is erroneous insofar as it is prejudicial to the interests of revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary pass such orders thereon as the circumstances of the case justify including an order enhancing or modifying the assessment or cancelling the assessment or directing a fresh assessment.

(5) The power under sub-sections (1), (2), (3) and (4) shall be exercisable only within a period of four years from the date of the order sought to be revised was passed.

Explanation.-In computing the period of limitation for the purpose of this sub-section, any period during which any proceeding under this section is stayed by an order or injunction of any Court shall be excluded.

(6) Any order passed,-

(i) by the Commissioner under sub-section (4) shall, subject to Section 8 and Section 18A , be final;

(ii) by the Additional Commissioner under sub-sections (3) shall, subject to Section 8 , sub-section (4) of this section and Section 18A , be final;

(iii) by the Joint Commissioner, under sub-section (2) shall, subject to Section 8 , Section 17 , sub-sections (3) and (4) of this section and Section 18A , be final; and

(iv) by the Deputy Commissioner under sub-section (1) shall, subject to Section 8 , Section 17 , sub-sections (3) and (4) of this



section and Section 18A , be final.]

**3**[(7)] Any employer, not being an officer of Government or any person objecting to an order passed under **4** [sub-sections (3) and (4)] may appeal to the High Court within sixty days from the date on which the order was . communicated to him:

Provided that the High Court may admit an appeal preferred after the

(8) The appeal shall be in the prescribed form, shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred rupees.

(9) The High Court shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

1. Inserted by Act No. 11 of 1993, w.e.f. 1-4-1993.

2. Sub-sections (1) to (6) substituted for sub-sections (1) to (3) by Act No. 11 of 1993, w.e.f.1-4-1993.

3. Existing sub-sections (4), (5) and (6) renumbered as sub-sections (7), (8) and (9) by Act No.11 of 1993, w.e.f. 1-4-1993.

4. Substituted for the words, brackets and figure "sub-section (1)" by Act No, 11 of 1993, w.e.f.1-4-1993.

### **18A. Revision by High Court in certain cases :-**

**1** (1) Within sixty days from the date on which an order under Section 17 of the Act was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either failed to decide or decided erroneously any question of law:

Provided that the High Court may admit the petition preferred after the period of sixty days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within that period.

(2) The petition shall be in the prescribed form and shall, when it is preferred by any person other than the State Government, be accompanied by a fee of fifty rupees.

(3) If the High Court, on persuing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4)

(a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Appellate Tribunal under clause (a) with its opinion on the questions of law raised, the latter shall amend the order passed by it, in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do, remit the petition to the Appellate Tribunal

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case:

Provided that if as a result of the petition, any change becomes necessary in such assessment, the High Court may authorise the assessing authority to amend the assessment and the assessing authority shall amend the assessment accordingly and thereupon the amount paid in excess by the assessee shall be refunded to him without interest or the additional amount of tax due from him shall be collected in accordance with the provisions of the Act, as the case may be.

(7)

(a) The High Court may, on the application of either party to the petition, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be preferred within ninety days from the date of communication of the order sought to be reviewed and shall be in such form and such manner as may be prescribed, and shall, where it is preferred by any person other than the State

Government shall be accompanied by a fee of fifty rupees.

(8) With a view to rectifying any mistake apparent from the record, the High Court may, at any time within five years from the date of the order passed by it amend such order:

Provided that no order under this sub-section shall be made without giving the parties affected a reasonable opportunity of being heard.

(9) In respect of every petition preferred under this section, the costs shall be in the discretion of the High Court.]

1. Section 18-A inserted by Act No. 1 of 1985, w.e.f. 9-1-1985.

### **19. Accounts :-**

(1) If the assessing authority is satisfied that the books of account and other documents maintained by an employer in the normal course of his business are not adequate for verification of the returns filed by the employer under this Act, it shall be lawful for it to direct the employer to maintain the books of account or other documents in such manner as it may in writing direct and thereupon the employer shall within the time specified therein maintain such books of accounts or other documents accordingly.

**1**[(1A) The books of account and other documents maintained by an employer under sub-section (1), shall be preserved for a period of five years from the close of the year to which they relate.]

(2) Where an employer wilfully fails to maintain the book of accounts or other documents as directed under sub-section (1) **2** [or to preserve the books of account and other documents as specified under sub-section (1-A)], the assessing authority may, after giving him an opportunity to make representation, impose a penalty not exceeding rupees five for each day of delay.

1. Sub-section (1-A) inserted by Act No. 5 of 1992, w.e.f. 1-4-1992.

2. Substituted for the words "a Taluk Board" by Act No. 26 of 1982, w.e.f. 27-7-1982.

### **20. Special mode of recovery :-**

(1) Notwithstanding anything contained in any law or contract to the contrary, the assessing authority may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to

the assessee at his last address known to the assessing authority require-

(a) any person from whom any amount or money is due or may become due to such assessee on whom a notice of demand has been served under this Act, or

(b) any person who holds or may subsequently hold money for or on account of such assessee, to pay the assessing authority either forthwith upon the money becoming due or being such or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the assessee in respect of the arrears of tax, penalty or interest under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation.-For the purpose of this section the amount of money due to an assessee from, or money held for or on account of an assessee by, any person shall be calculated after deducting therefrom such claims (if any) lawfully subsisting or as may have fallen due for payment by such assessee to such person.

(2) The assessing authority may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the assessee, and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the assessee after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the liability discharged or the extent of the liability of the assessee for tax, penalty or interest, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the assessing authority that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, to the assessing

authority.

(6) Any amount of money which a person is required to pay the assessing authority or for which he is personally liable to the assessing authority under this section, shall, if it remains unpaid be recoverable as an arrear of land revenue.

## **21. Production and inspection of accounts and documents and search of premises :-**

Any authority under this Act may inspect and search any premises, where any profession, trade, calling or employment liable to taxation under this Act is carried on or is suspected to be carried on and may require production and examination of books, registers, accounts or documents relating thereto and may seize such books, registers, accounts or documents as may be necessary:

Provided that, if the said ,authority removes from the said premises any book, register, account or document, it shall give to the person in-charge of the place, a receipt describing the book, register, account or document so removed by it and retain the same only for so long as may be necessary for the purposes of examination thereof or for a prosecution.

## **22. Refunds :-**

Any person who has paid any tax or penalty or interest or fee in excess of the amount due under this Act may apply to the assessing authority for a refund or adjustment of such amount towards future tax and the amount paid in excess shall be refunded or adjusted accordingly.

## **23. Offences and penalties :-**

Any person or employer who, without sufficient cause, fails to comply with any of the provisions of this Act or the rules framed thereunder shall, on conviction, be punished with fine which may extend to five thousand rupees and when the offence is a continuing one, with fine which may extend to fifty rupees per day of such continuance,

## **24. Offences by companies :-**

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in-charge of and was responsible for the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be

proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-For the purposes of this section-

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

## **25. Power to transfer proceedings :-**

The Commissioner may by order in writing transfer any proceedings or class of proceedings under any provision of this Act from any officer to any other officer not lower in status than the former,

Explanation.-In this section, the word "proceedings" in relation to any assessee whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year in relation to such assessee.

## **26. Compounding of offences :-**

(1) Subject to such conditions as may be prescribed, the assessing authority may, either before or after the institution of prosecution, permit any person charged with the offence to compound the offence on payment of such sum, not exceeding double the amount of tax to which the offence relates, as the assessing authority may determine.

(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.

**27. Powers to enforce attendance, etc :-**

All authorities under this Act shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 while trying a suit in respect of enforcing the attendance of and examining any person on oath or affirmation or for compelling the production of any document.

**28. Bar of suits, etc :-**

(1) 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 any authority under this Act or against any employer for anything done or intended to be done in good faith under this Act or the rules framed thereunder.

**28A. Appearance before any authority in proceedings :-**

<sup>1</sup> Any person who is entitled to appear before any authority, other than the High Court, in connection with any proceedings under this Act, may be represented before such authority,-

(a) by a legal practitioner; or

(b) by a Chartered Accountant; or

(c) by a Sales Tax Practitioner enrolled as such under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).]

1. Substituted for the words "a Taluk Board" by Act No. 26 of 1982, w.e.f. 27-7-1982.

**29. Power to exempt :-**

[(1)] The State Government may, by notification, make an exemption or reduction in the rate of tax payable by any specified class of persons subject to such restrictions and conditions as may be specified in the notification.

[(2)] The State Government may, by notification, cancel or vary any notification issued under sub-section (1).

(3) Any notification issued under sub-section (1) shall be valid until it is cancelled under sub-section (2) notwithstanding that the tax

payable in accordance with such notification in respect of any specified class of persons is modified by an amendment to this Act.]

### **30. Local authorities not to levy profession tax :-**

(1) Notwithstanding anything contained in any enactment governing the constitution or establishment of a local authority, no local authority shall, on or after the commencement of this Act, levy any tax on professions, trades, callings or employments.

(2) The provisions in such enactment authorising the local authority to levy such tax shall stand repealed,

Explanation.-For purposes of this section 'local authority' means a Municipal Corporation, a Municipality or<sup>1</sup> [a Village Panchayat] established by or under any law for the time being in force in the State.

1. Substituted for the words "a Taluk Board" by Act No. 26 of 1982, w.e.f. 27-7-1982.

### **31. Cesses not to be levied in certain cases :-**

Notwithstanding anything contained in any law for the time being in force no cess shall be levied on tax on professions, trades, callings and employments under any such law and the provisions in such law authorising such levy and collection shall, on and from the date of commencement of this Act, stand repealed.

### **32. Grants to local authorities for loss of revenue :-**

Out of the proceeds of the tax and penalties and interest and fees recovered under this Act, there shall be paid annually to such local authorities as were levying immediately before the commencement of this Act a tax on professions, trades, callings and employments, such amounts on the basis of the highest collections made by them in any year during the period of three years immediately preceding the commencement of this Act, as may be determined by the State Government in its behalf.

### **33. Power to make rules :-**

(1) The State Government may, by notification in the Official Gazette and after previous publication make rules to carry out the purposes of this Act:

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with previous publication of any rules to be



made under this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for the fees payable in respect of any applications to be made, the forms to be supplied, the certificates to be granted and appeals and applications for revision to be made under this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rules should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no 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 or omitted to be done under that rule.

#### **34. Power to remove difficulties :-**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions not inconsistent with this Act, as appears to it to be necessary or expedient for removing the difficulty.

#### **SCHEDULE 1**

List of Diseases