

## **Punjab Tax On Lotteries Act, 2005**

**18 of 2005**

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## **Punjab Tax On Lotteries Act, 2005**

**18 of 2005**

AN ACT To provide for the levy and collection of tax on lotteries and for the matters connected therewith or incidental thereto. BE it enacted by the Legislature of the State of Punjab in the Fifty sixth year of the Republic of India as follows:-

### **1. Section 1 :-**

(1) This Act may be called the Punjab Tax on Lotteries Act, 2005.

(2) It shall come into force at once.

### **2. Section 2 :-**

In this Act, unless the context otherwise requires:-

(a) "Appellate Authority" means an officer of the Department, who has been appointed and designated by the State Government as the Deputy Excise and Taxation Commissioner (Appeals) to exercise the powers of Appellate Authority under this Act;

(b) "Assessing Authority" means an officer of the Department, who has been appointed and designated by the State Government as the Assistant Excise and Taxation Commissioner to exercise the powers of Assessing Authority under this Act;

(c) "Authorized Officer" means an officer authorized under section 21;

(d) "bumper draw of lottery" means a special draw of lottery, conducted on or during any festival or any festival or any special occasion wherein the prize money offered is greater than the prize money offered in any ordinary draw of lotteries.

(e) "Commissioner" means the Excise and Taxation Commissioner, who has been appointed as such by the State Government for the purpose of this Act;

(f) "Department" means the Department of Excise and Taxation Punjab;

(g) "Deputy Excise and Taxation Commissioner" means an officer of the Department, who has been appointed and designated as such by the State Government for the purposes of this Act;

(h) "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those

persons participant in the chances of a prize by purchasing tickets, organized by the Government of India or the Government of a State or Union Territory or any other Country, having bilateral agreement or treaty with the Government of India;

(i) "month" means a calendar month.

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

(k) "promoter" means the Government of India or Government of a State or any Union Territory, or any Country, which has entered into a bilateral agreement or treaty with the Government of India for organizing, conducting or promoting a lottery, and includes any person appointed by such Government or Country for selling lottery tickets in the State of Punjab on their behalf, where such Government or Country is not directly selling lottery tickets in the State of Punjab;

(l) "section" means section of this Act;

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

(n) "State Government" means the Government of the State of Punjab.

(o) "week" means a period of seven days commencing from the Monday and ending on the Sunday; and

(p) "year" means the financial year commencing from the first day of April and ending on the 31st day of March;

### **3. Section 3 :-**

(1) There shall be levied and collected a tax, per draw on the lotteries at the rates, as specified in the Schedule.

(2) The tax levied under sub-section (1), shall be paid by every promoter.

### **4. Section 4 :-**

The State Government may, by notification in the Official Gazette, alter the rate of tax specified in the Schedule or add to or omit from or otherwise amend the Schedule and thereupon, the Schedule shall be deemed to have been amended accordingly;

Provided that if the Government intends to increase the rate of tax specified against any type of lottery, such a rate shall not exceed three times of the rate already existing in the Schedule.

### **5. Section 5 :-**

(1) On the commencement of this Act, every promoter shall be

liable for getting himself registered under this Act.

Provided that a person selling lottery tickets and computerized network lottery in retail, shall not be liable to get himself registered under this Act.

(2) The promoter shall make an application in such form, as may be specified, along with a fee of rupees one lac and a security of rupees ten lac to the Assessing Authority in whose jurisdiction his business premises falls.

(3) The fee and security shall be furnished by the promoter to the Assessing Authority in the form of Bank Draft.

(4) If a promoter has more than one place of business, then he shall get himself registered with the Assessing Authority in whose jurisdiction his principal place of business falls.

(5) If a promoter is already registered under any law, he will not be liable for making payment of rupees one lac for getting himself registered under this Act, but he shall have to make an application in the specified form for getting himself registered under this Act along with a security of rupees ten lac.

(6) If the State Government is of the opinion that it is expedient to do so, it may, by notification, revise the aforesaid rate of fee and security.

## **6. Section 6 :-**

Every promoter shall get his registration renewed after a period of every one year from the date of his registration in such manner and on payment of such fee, as may be prescribed.

## **7. Section 7 :-**

(1) Every promoter shall submit on the first working day of every month to the Assessing Authority, a statement containing such particulars, as may be specified by the State Government, by notification relating to draws of lottery to be conducted during the month, and shall pay in advance the full amount of tax payable by him under this Act, in respect of the draws shown in the statement.

(2) If a promoter fails to submit the statement under sub-section (1), within the stipulated period or if the statement submitted by him is found to be incorrect or incomplete by the Assessing Authority, the Assessing Authority after giving the promoter an opportunity of being heard, may assess the promoter provisionally for the month to the best of his judgment, by recording reasons for such assessment within a period of fifteen days, and proceed to

demand and collect forthwith the amount so assessed.

#### **8. Section 8 :-**

If any amount of tax payable under this Act remains unpaid or due after making payment of tax in advance by the promoter, the same shall be paid immediately at the close of the month.

#### **9. Section 9 :-**

(1) If a promoter contravenes any of the provisions of this Act, the Assessing Authority may cancel his registration granted under this Act after affording him an opportunity of being heard.

(2) On cancellation of the registration, the promoter shall not be entitled to sell lottery tickets within the State of Punjab.

(3) Notwithstanding the cancellation of the registration, if the promoter makes payment of the defaulted amount subsequently, alongwith interest at the rate of two percent month on the defaulted amount, the Assessing Authority may, on application made by him within a period of thirty days from the date of cancellation, re-register the promoter.

(4) In case, the promoter fails to apply for getting himself re-registered within a period of thirty days, he shall have to get himself registered afresh as per provisions of his Act making payment of defaulted amount of tax and interest.

#### **10. Section 10 :-**

(1) Notwithstanding anything contained in section 7, every promoter shall submit to the Assessing Authority, a monthly return within a period of seven days from the close of each month by disclosing such particulars, as may be specified by the State Government, by notification.

(2) While submitting his return under sub-section (1), a promoter shall attach in token of proof, a receipt of advance payment of tax paid under section 7.

(3) If after making payment of advance tax, the promoter has conducted any additional draw of lotteries, then shall also deposit the balance of tax, which had become due to the State Government for additional draw or draws, as the case may be.

(4) If the Assessing Authority is satisfied that any return submitted under sub-section (1), is correct and complete, he shall accept the return.

(5) If no return is submitted by the promoter under sub-section (1), or if the returns submitted to the Assessing Authority appear to be incorrect or incomplete, the Assessing Authority, shall assess the promoter to the best of his judgement within a period of three years from the date of submission of returns:

Provided that before taking any action under this sub-section, the promoter shall be given an opportunity of being heard.

#### **11. Section 11 :-**

(1) If in consequence of definite information, which has come into his possession, the Assessing Authority discovers that any draw has been under-assessed, or escaped assessment in any year, the Assessing Authority may, at anytime within a period of three years following the close of the year, for which any draw is proposed to be re-assessed and after giving the promoter a reasonable opportunity of being heard, proceed to re-assess the tax payable on the draw, which has been under assessed or has escaped assessment.

(2) The Assessing Authority may at any time within one year from the date of any order passed by him and subject to such conditions, as may be prescribed, rectify and clerical or arithmetic mistake apparent from the record.

#### **12. Section 12 :-**

(1) Notwithstanding the period of limitation provided for assessment or re- assessment in section 10 or section 11 or in any other provision of this Act, assessment or re-assessment may be made at any time by the Assessing Authority in consequence of or to give effect to any order made by any court or other authority, in exercise of the powers vested in it under the law for the time being in force.

(2) Where the assessment proceedings relating to any promoter remained stayed under, the orders of any court or other authority for any period, such period shall be excluded in computing the period of limitation for assessment or re-assessment provided under this Act.

#### **13. Section 13 :-**

The amount of any tax, penalty, interest or any other sum due and payable under this Act, which remains unpaid, after the due date,

shall be recoverable as arrears of land revenue.

**14. Section 14 :-**

(1) The assessing Authority may, at any time, by giving a notice in writing, require any person from whom money is due or may become due to the promoter or to any person who holds or may subsequent hold money for or on behalf of the promoter to pay to the Assessing Authority, either forthwith upon the money becoming due or being held or within the time specified in the notice, so much of the money as is sufficient to pay the due amount by the promoter or other person in respect of the arrears of tax or penalty or both.

(2) The Assessing Authority may, at any time, amend or revoke the notice or extend the time given in the notice for making payment.

(3) The payment made in compliance with the notice given under this section by any person, shall be deemed to have been made by the promoter.

(4) Any person discharging liability of the promoter or other person after the receipt of notice referred to above, shall be personally liable to the Assessing Authority to the extent of the liability discharged by him or to the extent of the liability of the promoter for the amount due under this Act, whichever is less.

(5) Where the person to whom a notice under this section has been issued, proves to the satisfaction of the Assessing Authority that the sum demanded there in or any part thereof, is not due by him to the promoter or that he does not hold any money for or on account of the promoter, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof to the Assessing Authority.

(6) Any amount, which a person is required to pay to the Assessing Authority or for which he is personally liable to the Assessing Authority under this section, shall, if it remains unpaid, be a first charge on the properties of that person and may be recovered in the manner specified in this Act.

(7) For the purpose of this section, the amount due to a promoter, or money held for or on account of a promoter by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by the promoter to such person and as may be lawfully subsisting.

**15. Section 15 :-**

(1) When the ownership of the business of a promoter other than a State Government is transferred, the transferor and the transferee shall jointly and severally be liable to pay any tax, penalty or interest remaining unpaid at the time of transfer, or any amount, which may become due and payable in respect of such business after the date of transfer. For the purpose of recovery from the transferee, such transferee shall be deemed to be the promoter, liable to pay the tax, penalty or interest due under this Act.

(2) Where any firm is liable to pay any tax, penalty or interest under this Act, the firm and each of the partners of the firm, shall be jointly and severally liable for such payment.

(3) When a firm liable to pay the tax or penalty is dissolved, the assessment of the tax and imposition of penalty shall be made as if no dissolution of the firm had taken place, and every person, who was at the time of dissolution, a partner of the firm and the legal representative of any such person, shall be jointly and severally liable to pay the tax or penalty assessed or imposed.

(4) Where a partner of a firm liable to pay any tax, penalty or interest under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay tax, penalty or interest, remaining unpaid at the time of his retirement irrespective of the fact that any tax or penalty or interest, due up to the date of retirement, was not assessed.

(5) When a Hindu Undivided Family, liable to pay tax, penalty or interest is partitioned, the assessment of the tax and the imposition of penalty or interest, shall be made as if no partition of the family had taken place, and every person who was a member of the family before the partition, shall be jointly and severally liable to pay the tax, fee, penalty or interest assessed or demanded under this Act.

(6) Where a promoter dies, his executor, administrator or legal representative shall be deemed to be the promoter for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased promoter.

Provided that in respect of any tax, penalty, fee or interest assessed is payable by any such promoter, or any tax, penalty or fee, which would have been payable by him under this Act, if he had not died, the executor administrator or legal representative shall be liable only to the extent of the assets of the deceased in his hands.

## **16. Section 16 :-**



(1) Subject to the provisions of this Act and the rules made thereunder, the Assessing Authority shall, in such manner and within such period, as may be prescribed, refund to a promoter, the amount of tax, penalty or interest, if any, paid by such promoter in excess of the amount due from him. The refund may, either be by refund voucher or at the option of the promoter by refund adjustment order:

Provided that the Assessing Authority shall first apply such excess amount towards the recovery of any amount due under this Act and only thereafter, shall refund the balance, if any.

(2) Where an amount required to be refunded by the Assessing Authority to any promoter, is not so refunded to him within a period of ninety days from the date of application submitted by the promoter, a simple interest at the rate of one percent per month on the due amount shall be paid to such promoter from the date, immediately following the expiry of period of ninety days to the date of refund.

Explanation:-(a) If the delay in granting the refund within the aforesaid period of ninety days is attributed to the promoter whether wholly or in part, the period of delay attributable to him, shall be excluded from the period for which interest is payable.

(b) Interest under this sub-section, shall be calculated by considering part of the month as one month.

(3) where an order giving rise to a refund, is subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending, the refund shall be made only on the finalization of appeal or proceedings, as the case may.

## **17. Section 17 :-**

(1) Any person,, objecting to an order, affecting him passed under the provisions of this Act by the Assessing Authority, may, file an appeal the Appellate Authority.

(2) The appeal shall be preferred within a period of thirty days from the date of communication of such order.

(3) (a) No appeal against an order shall be entertained by the Appellate Authority, unless it is accompanied by satisfactory proof of payment of twenty five percent of the total of tax, penalty and interest, if any.

( b ) Notwithstanding anything contained in clause (a), if the Appellate Authority is satisfied that the whole of the amount of tax, penalty and interest due from a promoter is required to be

deposited before entertaining an appeal, it may direct by order for the payment of remaining amount of tax, penalty and interest or a part thereof as a pre-condition for entertaining the appeal.

(4) The appeal shall be preferred and verified in such manner, as may be prescribed.

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

(a) confirm, reduce, enhance or annul the order;

(b) set aside the order and direct the Assessing Authority to pass a fresh order after such enquiry, as may be directed; or

(c) pass such orders, as it may think fit.

(6) Every order passed on an appeal under this section, shall, subject to the provisions of sections 18 and 19, be final.

### **18. Section 18 :-**

(1) The Commissioner or any other officer authorized by him, may, on his own motion or on application made to him in this behalf, call for and examine the record of any order passed or proceedings recorded under the provisions of this Act by the Assessing Authority and against which no appeal has been preferred under section 17, for the purpose of satisfying himself as to the legality or propriety of such order or as to the regularity of such proceedings insofar as it is prejudicial to the interest of the revenue and pass such order with respect thereto, as he thinks fit.

(2) In relation to an order passed under this Act, the power under sub-section (1), shall be exercisable only within a period of two years from the date on which the order was passed.

(3) No order shall be passed under sub-section (1) enhancing any assessment, unless an opportunity has been given to the promoter to show cause against the proposed enhancement.

### **19. Section 19 :-**

(1) With a view to rectify any mistake apparent from the record, the Appellate Authority or the Revisional Authority, may, at any time within a period of two years from the date of an order passed by it, amend such order so as to rectify any mistake therein:

Provided that an amendment, which has the effect of enhancing an assessment or otherwise increasing the liability of the promoter, shall not be made unless the Appellate Authority or the Revisional Authority, as the case may be, has given notice to the promoter of its intention to do so and has allowed the promoter an opportunity

of being heard.

(2) Where an order has been considered and decided in any proceedings by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub section only in relation to a matter, which has been so considered and decided.

(3) 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, in which mistake was rectified, had been passed.

## **20. Section 20 :-**

(1) Every promoter shall keep and maintain true and correct accounts and such other records, relating to his business showing such particulars, as may be prescribed.

(2) All such accounts and records shall be retained by the promoter in safe custody until the expiry of a period of three years after the end of the period to which they relate or until the assessment reaches finality, whichever is later.

(3) Where such promoter is a party to an appeal or revision under this Act, he shall retain, until such appeal or revision is finally disposed of, every record and accounting document that pertains to the subject matter of the appeal or revision.

## **21. Section 21 :-**

(1) Any officer authorized by the State Government, not below the rank of Assistant Excise and Taxation Commissioner in this behalf for the purpose of this Act, shall have the power:

(a) to enter and inspect the place of business of any promoter or other person carrying on business in lottery or any other place where it is believed by such officer that such business is being carried on or accounts included in documents are being kept by such promoter or person;

(b) to direct such promoter or person to produce at such time and at such place accounts, registers and documents relating to his business activities for examination.

(c) To enter and inspect the lottery tickets in the possession of promoter or in the possession of any other person on behalf of such promoter, wherever such lottery tickets are kept

(d) To enter and search such places, including the search of the promoter or person acting on behalf of the promoter found there,

where concealment of acts relating to the business are suspected;

(e) To seize any accounts, registers or documents from the promoter or other person, where he has reason to suspect that a promoter or other person is attempting to avoid or evade tax or is concealing his tax liability in any manner, after recording such reasons in writing, and to give to the promoter or any other person from whose custody such accounts, records or documents are seized, a receipt for and, if requested, copies of the same, and to retain such documents in his custody for examination, inquiry, prosecution or other legal proceedings for such period, as he considers necessary

(f) To seal any box or receptacle, godown or building or any part of the godown or building in which accounts or lottery tickets are suspected to be kept or stored, where the owner or any other person in charge of the business or any other person in occupation either leaves the premises or is not available or fails or refuses to open any box or receptacle, godown or building or any part of the godown or building when called upon to do so;

(g) To break open the box or receptacle, godown or building or part of the godown or building where the owner or the person in charge of the business or the person in occupation leaves the premises, after an opportunity having been given to him to do so, fails to open the box or receptacle, godown or building or part of the godown or building, and to prepare a list of the goods and documents found therein;

(h) To record the statement of any promoter or his manager, agent or servant, to take extracts from the records found in any premises and to put identification marks on accounts, registers documents or goods;

(i) To seize any stock of lottery tickets, which are found in possession of a promoter or in the possession of any person on behalf of a promoter and which are not accounted for in his accounts, records or documents maintained in the course of his business, and a list of lottery tickets including any device or contrivance used to issue lottery tickets so seized shall be prepared by such officer and a copy thereof shall be given to the promoter or any other person from whose custody such lottery tickets, device or contrivance are seized; and

(j) To serve on the owner or the person, who is in immediate possession or control thereof, an order that he shall not remove, part with or otherwise deal with them, except with the prior consent of such officer, and after serving such order, to take such

steps, as are deemed necessary to secure the items referred to in the order in circumstances where it is not possible to seize the accounts, records or documents under clause (e) or the lottery tickets under clause (i).

(2) Where the records and accounts under section 20 are maintained by electronic means, the promoter shall provide such access to such accounts, as may be required by the officer authorized under sub-section (1).

(3) The accounts, registers, records, including computer hardware and software, and other documents seized under sub-section (1), shall not be retained by such officer for a period, exceeding one hundred and eighty days from the date of seizure, unless the reasons for retaining the same beyond that period, are recorded by him in writing, and the approval in any case shall not be for more than sixty days at a time.

(4) It shall be presumed that the devices, contrivances, accounts, registers or documents found at any place of the business of a promoter or any person, relate to that very business, unless the contrary is proved by that promoter or any person.

(5) The promoter or person from whom lottery tickets have been seized under clause (i) of sub-section (1) may file an appeal before the Appellate Authority within a period of seven days against such seizure.

(6) After the expiry of a period of seven days as specified in sub-section (5), if any tax assessed or penalty or interest due is not paid, the authorized officer shall dispose of the lottery tickets or other goods in public auction and adjust the sale proceeds towards the amount due, and the excess amount shall, after deducting the charges incurred, be refunded in the manner as may be prescribed.

## **22. Section 22 :-**

(1) For the purposes of payment or assessment of tax, the burden of proving that such payment of tax on the draw relating to any lottery tickets is correct, shall lie on the promoter.

(2) Where a promoter or other person knowingly issues or produces a false declaration, certificate or other document with a view to support or make any claim that tax has been paid on the draw relating to the lottery tickets sold or held by him, the Assessing Authority shall, on detecting such issue or production, direct the promoter or person issuing or producing such documents to pay as penalty, three times the tax due in respect of such claim.

(3) Before issuing any direction for the payment of the penalty under this section, the Assessing Authority shall give to the promoter, an opportunity of showing cause in writing against the imposition of such penalty.

**23. Section 23 :-**

(1) A promoter, who without reasonable cause, fails to apply for registration within the stipulated period, shall be liable to a penalty of one lakh rupees.

(2) A promoter who fails to submit a statement or return or who fails to pay tax due on any statement submitted under section 7, shall be liable to a penalty of one thousand rupees for each day of default in addition to a penalty of a sum, not less than ten percent, but not exceeding fifty percent of the amount of tax due, together with the tax or interest due.

(3) The power to levy the penalty under this section, shall be vested with the Assessing Authority.

**24. Section 24 :-**

While submitting return under sub-section (1) of section 10 to the Assessing Authority, if the promoter does not disclose the specified particulars, the Assessing Authority, may also direct the promoter to pay, in addition to the tax assessed, a penalty equal to one-half of the amount of tax due that was not disclosed by the promoter in his return or, in the case of failure to submit a return, one-half of the tax assessed.

**25. Section 25 :-**

In making an assessment under sub-section (1) of section 11, the Assessing Authority, may, if it is satisfied that the escapement from assessment is due to willful non-disclosure of the tax by the promoter, it may direct the promoter to pay in addition to the tax assessed under the said sub-section, a penalty equal to one-half of the tax so assessed.

Provided that no penalty under this sub-section shall be imposed, unless the promoter affected is afforded an opportunity of being heard.

**26. Section 26 :-**

(1) If default is committed in the payment of tax for any month,

whether a statement as required under sub-section (1) of section 7, is filed or not or if the amount of tax paid is less than the amount of tax payable for any month, the promoter, defaulting payment of tax or making short payment of tax shall, in addition to the tax, pay penalty calculated at the rate of two percent per month from the date of such default or short payment to the date of payment of such tax.

(2) The power to impose penalties under this section, shall vest with the Assessing Authority.

## **27. Section 27 :-**

(1) Any promoter or other person, who fails to keep and maintain proper records, in accordance with section 20, shall be liable to penalty of ten thousand rupees and, in addition, one thousand rupees per day for so long as the failure continues after being given an opportunity to show cause against such imposition of penalty.

(2) Any promoter or other person, who fails to retain records and accounts in accordance with section 20, after being given an opportunity of showing in writing against the imposition of a penalty, shall be liable to a penalty of twenty thousand rupees.

(3) The power to impose the penalties under this section shall vest with the Assessing Authority.

## **28. Section 28 :-**

(1) Any promoter or person who, on demand by the authorized officer, fails to produce any records or furnish any information in accordance with the requirements of this Act, after being given an opportunity of showing cause in writing against the imposition of penalty, shall be liable to a penalty of then thousand rupees and, in addition, one thousand rupees per day for so long as the failure continues.

(2) The power to levy the penalties under this section shall vest with the Assessing Authority.

## **29. Section 29 :-**

(1) Any promoter or person, who removes, or in any way tampers with, a seal attached under the provisions of clause (f) of sub-section (1) of section 21, shall be liable on conviction by a Court of competent jurisdiction to a fine of not less than five thousand rupees, but not exceeding fifty thousand rupees and for

imprisonment for a period, not less than fifteen days, but not exceeding one year.

(2) Any promoter or person, who is found to be in possession of unaccounted stock of lottery tickets under the provisions of clause (i) of sub-section (1) of section 21, and after being given an opportunity of showing cause in writing against the imposition of a penalty, shall be liable to penalty of five thousand rupees.

(3) The power to levy the penalty under sub-section (2), shall vest with the Authority Officer.

### **30. Section 30 :-**

Any person who obstructs, hinders, molests or assaults the authorized officer or any other public servant assisting him in the performance of his duties under this Act, or does anything, which is likely to prevent or obstruct any search or production of evidence, shall on conviction be liable to a fine of not less than five thousand rupees, but not exceeding fifty thousand rupees and imprisonment for a period, not less than fifteen days, but not exceeding one year.

### **31. Section 31 :-**

Without prejudice to the provisions of section 23, 24, 25, 26 and 27, 28 and 29, if a promoter or any person knowingly or fraudulently takes any steps with a view to evade tax under this Act, he shall be liable to a fine of one lac rupees or double the amount of the tax evaded, whichever is higher or to the imprisonment for a period of not less than six months, but not exceeding five years or both.

### **32. Section 32 :-**

No Court shall take cognizance of any offence punishable under this Act, except with the previous sanction of the Commissioner.

### **33. Section 33 :-**

(1) Where any promoter or person has committed an offence under sub-section (1) of section 29, or section 31, the Assessing Authority may, on admission by such promoter or person in writing and upon his option to compound at anytime prior to the commencement of the court proceedings relating thereto, compound such offence and order the promoter or the person to pay such sum of money, as may be specified by the Assessing Authority.



Provided that such some of money shall not exceed the amount of penalty specified for that offence under this Act.

(2) Furnishing of a cheque or any other instrument towards payment of a sum by any such promoter shall be deemed to be an application for compounding the offence.

(3) Where the Assessing Authority compounds an offence under this section, the order referred to in sub-section (1):-

(a) shall be in writing and specify the offence committed, the sum of money to be paid and the due date for the payment;

(b) shall be served on the promoter or the person, who committed the offence;

(c) shall be final and not subject to any appeal; and

(d) may be enforced in the same manner as a decree of a court is enforced.

(4) When the Assessing Authority compounds an offence under this section, the promoter or any person concerned, shall not be liable to prosecution in respect of such offence or to any further penalty under this section and such promoter or person shall not file any appeal against such composition.

#### **34. Section 34 :-**

(1) Where an offence under this section has been committed by a company, every person who, at the time, the offence was committed, was in-charge of, and was responsible to 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 provided in 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 contained in sub-section (1), where an 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, as the case may be, 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.

**35. Section 35 :-**

The validity of the assessment of any tax or of the levy of any fee or other amount, made under this Act, or the liability of any promoter to pay any tax, fee or other amount so assessed or levied, shall not be questioned in any Criminal Court in any prosecution or other proceedings, whether under this Act or otherwise.

**36. Section 36 :-**

(1) No suit, prosecution or other proceeding shall lie against any officer or official of the State Government for any act done or purported to be done under this Act without the previous sanction of the State Government.

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

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

**37. Section 37 :-**

Notwithstanding anything contained in any law passed by the Punjab State Legislature for the time being in force, no suit or other proceedings shall be entertained by any court, except as expressly provided for under this Act to set aside or modify any assessment or other proceedings commenced by virtue of the provisions of this Act, and no such court shall question the validity of any assessment, levy of penalty or interest or grant any stay of proceedings or recovery of any amount due under this Act.

**38. Section 38 :-**

The officers of the State Government exercising powers and performing functions under this Act, shall have all the powers conferred on a court under the Code of Civil Procedure, 1908 (Central Act V of 1908), for the purpose of securing attendance of persons or the production of documents in any assessment, enquiry, proceedings or any such like thing under this Act.

**39. Section 39 :-**

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act, shall be laid, as soon as may be after it is made, before the House of the State Legislature while it is in session for a total period of ten 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 successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter 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.

**40. Section 40 :-**

(1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by an order published in the Official Gazette, make such provision, not inconsistent with the provisions of this Act as may appear to it to be necessary for removing the difficulty;

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section, shall be laid, as soon as may be, after it is made before the Punjab State Legislature.

**41. Section 41 :-**

(1) The Punjab Tax on Lotteries Ordinance, 2005 (Punjab Ordinance No. 12 of 2005), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of this Act.

