

Odisha Entry Tax (Amendment) Act, 2011

02 of 2012

[10 February 2012]

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Odisha Entry Tax (Amendment) Act, 2011

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An Act further to amend the Orissa Entry Tax Act, 1999.

Be it enacted by the Legislature of the State of Odisha in the Sixty-second Year of the Republic of India as follows:--

1. Odisha Gazette Extraordinary No. 257, dated February 16, 2012.

1. Short title and commencement :-

(1) This Act may be called the Odisha Entry Tax (Amendment) Act, 2011.

(2) It shall come into force on such date as the Government may, by notification, appoint.

2. Amendment of section 2 :-

In the Orissa Entry Tax Act, 1999 (Orissa Act 11 of 1999) (hereinafter referred to as the principal Act), in section 2, after clause (a) the following clauses shall be inserted, namely:--

(aa) "Advance Ruling Authority" means the Orissa Sales Tax Tribunal constituted under sub-section (1) of section 4 of the VAT Act;

(ab) "Advance Ruling" means a determination made by the Advance Ruling Authority of a disputed question raised under section 17A;

(ac) "Applicant for Advance Ruling" means a registered dealer registered under the Act, or a person who has filed an application under section 17A;

(ad) "Assessing Authority" means any officer appointed or deemed to have been appointed under the VAT Act and authorised by the Commissioner to make assessment under that Act;

3. Amendment of section 7 :-

In the principal Act, in section 7, in subsection (5), for the words "at the rate of two percentum per month", the words "at the rate of one percentum per month" shall be substituted.

4. Amendment of section 9C :-

In the principal Act, in section 9C, in sub-section (6), for the words "receipt of" appearing after the words "within a period of six months from the date of" the words "service of notice issued under sub-section (1) along with" shall be substituted.

5. Amendment of section 10 :-

In the principal Act, in section 10,--

(i) in sub-section (1), for the words "within a period of five years", the words "within a period of seven years" shall be substituted.

(ii) in sub-section (2), after the words "escapement", the words "or under assessment of tax on account of any reason(s) mentioned in subsection (1) above" shall be inserted.

6. Insertion of new section 17A :-

In the principal Act, after section 17, the following section shall be inserted, namely:--

"17A. Advance Ruling on disputed questions.--

(1) Any applicant for advance ruling may apply in the prescribed form and manner, to the Advance Ruling Authority for obtaining an Advance Ruling on any disputed question as to whether a particular commodity is a Scheduled goods and if so, the rate of tax thereon.

(2) If, in the opinion of the Advance Ruling Authority, the application does not relate to any disputed question as referred to in sub-section (1) or the application is incomplete or incorrect, the Advance Ruling Authority may, after giving the applicant a reasonable opportunity of being heard, reject the application.

(3) An application seeking Advance Ruling by any applicant for Advance Ruling shall not be entertained on the following grounds, namely:--

(a) if the disputed question on which Advance Ruling has been sought is the subject-matter of any assessment or appeal proceeding concerning the said applicant, or

(b) if the disputed question arises from any order already passed under this Act.

(4) On admission of the application, the bench constituted for the purpose as prescribed in clause (d) of sub-section (3) of section 4 of the VAT Act shall, after hearing the applicant for Advance Ruling and the Commissioner or his authorised representative, pronounce its Advance Ruling on the question specified in the application.

(5) The decision of the majority of members in the bench shall be final in case the members differ in their opinion.

(6) The pronouncement of the Advance Ruling shall be made by the bench within four months of the receipt of the application by the Advance Ruling Authority.

(7) The Advance Ruling so pronounced shall be prospective in effect and shall be binding on the applicant who sought the ruling under subsection (1) in respect of the question raised in the application, and on the authorities appointed or constituted under the Act, in all similar cases situated in similar facts and circumstances.

(8) The Advance Ruling pronounced under sub-section (4) shall be binding unless there is a change of law on the basis of which the Advance Ruling has been pronounced and accordingly, no such question shall be entertained in any proceeding by any authority appointed or constituted under this Act, save as provided in section 19.

(9) The Advance Ruling so pronounced by the Advance Ruling Authority shall have effect on other dealers situated in similar facts and circumstances of any case.

(10) Where the Advance Ruling Authority finds, on a representation made to it by the Commissioner or otherwise, that an Advance Ruling pronounced by it under sub-section (4) has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order and after giving opportunity of being heard, declare such Advance Ruling to be void ab-initio and thereupon all the provisions of this Act, shall apply to the applicant as if such Advance Ruling had never been made.

(11) On receipt of representation from the Commissioner or application from the applicant for Advance Ruling indicating change of law or fact basing on which Advance Ruling was pronounced under sub-section (4), the Advance Ruling Authority shall have power to modify the said ruling after hearing the parties to the Advance Ruling.

(12) Time spent in obtaining an Advance Ruling or disposal of the application for Advance Ruling or otherwise or orders passed under subsection (10) or sub-section (11) shall be excluded while counting the period of limitation prescribed under the Act, for doing anything under this Act."

7. Amendment of section 19 :-

In the principal Act, in section 19,--

(i) in sub-section (1), after the words, bracket and figures "under subsection (4) of section 17" the words, bracket, letter and figures "or a ruling under sub-section (4) of section 17A" shall be inserted and for the word "dealer" wherever it occurs the words "dealer or person" shall be substituted; and

(ii) for sub-section (2), the following sub-section shall be substituted, namely:--

"(2) The petition shall be in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.".