

Andhra Pradesh Tax on Entry of Goods into Local Areas Act, 2001

ANDHRA PRADESH

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Act 39 of 2001

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Andhra Pradesh Tax on Entry of Goods into Local Areas Act, 2001(Act No. 39 of 2001)Last Updated 26th October, 2019[Dated 26.10.2001]An Act to provide for the Levy and Collection of Tax on Entry of Certain Goods into Local Areas in the State of Andhra Pradesh and for the matters connected there with or incidental thereto.Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-second Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Andhra Pradesh Tax on Entry of Goods into Local Areas Act, 2001.(2)It extends to the whole of the State of Andhra Pradesh.(3)It shall be deemed to have come into force on and from the 2nd May, 2001.CHAPTER I

2. Definitions.

(1)In this Act, unless the-Context otherwise requires,-(a)'assessing authority' means,-(i)in the case of an importer, who is a dealer, the assessing authority shall be authority as specified under the [the Andhra Pradesh Value Added Tax Act, 2005] [Substituted 'the Andhra Pradesh General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.];(ii)in the case of an importer, other than a dealer, the officer-in-charge of the Check post, through which the goods are brought into the State or the Commercial Tax Officer having jurisdiction over the area, in which such importer ordinarily resides;(b)'Dealer' shall have the meaning assigned to it under the [the Andhra Pradesh Value Added Tax Act, 2005] [Substituted 'the Andhra Pradesh General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.];(c)'Goods' means all kinds of movable property other than actionable claims, stocks, shares and securities, and includes all materials, articles, petroleum products and commodities including the goods as goods or in some other form, involved in the execution of works

contract or those goods used or to be used in the construction, fitting out, improvement or repair of movable or immovable property and also includes all growing crops, grass and things attached to or forming part of the land which are agreed to be served before sale or under the contract of sale;(d)'Goods vehicle' means any motor vehicle constructed or adapted for the carriage of goods or any other motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers;(e)'Entry of goods into local area' with all its grammatical variations and cognate expressions, means entry of goods into a local area from any place outside the State for consumption, use or sale therein:(f)['Value Added Tax Act' means the Andhra Pradesh Value Added Tax Act, 2005;] [Substituted 'the Andhra Pradesh General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.](g)'Government' means the State Government of Andhra Pradesh;(h)'Importer' means a person who brings or causes to be brought any goods whether on his own account or on account of a principal or any other person, into local area, from any place outside the State for consumption, use or sale therein or who owns the goods at the time of entry into the local area;(i)'Local area' means the area of jurisdiction of a local authority;(j)'Local authority' means the area within the limits of, a city as declared under the Hyderabad Municipal Corporations Act, 1955, or the Visakhapatnam Municipal Cooperation Act, 1979, or the Vijayawada Municipal Corporation Act, 1981 or any other Municipal Corporation in the State, as in force or a municipality as constituted or deemed to have been constituted under the Andhra Pradesh Municipalities Act, 1965, or any notified area, as declared under Section 389-A of the Andhra Pradesh Municipalities Act, 1965 or the area within the limits of Gram Panchayats, under the Andhra Pradesh Panchyat Raj Act, 1994, or a Cantonment Board constituted under Cantonments Act, 1924;(k)'Notification' means a notification published in the Andhra Pradesh Gazette;(l)'Person' includes any company or association or body of individuals whether incorporated or not, a firm, a local authority, a Hindu undivided family, society, club, an individual, the Central Government or the Government of any other State or Union Territory;(m)'Prescribed' means prescribed by rules made under this Act;(n)'Value of the goods' shall mean the purchase value of such goods, that is to say, the purchase price at which a person has purchase the goods inclusive of charges borne by him as cost of transportation, packing, forwarding and handling charges, commission, insurances, taxes, duties and the like, or if such goods are not purchased by him, the value of goods are recorded in the documents or the prevailing fair market price of such goods in the local area as determined by the assessing authority in the absence of any documents;(o)'State' means the State Government of Andhra Pradesh;(p)'Tax' means tax payable under this Act.(2)Words and expressions used but not defined in this Act and defined in the [the Andhra Pradesh Value Added Tax Act, 2005] [Substituted 'the Andhra Pradesh General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.] shall have the meanings respectively assigned to them under that Act.

Chapter II

Levy of Tax

3. Levy and collection of tax .

(1)(a)There shall be levied and collected a tax on the entry of the notified goods into any local area for sale, consumption or use therein. The goods and the rates at which, the same shall be subjected

to tax shall be notified by the Government. The tax shall be on the value of the goods as defined in clause (n) of sub-section (1) of Section 2 and different rates may be prescribed for different goods or different classes of goods or different categories of persons in the local area;(b)the tax shall be payable by the importer in such manner and within such time as may be prescribed;(c)the rate of tax to be notified by the Government in respect of any commodity shall not exceed the rate specified for [the rate applicable for the commodity under the Andhra Pradesh Value Added Tax Act, 2005] [Substituted 'that commodity under the Andhra Pradesh General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.] or the notifications issued thereunder:Provided that the tax payable by the importer under this Act shall be reduced by the amount of tax paid, if any, under the law relating to [Value Added Tax] [Substituted 'General Sales Tax' by Act No. 4 of 2006, dated 30.12.2005.] in force in the Union Territory or State, in which the goods are purchased.(2)Notwithstanding anything contained in sub-section (1), no tax shall be levied on the notified goods imported by a dealer registered under [the Andhra Pradesh Value Added Tax Act, 2005] [Substituted 'the Andhra Pradesh General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.] who brings such goods into any local area for the purpose of resale in the State of Andhra Pradesh or during the course of inter-State trade or commerce:Provided that if any such dealer, after importing the notified goods for the purpose of resale, [or using them as inputs for manufacture of other goods] [Inserted by Act No. 4 of 2006, dated 30.12.2005.] consumes such goods in any form or deals with such goods in any other manner except reselling the same, [or using the same as inputs for manufacture of other goods] [Inserted by Act No. 4 of 2006, dated 30.12.2005.] he shall forthwith notify the assessing authority by the 20th of the month, succeeding the month in which such goods are so consumed or dealt with and pay the tax, which would have been otherwise leviable under subsection (1), along with interest for the period of delay at the rate of 18% per annum compounded quarterly.(3)If any dealer having imported the notified goods for the ostensible purpose of resale deals with such goods in any other manner or consumes the same and does not notify to the assessing authority as provided in subsection (2) or does not pay the tax as required under sub-section (2) within the specified period, the assessing authority shall assess the amount of tax which such dealer is liable to pay and levy penalty equal to the amount of tax due, apart from collecting interest from the date of entry' of the goods into the local area.

Chapter III

Offences and Penalties

4. Offences and Penalties.

- Offences:-(1)Any person, who: -(a)fails to pay, within the time allowed any tax assessed or any penalty imposed on him under this Act; or(b)wilfully acts in contravention of the provisions of this Act or the rules made thereunder, shall, on conviction, be liable to be punished with fine which may extend to two thousand rupees.(2)Any person, who;-(a)Wilfully submits an untrue return of fails to submit a return as required by the provisions of this Act or the rules made thereunder; or(b)fraudulently evades the payment of any tax, and other amount due from him under this Act, shall on conviction, be liable to be punished, if it is a first offence, with fine which may extend to two thousand rupees, and if it is a second or subsequent offence, with simple imprisonment which may

extend to six months or with fine which may extend to five thousand rupees or with both.(3)Any person who makes any statement or declaration in any of the records or documents, which statement or declaration he knows or has reason to believe to be false shall, on conviction, be liable to be punished with simple imprisonment, which may extend to six months or with fine which may extend to two thousand rupees or with both. Any person, who is in any way knowingly concerned in any fraudulent evasion or attempt at evasion or abatement of evasion of any tax payable under this Act, shall, on conviction, be liable to be punished with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

5. Cognizance of and trial of offence.

(1)No Court other than the Court of a Magistrate of the First Class shall take cognizance of, or try, an offence under this Act.(2)No prosecution for an offence under sub-section (2) of Section 4 shall be instituted except with the written consent of the Deputy Commissioner, having jurisdiction over the local area.

Chapter IV

6. Tax Authorities, Returns, Assessments, Payments, Recovery and Refund of Tax, Appeals, Review and Revisions.

(1)Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, reassess, inspect, search, seize, confiscate, collect and enforce payment of any tax under [the Andhra Pradesh Value Added Tax Act, 2005] [Substituted 'the Andhra Pradesh General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.] shall assess, reassess, inspect, search, seize, confiscate, collect and enforce payment of tax, including any interest or penalty, payable by a dealer or an importer under this Act as if the tax or interest or penalty by such declare or importer under this Act is a tax or interest or penalty payable under the General Sales Tax; and for this purpose they may exercise all or any of the powers they have under the [Value Added Tax Act, 2005] [Substituted 'General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.]; and the provisions of [Value Added Tax Act, 2005] [Substituted 'General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.], including provisions relating to returns, provisional assessment, advance . payment of tax, imposition of the tax liability of a person carrying on business on the transferee of, or successor to such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, reviews, revisions, references, refunds, rebates, penalties, charging or payment of interest, inspection of the premises of transporters, goods, vehicles, business premises, search of the residential accommodation, seizure and confiscation of unaccounted for goods, seizure of documents, compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly.(2)All the provisions relating to offences, interest and penalties including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence of the [Value Added Tax Act, 2005] [Substituted 'General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.] shall, with

necessary modifications, apply in relation to the assessment, re-assessment, determination of the value or the fair market price of goods, collection and the enforcement of payment of any tax required to be collected under this Act, or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act were a tax under the [Value Added Tax Act, 2005] [Substituted 'General Sales Tax Act, 1957' by Act No. 4 of 2006, dated 30.12.2005.].

7. Power to remove difficulties.

- If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may by order, makes such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of doubt or difficulty,

8. Protection of acts done in good faith.

(1)No suit, prosecution or other legal proceedings shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act without the previous sanction of the Government, and, no such suit, prosecution or other proceedings shall be instituted after the expiry of six months from the date of the act complained of.(2)No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceedings if the act was done in good faith, in the course of the execution of duties imposed on him or the discharge of functions entrusted to him by or under this Act.

9. Burden of proof.

(1)For the purpose of assessment of tax under this Act, the burden of proof that goods brought into or caused to be brought into a local area are not liable to tax under this Act, shall be on such importer.(2)where an importer issues or produces a false bill or purchase or sale voucher, declaration, certificate or other document with a view to support or make any claim that he is not liable to be taxed under this Act, the assessing authority shall on detecting such issue or production, direct the importer to pay as penalty:-(i)in the case of first detection, an amount equal to the amount of tax levied or leviable in respect of such goods: and(ii)in the case of second and subsequent detection, three times the tax levied or leviable in respect of such goods:Provided that an opportunity of being heard shall be afforded to the importer before issuing any direction for the payment of penalty under this Section.

10. Power to make rules.

(1)The Government may, by notification, make rules, to carry out the purpose of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:-(a)the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;(b)all matters expressly required or allowed by this Act, to be prescribed;(c)generally regulating the procedure to be followed and the forms to be adopted in the

proceedings under this Act:(d)any other matter including levy of fees for which there is no specific provisions in this Act, and for which provisions is, in the opinion of the Government, necessary for giving effect to the purposes of this Act; and(e)the procedure for any other matter incidental to the disposal of appeal and the value of Court Fee Stamp which a Memorandum of Appeal or revision should bear.(3)Every rule made under this section shall immediately after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session, or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or shall stand annulled as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

11. Repeal of Ordinance 1 of 2001.

- The Andhra Pradesh Tax on Entry of Goods into Local Areas Ordinance, 2001 is hereby repealed.