

The Orissa Motor Vehicles Taxation Act, 1975

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Act 39 of 1975

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The Orissa Motor Vehicles Taxation Act, 1975 Orissa Act No. 39 of 1975 Published vide Orissa Gazette Extraordinary No. 1556/16.9.1975-Notification No. 11768-Legislative/12.9.1975. An Act to consolidate and amend the law relating to Taxation on Motor Vehicles Be it enacted by the Legislature of the State of Orissa in the Twenty-sixth Year of the Republic of India as follows :

1. Short title, extent and commencement.

(1) This Act may be called the Orissa Motor Vehicles Taxation Act, 1975. (2) It extends to the whole of the State of Orissa. (3) [It shall come in to force on such date as the State Government may, by notification, appoint in that behalf.] [Came into force w.e.f. 1st October, 1975 vide Transport Department Notification No. 13476 T.L.C.-4/75-T/25.9.1975.]

2. Definition.

- In this Act unless the context otherwise requires-(a) ["gross vehicle weight" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority under the Motor Vehicles Act as permissible for that vehicle; [Clauses (a) to (d) substituted vide Orissa Act No. 12 of 1993 w.e.f. 1.6.1993.](b)"motor vehicle or vehicles" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and trailer, but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding thirty five cubic centimetres;(c)"Motor Vehicles Act" means the Motor Vehicles Act, 1988 (59 of 1988) as amended from time to time;(d)"Motor Vehicles Rules" means the Motor Vehicles Rules made under the Motor Vehicles Act;](e)"prescribed" means prescribed by rules made under this Act;(f)"quarter" means a period of three months commencing on the first day of April, the first day of July, the first day of October or the first day of January in each year;(g)"registered" means the person in whose name a

motor vehicle is registered under the Motor Vehicles Act and the rules made thereunder;(h)"registration" means registration under the Motor Vehicles Act and the rules made thereunder;(i)"tax" means the tax leviable under this Act;(j)"Taxing Officer" means any person appointed by the State Government by notification to exercise the powers and perform the duties conferred or imposed upon a Taxing Officer by or under the provisions of this Act within such area as may be specified in the notification;(k)"tax token" means a ticket to be displayed on a motor vehicle as an indication that the tax has been duly paid or that no tax is payable;(l)"Transport Commissioner" means the Transport Commissioner appointed by the State Government;(m)"unladen weight" means the weight of a vehicle or a trailer including all equipment ordinarily used with the vehicle or trailer when working [excluding] [Substituted for the word 'including' vide Orissa Act No. 12 of 1993 w.e.f. 1.6.1993.] the weight of a driver or attendant; and where alternative part or bodies are used the unladen weight the vehicle means the weight of the vehicle with the heaviest such alternative part or body;(n)"Year" means the financial year;(o)"all words and express on used in this Act but not defined shall have the same meanings as have been respectively assigned to them under the Motor Vehicles Act and the Motor Vehicles Rules.

3. Levy of tax.

(1)Subject to the other provisions of this Act, [* * *] [Omitted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] there shall be levied on every motor vehicle used or kept for use within the State a tax at the rate specified in [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] [Schedule-III] [Inserted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.];(2)The State Government may be notification from time to time, increase the rate of tax specified in [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] [Schedule-III] [Inserted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.];Provided that such increase shall not exceed fifty percent of the rate specified in [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] [Schedule-III] [Inserted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.];(3)All references made in this Act to [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] [Schedule-III] [Inserted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.]; shall be construed as references to [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] [Schedule-III] [Inserted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.]; as for the time being amended in exercise of the powers conferred by this section.[* * *] [Deleted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.]

3A. [Levy of additional tax. [Inserted vide section 3 of Orissa Act, No. 2 of 1986 w.e.f. 18.10.1985.]

(1)Subject to the other provisions of this Act, [there shall be levied on every public service vehicle and goods carriage] used or kept of use within the State, an additional tax at a rate specified in [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.].(2)The State Government may, by notification from time to time, increase the rate of additional tax specified in [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] :Provided that such increase shall not exceed fifty per cent of the rate specified in [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.].(3)The provisions contained in Sub-section (3) of section 3 [* * *] [Deleted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.] Sub-section (1) to (3) of section 4, Sections 6 and

Sections 11 to 20 shall mutatis mutandis apply in relation to the additional tax payable under Sub-section (1) as they apply in relation to the tax payable under section 3.]

3B. [[Omitted vide Orissa. Act No. 12 of 1993.]

x x x]

4. Payment of tax and declaration of liability.

(1)The tax shall be paid in advance within such time and such manner as may be prescribed, to the Taxing Officer by the registered owner of person having possession or control of the vehicle.(2)The period in respect of which tax is to be paid under Sub-section (1) may be-(a)a year at the rate specified in [Schedule-I] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] hereinafter referred to as the annual rate; or(b)one or more quarters at one-fourth of the annual rate for each quarter; or(c)any period less than a quarter expiring on the last date of any quarter at one-twelfth of the annual rate of every month or part of a month comprising such period :Provided that in the case of a vehicle and annual rate of tax in respect of which does not exceed [five hundred rupees] [Substituted vide Orissa Act No. 20 of 1993.] the tax shall be paid either annually or for a period of two quarters at a time :[Provided further that the State Government may, by notification, allow payment of tax monthly in respect of any motor vehicle or class of motor vehicles and in such case one-twelfth of the annual rate of tax specified in [Schedule-I] [Inserted vide Section 3 of the Orissa Act No. 2 of 1986.] is to be paid for each month]; and(3)Notwithstanding anything contained in this section, the State Government may, by notification, from time to time, direct that a temporary tax token may be issued in respect of a [vehicle] [Substituted vide Orissa Act No. 20 of 1993.] plying temporarily in the State on payment of such tax and subject to such conditions as may be specified in the notification :[x x x] [Omitted vide Orissa Act No. 20 of 1993.](4)At the time of making of payment of tax for any period under Sub-section (1)-(a)a valid certificate of registration and a valid certificate of insurance in respect of the motor vehicle complying with the provisions of the Motor Vehicles Act, shall be produced before the Taxing Officer; and(b)there shall be delivered to the Taxing Officer a declaration in duplicate in the prescribed form with the proscribed particulars specifying the Taxing Officer from whom the tax token, if any, had been last obtained and showing that the tax payable for the vehicle is the amount actually paid.

4A. [Levy and payment of one-time tax [Section 4-A inserted vide Orissa Act No. 8 of 1989-w.e.f. 1.6.1989.]

- [(1) Notwithstanding anything contained in Sections 3 and 4 of this Act, but subject to the other provisions of this section, there shall be levied and paid in respect of every vehicle of the descriptions specified in items 1 and 2 and every Motor Vehicle (being a motor car, Omnibus and Motor Cab) covered by items 6 of Schedule-I which is used personally or kept for personal use, one time tax at the rate equal to a standard rate as specified in Schedule-III or five per centum of the cost of the vehicle whichever is higher :]Provided that in the case of a vehicle which is on road in State of Orissa, whether purchased or acquired inside or outside the State of Orissa, one time tax

shall be at the rate as specified in Schedule-III; Provided further that the vehicles in respect of which one time tax has already been realised shall not be liable to pay tax.](2)The levy and payment of one-time tax shall be for the life-time of the vehicle in respect of which such tax is paid.(3)The levy and payment of one-time tax shall be compulsory in respect of vehicles registered on or after the appointed date and optional in respect of the vehicles registered prior to that date.(4)[Where, after payment of one-time tax, a vehicle is removed to any other state on transfer of ownership or change of address, or its registration is cancelled for any reason other than that mentioned in Sub-section (5) of section 55 of the Motor Vehicles Act 59 of 1988 [* * *] [Inserted vide Orissa Act No. 21 of 1990-w.e.f. 1.12.1990.] the owner of the vehicle shall be entitled to a refund which shall be the balance of the one-time tax paid by him under Sub-section (1) as may remain-after deducting from such tax one-tenth thereof for each completed year or part thereof commencing on the date from which the one-time tax was paid till the date on which the vehicle is so removed or its registration is so cancelled or the vehicle is so altered, as the case may be :][* * *] [Deleted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.][* * *] [Deleted vide Orissa Act 8 of 2003 w.e.f. 13.2.2003.](6)The provisions of Sections 10 and 16 relating to temporary discontinuance of the use of vehicle and rebate on payment of tax, respectively, shall not apply to a vehicle in respect of which one-time tax is leviable under this section.][* * *] [Deleted vide Orissa Act 3 of 2005 w.e.f. 25.2.2005.]

5. Tax payable by Manufactures and Dealers.

- Notwithstanding the provisions contained in [Sections 3, 3-A, 4 or 4-A] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993-For the words 'the Schedule'.], a tax at the annual rate specified below shall be paid in advance by a manufacture of dealer in motor vehicles in respect of the vehicles in his possession in the course of his business as such manufacture or dealer under the authorisation of trade certificate granted under the Motor Vehicles Rules :

Description of motor vehicle	Annual rate
1. Motor Cycles-	
(a) where the total number of vehicles does not exceed ten	Rs. 250.00
(b) where such total number exceeds ten	Rs. 250.00 plus Rs. 250.00 for every ten or less number of vehicles in excess of ten.
2. Motor vehicle other than Motor Cycles-	
(a) where the total number of vehicles does not exceed ten	Rs. 1,002.00
(b) where such total number exceeds ten	Rs. 1,000.00 plus Rs. 1,000.00 for every ten or less number of vehicles in excess of ten :

Provided that the authority to whom the tax is payable may permit the manufacture or dealer to make quarterly payment of tax at a rate equal to one-fourth of the annual tax specified above.

6. Payment of [differential tax] [Substituted vide Orissa Act No. 2 of 1986.].

(1) When any motor vehicle, in respect of which tax for any period has been paid, is altered during such period or purpose to be used during such period in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or the person having possession or control of the vehicle, shall pay to the Taxing Officer [differential tax] [Substituted vide Orissa Act No. 2 of 1986.] of a sum which is equal to the difference between the tax already paid and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of the alteration or proposed user, as the case may be. (2) The payment of [differential tax] [Substituted vide Orissa Act No. 2 of 1986.] under Sub-section (1) shall be made within such time and in such manner as may be prescribed and the provisions of Sub-section (4) of section 4 shall, mutatis mutandis apply to the payment of such tax. Explanation I - In determining the [differential tax] [Substituted vide Orissa Act No. 2 of 1986.] any broken period in a month shall be considered as a full month. Explanation II - A motor vehicle shall be deemed to have been altered if there is a change in its construction, design or adaptation or if there is a change in the manner of its actual user irrespective of the fact as to whether such alteration has or has not been taken notice by the registering authority under [section 52] [Substituted vide Orissa Act 12 of 1993 w.e.f. 1.6.1993.] of the Motor Vehicles Act.

7. Grant of tax token and receipt on payment of tax.

- When a person pays the amount of tax under section 4, [section 4-A] [Inserted vide Orissa Act No. 21 of 1990-w.e.f. 1.12.1990.], section 5 of section 6 in respect of any motor vehicle, the Taxing Officer shall-(a) grant to such person a receipt in the prescribed form specifying therein the particulars of the tax paid; (b) [save in the case of motor vehicle in respect of which one-time tax has been paid] [Substituted vide Orissa Act 12 of 1993 w.e.f. 1.6.1993.] issue to such person a tax token in prescribed form specifying therein the period for which such tax has been paid; and (c) specifying in the certificate of registration granted in respect of the vehicle under the Motor Vehicles Act that the tax has been for the period mentioned in Clause (b) : Provided that the Taxing Officer shall not issue a tax token if all arrear taxes and penalties due in respect of the vehicle are also not paid along with the tax for the current period.

8. Tax token when tax not payable.

(1) Where no tax is payable for any period in respect of any motor vehicle, the registered owner or the person having possession or control of such vehicle shall, in accordance with rules made in that behalf, deliver to the Taxing Officer a declaration in duplicate in the prescribed form with the prescribed particulars signifying that no such tax is payable, accompanied by a valid certificate of registration and valid certificate of insurance complying with the provisions of the Motor Vehicles Act and the rules made thereunder. (2) The Taxing Officer on being satisfied that no tax is payable, shall issue to the person concerned a tax token in the prescribed form with necessary particulars specifying that no such tax is payable and make an entry in the certificate of registration to the said effect.

9. Display of tax token.

- No motor vehicle shall be used for kept for use within the State unless a valid tax token issue under section 7 or section 8 in respect of the said vehicle has been obtained and such token is displayed on the vehicles in the prescribed manner. [Provided that nothing in this section shall apply to a motor vehicle in respect of which one-time tax has been paid.] [Inserted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.]

10. Prior intimation of temporary discontinuance of use of a vehicle.

(1)Whenever any motor vehicle is intended not to be used for any period, the registered owner or person having possession or control thereof shall on or before the date of expiry of the term for which tax has been paid, deliver to the Taxing Officer, an undertaking duly signed and verified in the prescribed form and manner specifying the period aforesaid and the place where the motor vehicle is to be kept alongwith such other particulars as may be prescribed and the registration certificate, fitness certificate, permit and tax token, then current and shall from time to time by delivering, further undertakings give prior intimation to the concerned Taxing Officer of the extension, if any, of the said period and the changes, if any, of the place where the motor vehicle shall be kept :Provided that no such undertaking shall relate to a period exceeding one year at a time.(2)If at any time during the period covered by an undertaking as aforesaid the motor vehicle is found being used or is kept at a place in contravention of any such undertaking, such vehicle shall, for the purpose of this Act be deemed to have been used throughout the said period without payment of tax.(3)In the absence of any undertaking delivered under Sub-section (1) every motor vehicle liable to tax under this Act shall be deemed to have been used or kept for use within the State.

11. Refund of tax.

(1)When any person has paid tax in respect of a motor vehicle, he shall be entitled to a refund-(a)where an undertaking has been delivered under Sub-section (1) of section 10 in respect of such motor vehicles, which has not, in the opinion of Taxing Officer, been found to be false, by the time the application for a refund is made, and the period specified in the said undertaking, comprises any period for which tax has been paid in respect of such vehicle, for each complete calendar month of the period for which tax has been paid and which remained unexpired on the date of delivery of the said undertaking, of an amount equal to one-twelfth of the annual tax payable on such vehicle;(b)where excess tax has been paid for any period due to over assessment by the Taxing Officer or otherwise, of the amount paid in excess of the tax payable; and(c)where, after payment of tax in respect of a vehicle, it is found that the vehicle is not subject to tax, of the tax so paid :Provided that no such refund shall be made unless the person claiming the refund has made an application in that behalf to the concerned Taxing Officer within one year from the date on which the refund became due and every such refund shall be subject to such conditions as may be prescribed.(2)Any amount due to be refunded under Clause (a) or Clause (b) or Sub-section (1) may, at the option of the applicant, be adjusted towards the tax due for any subsequent period :Provided that if any tax or penalty due from the applicant in respect [of] [Substituted for the word 'or' by Notification No. 16006-Legislative,-29/75-L/22/23.12.1975.] any previous period remains

outstanding, the amount to be refunded shall be first adjusted towards the outstanding dues and the balance, if any, shall be refunded.

12. Liability of successor to pay arrears.

(1) If the tax leviable in respect of any motor vehicle unpaid by any person liable for payment thereof and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the Taxing Officer. (2) Nothing contained in this section shall be deemed to [affect] ['Affect' corrected as 'affect' by Notification No.

16006-Legislative, -29/75-L/22/23.12.1975.] the liability of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle, for payment of the said tax.

13. Penalty for failure to pay.

- [(1) If the tax due in respect of any motor vehicle has not been paid as specified in [Sections 4 and 4-A] [Substituted vide section 6 of Orissa Act No. 2 of 1986-w.e.f. 18.10.1986.], the registered owner or the person having possession or control thereof shall, in addition to payment of tax due, be liable to pay penalty which may extend to 3[twice the tax due] in respect of that vehicle to be levied by such officer by order in writing and in such manner as may be prescribed. (1-A) Notwithstanding anything contained in Sub-section (1), if the tax due in respect of any vehicle plying under a National permit scheme or a Zonal permit scheme is not paid as specified in the said scheme or otherwise, the registered owner or the person having the possession or control thereof shall, in addition to payment of tax due, be liable to pay the penalty specified in the said scheme or otherwise in respect of that vehicle in such manner as may be prescribed.][x x x] [Deleted vide Orissa Act No. 22 of 1990.]. (2) The penalty imposed under Sub-section (1) shall be without prejudice to the liability, if any, that may be incurred under any of the other provisions of this Act or the rules made thereunder but no such penalty shall be imposed without giving the party concerned a reasonable opportunity of being heard.

14. Recovery of tax and penalty.

(1) Any tax due and not paid as provided for by or under this Act and any sum directed to be recovered by way of penalty under section 13 may be recovered as arrears of public demand [or in accordance with the provisions contained in Schedule-II] [Inserted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.]. [1-A. Any tax levied under this Act shall be deemed to be a first charge on the vehicle to which it relates.] [Inserted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.]. (2) The motor vehicle in respect of which the tax is due or in respect of which any sum has been directed to be recovered as penalty under section 13 or its accessories may be distrained and sold in pursuance of this section whether or not such vehicle or accessories is or are in the possession or control of the person liable to pay the tax or penalty. (3) Notwithstanding anything contained in this Act or the rules made thereunder, no person shall be liable to tax or penalty accruing for any period on account of any motor vehicle, the tax or penalty due in respect of which has already been paid by some other

person.

15. Exemption.

(1)The State Government may by notification make an exemption, reduction in the rate or other modification in regard to the tax payable-(i)by any person or class of persons; or(ii)in respect of any motor vehicle or class of motor vehicles.(2)Every notification issued under Sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions.

16. Rebate on payment of annual tax in advance.

(1)A rebate of five per centum on the amount of annual tax payable in respect of a motor vehicle shall be allowed if such annual tax is paid in advance.

17. Powers of Police Officer and other officers.

(1)Any Taxing Officer any police Officer in uniform not below the rank of Sub-Inspector, or any officer of the State Motor Vehicles Department not below the rank of Junior Inspector of Motor Vehicles or any other Officer specially authorised by the Transport Commissioner in this behalf may-(a)enter at any time between sunrise and sunset any premises where he has reason to believe that a motor vehicle is kept; or(b)require the driver of any motor vehicle In any public place to stop such vehicle and cause it to remain [stationary] [Substituted for the word 'stationary' by Notification No. 16006-Legislative 29/75 L./22/23.12.1975.] so long as may reasonably be necessary,for the purpose of satisfying himself that the amount of tax [including the penalty, if any, levied under section 13] [Inserted vide Orissa Act No. 12 of 1993 w.e.f. 1.6.1993.] in respect of such vehicle has been paid and the tax has been obtained.(2)While proceeding under Sub-section (1) the officer may, if the tax [or the penalty, if any, or both tax and penalty] [Inserted vide Orissa Act No. 12 of 1993 w.e.f. 1.6.1993.] has not been paid in accordance with the [provisions] [Substituted for the word 'provision' vide Notification No. 16006-Legislative, 29/25.L./22/23.12.1975.] for this Act, seize the motor vehicle and detain it till the tax [or the penalty, or both, as the case may be,] [Inserted vide Orissa Act No. 12 of 1993 w.e.f. 1.6.1993.] is paid and [on such seizure] [Substituted for the word 'provision' vide Notification No. 16006-Legislative, 29/25.L./22/23.12.1975. for such seizure'.] the officer shall take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle; and the registered owner, the person having possession or control of the vehicle and the driver thereof shall be bound to comply with all orders and directions as the said officer may in respect of the movement of such vehicle, issue for giving effect to such seizure :Provided that no such seizure shall be made and no such vehicle shall be retained in custody except in such manner, under such circumstances and subject to such conditions as the State Government, having regard to the reasonable convenience and facility of transport of the passengers and goods, if any, may prescribe.

18. Appeal.

(1)Any person aggrieved by any order or direction of the Taxing Officer or by seizure made under Sub-section (2) of section 17 may, within prescribed time and in the prescribed manner, prefer an appeal to such authority on payment of such fees, if any, as may be prescribed.(2)Every appeal shall be heard and disposed of in the prescribed manner.(3)Every decision on such appeal shall, subject to the provisions of section 19, be final and shall not be called in question in any Court of law

19. Revisions.

- Any person aggrieved by any order of the appellate authority passed under section 18 may, within sixty days from the date of the order and in the prescribed manner, apply to the prescribed authority praying for a revision of such order on the ground that the decision is not in conformity with law and said revisional authority may pass order in relation to the order under revision as it deems fit :Provided that the revisional authority may on his own motion call for the record of any case in which an order has been passed or a direction has been given by the Taxing Officer, or which relates to seizure of the vehicle under section 17 or in which an order has been passed by the appellate authority and may pass such an order in relation to the case as it deems fit, if it finds that the order in question was without jurisdiction or illegal [or erroneous in so far as it is prejudicial to the interest of revenue] [Added vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] :Provided that the revisional authority shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

20. Offences.

(1)Whoever -(a)uses a motor vehicle or keeps a motor vehicle for use without having paid the tax or [differential tax] [Substituted for the word 'additional tax' vide section 6 of Orissa Act No. 2 of 1986.] in respect of such vehicle; or(b)delivers in respect of a motor vehicle any declaration or undertaking wherein the particulars required by or under this Act to be therein set for the are not fully and truly stated, shall, on conviction, be punishable with fine not exceeding, for the first offence twice and for every subsequent offence, four times the amount of annual tax payable for the vehicle in respect of which the offence is committed.(2)Whoever not being a person liable to pay tax drives a motor vehicle knowing or having reason to believe that the tax or additional tax payable in respect of such vehicle has not been paid shall, on conviction, be punishable for the first offence with fine which may extend to three hundred rupees and for every subsequent offences with fine which may extend to five hundred rupees.

21. Other offences.

- Whoever contravenes any of the provisions of this Act or the rules framed thereunder shall on conviction, if such contravention is not punishable under section 20, be punishable with fine which may extend to two hundred rupees.

22. Protection for bona fide acts.

- No prosecution, suit or other proceedings shall lie against the Taxing Officer or any other authority for anything in good and faith done or intended to be done, under this Act.

23. Power to make rules.

(1)The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing powers, the State Government may make rules for all or any of the following matters, namely :(a)the time within which had the manner in which, tax shall be paid;(b)the form of declaration and the form of undertaking, particulars to be stated therein and the time within which the declaration or undertakings shall be delivered;(c)the form of the tax token and the manner in which the tax token shall be displayed in the motor vehicle;(d)the conditions subject to which refund of tax may be allowed;(e)the authority before which, the manner in which, the time within which and the fees on payment of which an appeal or revision may be filed and the manner in which an appeal or revision may be heard and disposed of;(f)the issue of duplicate tokens and of certified copies of the records of the Taxing Officer and the fee chargeable therefore;(g)the procedure in accordance with which the Taxing Officer may dispose of matters before him;(h)regulating the method of assessment and recovery of the tax;(i)any other matter which is to be or may be prescribed.(3)All rules made under this Act shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and if during the said period the State Legislature makes modifications, if any, therein, the rules shall thereafter have effect only in such modified form, so, however, that such modification shall be without prejudice to the validity of anything previously done under the rules.

24. Repeal and savings.

(1)The Bihar and Orissa Motor Vehicles Taxation Act 2 of 1930 and the Madras Motor Vehicles Taxation Act 2 of 1931 in their application to the state Orissa are hereby repealed.(2)The repeal of the said Acts shall not affect -(a)the previous operation of the said Acts or anything duly done or suffered thereunder; or(b)any right, privilege, obligation or liability acquired, accrued or incurred under any of the said Acts; or(c)any penalty, forfeiture [or] [Substituted for the word 'of' by Notification No. 16006-Legislative, 29/75/1-22/23.12.1975.] punishment incurred in respect of any offence committed against any of the said Acts;(d)any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty [,] [The comma [,] inserted for the word 'of' by Notification No. 16006-Legislative, 29/75/1-22/23.12.1975.] forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Acts had not been repealed.(3)Subject to the provisions contained in Sub-section (2) and notwithstanding the repeal of the enactments specified in Sub-section (1).(i)every declaration or undertaking derived under the said enactments in respect of any motor vehicle shall be deemed to be a declaration or undertaking delivered under this Act; and(ii)every tax token issued under the enactments so repealed and valid immediately before the date of commencement this Act, shall continue to be valid

after the said date for the unexpired portion of the period for which it has been issued.[Schedule I]
[Substituted vide Act No. 2 of 1986 and re-numbered by Orissa Act No. 12 of 1993 w.e.f.
1.7.1990.][See Sub-section (1) of section 3 and Sub-section (1) of section 3-A]

	Description of motor vehicles	Annual rate of tax for vehicles fitted entirely with pneumatic tyres	Annual rate of additional tax for vehicles fitted entirely with pneumatic tyres
	(1)	(2)	(3)
		Rs.	Rs.
1.	Motor Cycles-		
(a)	Bicycles		
(i)	Not exceeding 91 kilograms in weight unladen.	150. [00] [Substituted vide Act No. 3 of 2005 w.e.f. 25.2.2005.]	Nil
(ii)	Exceeding 91 kilograms in weight unladen.	200. [00] [Substituted vide Act No. 3 of 2005 w.e.f. 25.2.2005.]	Nil
(iii)	if used for drawing a side car or a trailer, in addition to the tax payable under Clause (i) or (ii).	15. [00] [Substituted vide C and T (Transport) Notification No. 9241/T/26.6.1990 w.e.f. 1.7.1990.]	Nil
(b)	Tricycles-		
	Vehicles (including cycles with an attachment for propelling the same by mechanical power) not exceeding 254 kilograms in weight unladen adapted and used for invalids.	78. [00] [Substituted vide C and T (Transport) Notification No. 9241/T/26.6.1990 w.e.f. 1.7.1990.]	Nil
2.			
3.	Vehicles (including tricycles weighing more than 406 kilograms unladen constructed or adapted for use and used solely for the transport of goods	45. [00] [Substituted vide C and T (Transport) Notification No. 9241/T/26.6.1990 w.e.f. 1.7.1990.]	Nil

	in the course of trade		
(i) [[Substituted vide C and T (Transport) Notification No. 442/T/10 01.2002]	Not exceeding 1,000 kilo-grams in weight laden	540.00	Nil
(ii)	Exceeding 1,000 Kilograms but not exceeding 2,000 kilograms in weight laden.	2,356-00	Nil
(iii)	Exceeding 2,000 kilograms but not exceeding 5,000 kilograms in weight laden.	2,446-00	444-00
(iv)	Exceeding 5,000 kilograms but not exceeding 10,000 kilograms in weight laden.	3,773-00	1182-00
(v)	Exceeding 10,000 kilograms but not exceeding 13,000 kilograms in weight laden.	5,363-00	1816-00
(vi)	Exceeding 13,000 kilograms but not exceeding 16,200 kilograms in weight laden.	7,800-00	2640-00
(vii)	Exceeding 16,200 kilograms in weight laden.	Rs. 7,800 plus Rs. 255 for every 500 kilograms or part thereof in excess of 16,200 kilograms	Rs. 2640 plus Rs. 120 for every 500 kilograms or part thereof in excess of 16,200 kilograms
(viii)	Extra tax payable in respect of goods vehicles used for drawing trailers-		
(a)	For each trailer not exceeding 1,000 kilograms in weight laden.	196-00	96-00
(b)	For each trailer exceeding 1,000 kilograms but not exceeding 3,000 kilograms in weight laden.	750-00	370-00
(c)	For each trailer exceeding 3,000 kilograms in weight laden :	1,500-00	738-00]

	<p>Provided that two or more goods vehicles shall not be chargeable under this clause in respect of the same trailer.</p> <p>Where in pursuance of any agreement between the Government of Orissa and Government of any other State a goods vehicle is entering the State of Orissa, the additional tax in respect of such vehicle shall be calculated for each entry at the rates specified in Sub-section (3) of section 4.</p> <p>Explanation- A vehicle shall not be deemed to be used otherwise than solely for the transport of goods in the course of trade because it is used to convey employees of the trader in the course of their employment.</p>		
(ix)			
4.	<p>Motor vehicle plying for hire and used for conveyance of [person or passengers] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] including motor cabs-</p>		
(A)	<p>Stage Carriages-</p> <p>For every seating person, excluding the driver and the conductor, the vehicle is</p>		
(i)	<p>permitted to carry and where the total distance permitted to be covered by the vehicle in a day-</p>		
(a) [[Substituted vide C & T (Transport) Department Notification No. 428/T/10.01.2002.]	does not exceed 160 kilometres;	172.00	576.00 (Ordinary) 895.00 (Express).
(b)	exceeds 160 kilometres but does not exceed 240 kilometres;	196.00	710.00 (Ordinary)

			1120-00 (Express)
			955.00 (Ordinary)
(c)	exceeds 240 kilometres but does not exceed 320kilometres;	245-00	1.550-00] (Express)
			1146-00 (Ordinary)
(d)	exceeds 320 kilometres.	294-00	1,746-00 (Express)
(ii)	For every standing[person or passenger] [Substituted vide Orissa Act No. 12 of 1393-w.e.f. 1.6.1993.]:	[152-00] [Substituted vide C a T-(Transport) Department , Notification No. 7647/T/13.5.1993-w.e.f. 1.6.1993.]	
	Provided that in respect of a reserved stagecarriage or spare-bus (by whatever name called) of an operator,the tax payable shall be one hundred and twenty-two rupees forevery[person or passenger] [Substituted vide Orissa Act No. 12 of 1393-w.e.f. 1.6.1993.]which the vehicle is permitted tocarry, if the taxes for corresponding period in respect of allhis regular stage carriage covered by valid permits have beenpaid irrespective of the stoppage or otherwise of the vehicles : [Provided further that the additional tax inrespect of a deluxe stage carriage shall be thirty per centummore than that of an Express State Carriage.] [Substituted vide Orissa Act No. 12 of 1393-w.e.f. 1.6.1993.]		
(B)	Vehicles other than Stage Carriage-	148. [00] [Substituted vide Notification No. 435 Dated 10.1.2002.]	Nil

- (i) for seating not more than [three persons,] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.] for every person which the vehicle is permitted to carry, excluding the driver;
- (ii) for seating more than [three persons] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.] but not more than 25 persons, for every person which the vehicle is permitted to carry, excluding the driver and conductor; 307. [00] [Substituted vide Notification No. 435 Dated 10.1.2002.] 413. [00] [Substituted vide Notification No. 435 Dated 10.1.2002.]
- (iii) for seating more than 25 persons, for every person which the vehicle is permitted to carry, excluding the driver and conductor. 768. [00] [Substituted vide Notification No. 435 Dated 10.1.2002.] 1032. [00] [Substituted vide Notification No. 435 Dated 10.1.2002.]
- Explanation- (i) The number of persons or passengers which a vehicle is permitted to carry shall-
- (a) in the case of a motor vehicle in respect of which a permit is granted under the [Motor Vehicle Act] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] be the number of persons or passengers which the motor vehicle is authorised to carry under the permit; and
- (b) in the case of a motor vehicle plying for hire or reward without a permit granted under the said Act, be the maximum number of persons or passengers which the vehicle may be permitted to carry, if a permit granted under that Act.
- (i) The distance permitted to be covered by a vehicle in a day

shall-

- (a) in the case of a motor vehicle in respect of which a permit is granted under the [Motor Vehicles Act] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] be the distance authorised to be covered according to the permit; and in the case of a motor vehicle plying without permit granted under the said Act, be reckoned as exceeding 320 kilometres [Express] [Inserted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] and the entire period during which the vehicle was without permit shall be taken into account for calculation of the tax and additional tax.
- (b) In the case of a contract carriage plying without permit granted under the Motor Vehicles Act, the entire period during which the vehicle was without permit shall be taken into account for calculation of tax and additional tax.
- (iii) [For an omnibus, not being a private service vehicle or an educational institution bus, kept for use in respect of which no permit is granted on application under the Motor Vehicles Act the tax payable shall be rupees six hundred per seat per annum excluding the driver and conductor.]
- (iv) [Where in pursuance of any agreement between the Government of Orissa and the Government of any other
- (v) [Clauses re-numbered vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.]

State, tax in respect of any stage carriage, plying on a route partly in the State of Orissa and partly in such other State, is payable to the Government of Orissa the tax in respect of such vehicles shall be calculated on the total distance covered by the stage carriage on such route in the State of Orissa.

(vi) [Clauses re-numbered vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.]

Where in pursuance of any agreement between the Government of Orissa and Government of any other State a stage carriage is plying on a route partly in the State of Orissa and partly in such other State, notwithstanding anything contained in such agreement, such stage carriage is liable to pay additional tax and the additional tax payable in respect of such vehicle shall be calculated on the total distance covered by the stage carriage on such route in this State in the prescribed manner :

Provided that the additional tax so calculated shall, in no case exceed the maximum amount provided for such stage carriage under sub-item (A).

5. Motor vehicles not themselves constructed to carry any load other than water, fuel accumulators and other equipments used for the purpose of the propulsion, loose tools and loose equipment used for haulage solely and weighing together with the largest number of trailer proposed to be drawn-

(a)	not more than 4,572 kilograms laden,	[375-00] [Substituted vide C & T (Transport) Department Notification No. 15581/T./5.10.1988.]
(b)	more than 4,572 kilograms but not more than 7,620 kilograms laden,	[2700-00] [Substituted vide C & T (Transport) Department Notification No. 15581/T./5.10.1988.]
(c)	more than 7,620 kilograms but not more than 9,500 kilograms laden,	[3675-00] [Substituted vide C & T (Transport) Department Notification No. 15581/T./5.10.1988.]
(d)	more than 9,500 kilograms laden.	Rs.[3675.00] [Substituted vide C & T (Transport) Department Notification No. 15581/T./5.10.1988.] plus Rs. 120-00 for every 500 kilograms or part thereof in addition to 9,500 kilograms.
[5-A. [Inserted vide Orissa No. 12 of 1993-w.e.f. 1.6.1993.]	Private service vehicles-For every sitting person excluding the driver, the vehicle is permitted to carry.	270. [00] [Substituted vide Notification No. 7305/T. dated 16.5.2001.]
5-B.	Educational institution buses-For every sitting person excluding the driver, the vehicle is permitted to carry.]	90. [00] [Substituted vide Notification No. 7305/T. dated 16.5.2001.]
6.	Motor vehicle other than those liable to tax under the foregoing provisions of this Schedule-	
(i)	weighing not more than 762 kilograms unladen;	1100. [00] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.]
(ii)	weighing more than 762 kilograms but not more than 1,542 kilograms unladen;	1600. [00] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.]
(iii)	weighing more than 1,524 kilograms but not more than 2,286 kilograms unladen;	2100. [00] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.]
(iv)	

	weighing more than 2,286 kilograms but not more than 3,048 kilograms unladen;	2500. [00] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.]	
(v)	weighing more than 3,048 kilograms unladen;	3000. [00] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.]
(vi)	extra tax payable in respect of such vehicle used for drawing trailers-		
(a)	having such trailer not exceeding 1,016 kilograms in weight unladen,	300. [00] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.]
(b)	for each trailer exceeding 1,016 kilograms in weight unladen :	600. [00] [Substituted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.]

Provided that two or more vehicle shall not be chargeable under this clause in respect of the same trailer.

7. The rate of tax in respect of motor vehicle of the description in items 1 to 6 above which are fitted with non-pneumatic tyres shall be 40 per cent more than the rate specified for similar class of vehicles fitted with pneumatic tyres, rounded off to the nearest rupees.

8. The rare additional tax in respect of stage carriage and [good carriages] [Substituted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.] mentioned in items 3 and 4 above which are fitted with non-pneumatic tyres shall be 40 per cent more than the rate specified for similar class of vehicles fitted with pneumatic tyres, rounded off to the nearest rupee.

[Schedule II] [Inserted vide Orissa Act No. 12 of 1993-w.e.f. 1.6.1993.][See Sub-section (1) of section 14] Procedure for recovery of tax or penalty Part-I 1. Definition - In this Schedule, unless the context otherwise requires (a) certificate means a certificate signed by the Tax Recovery Officer under Rule 2; (b) defaulter means the person mentioned as defaulter in the certificate and includes any person whose name is substituted or added by the Tax Recovery Officer; (c) execution in relation to a certificate, means recovery of arrears in pursuance of the certificate; (d) Form means a Form given in the Annexure to this Schedule; (e) movable property includes growing crops; (f) rule means a rule contained in this Schedule; (g) share in a corporation includes stock, debentures or bonds; and (h) Tax Recovery Officer means a Regional Transport Officer appointed by the State Government and any other officer who may be authorised by the State Government, by notification, to exercise the powers of the Tax Recovery Officer under this Schedule within the jurisdiction as may be specified.

2. Filing of certificate and amendment thereof - (1) When the Tax Recovery Officer is satisfied that a registered owner or person having possession or control of a vehicle is in default in making payment of any tax or additional tax due or any penalty directed to be recovered under the Orissa Motor Vehicles Taxation Act, 1975, he may sign a certificate in Form 1 stating that the amount is due and shall proceed to recover the amount in accordance with the provisions of this Schedule.

(2) Subject to the law of limitation, the Tax Recovery Officer may at any time amend the certificate by addition, omission or substitution of the name of any defaulter or by alteration of the amount mentioned in the certificate, as the case may be, on being satisfied that the amendment is so necessary : Provided that when any such amendment is made, a fresh notice as provided in Rule 3 shall be issued to the defaulter.

3. Issue or service of notice and effect thereof - (1) When a certificate has been signed by the Tax Recovery Officer under Rule 2, he shall issue a notice to the defaulter in Form 2 alongwith a copy of the certificate directing him to pay the amount within a period not exceeding thirty days from the date of service of the notice.

(2) After the service of notice of any certificate under Sub-rule (1) upon a defaulter-(a) any private transfer or delivery of any of his immovable property or any interest in such property shall be void against any claim enforceable in execution of the certificate; and (b) the amount due from time to time in respect of the certificate shall be a charge upon such property, to which every other charge created subsequent to the service of the said notice shall be postponed : Provided that the Tax Recovery Officer may, at any time for reasons to be recorded in writing, direct an attachment of the whole or any part of the immovable property belonging to the defaulter. (3) The defaulter may, within the period of time specified in the notice issued under Sub-rule (1), present to the Tax Recovery Officer a petition denying his liability only on the ground that-(a) the demanded amounts have been fully or partly paid ; or (b) the person on whom such notice has been served is not the defaulter; or (c) the amount by law is not recoverable from him.

4. Hearing and determining the petition denying liability - The Tax Recovery Officer may after hearing the petition and taking evidence, as may be necessary, confirm the amount mentioned in the certificate or set aside, modify or vary the same as he deems fit.

5. Execution of certificate - A certificate signed under Rule 2 may be executed by-

(a)the Tax Recovery Officer who signed the certificate; or(b)the Tax Recovery Officer to whom a copy of the certificate is sent for execution under Rule 6.

6. Transmission of certificate to any other Tax Recovery Officer for execution - (1) A Tax Recovery Officer who signed the certificate may send the copy thereof for execution to any other Tax Recovery Officer in whose jurisdiction the defaulter resides, carries on his business or the property of the defaulter are situated or kept.

(2)If the copy of the certificate is transmitted by the Tax Recovery Officer who signed the certificate, to another Tax Recovery Officer before the notice under Rule 3 is issued or served, the latter shall issue the notice or cause it to be served, as the case may be, heard the petition filed denying liability, if any, and shall proceed to recover the amount under this Schedule. In that case, he shall intimate the position from time to time to the Tax Recovery Officer who signed the original certificate.

7. When the certificate may be executed - No step in execution of a certificate shall be taken until the period specified in the notice issued under Rule 3 has elapsed since the date of the service of the notice or when a petition has been filed denying liability until such petition has been heard and determined :

Provided that when the whole or any part of the movable property of the defaulter is liable to attachment under this Schedule, the Tax Recovery Officer may, at any time for reasons to be recorded in writing, direct an attachment of the whole, or any part of such movable property.

8. Mode of recovery - If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes :

(a)by attachment and sale of the defaulter's movable property;(b)by attachment and sale of the defaulter's immovable property;(c)by arrest of the defaulter and his detention in prison.

9. Interest, cost and charges recoverable - There shall be recoverable in the proceedings in execution of every certificate-

(a)interest at the rates as may be notified by the State Government from the day commencing after and end of the period specified in the notice issued under Rule 3;(b)all charges incurred in respect of-(i)the service of notice upon the defaulter to pay the arrears, and of warrants and other processes; and(ii)all other proceedings taken for realising the arrears.

10. Purchaser's title - (1) Where property is sold in execution of a certificate, there shall vest in the purchaser the right, title and interest of the defaulter at the time of the sale, free from all encumbrances.

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from time to time when the property is sold, and not from the time when the sale becomes absolute.

11. Disposal of proceeds of executions - Whenever assets are realised by sale or otherwise in execution of a certificate, they shall be disposed of in the following manner :

(a) There shall first be paid to the Tax Recovery Officer the costs incurred by him in the proceeding; (b) There shall, in the next place, be paid to the Tax Recovery Officer the amount due under the certificate in execution of which the assets were realised; and (c) The balance, if any, remaining after the payment of the amount, if any, referred to in Clause (d) shall be paid to the defaulter.

12. Property exempt from attachment - (1) All such property as is by the Code of Civil Procedure, 1908 (5 of 1908) exempted from attachment and sale in execution of a decree of a Civil Court shall be exempt from attachment and sale under this Schedule.

(2) The Tax Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive.

13. Investigation by Tax Recovery Officer - (1) Where any claim is preferred to, or any objection is made to the attachment or sale of any property in execution of a certificate on the ground that such property is not liable to such attachment or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection :

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designed or to cause unnecessary delay. (2) Where the property to which the claim or objection applies has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms as to security or otherwise as the Tax Recovery Officer shall deem fit. (3) The claimant or objector shall adduce evidence to show that - (a) in the case of immovable property, at the date of the service of notice issued under this Schedule to pay the arrears; or (b) in case of movable property, at the date of the attachment, he had some interest in, or was possessed, of, the property in question. (4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or

objection, such property was not, at the said date, in the possession of the defaulter or of some person or trust for him or in the occupancy of a tenant or other person paying rent to him or that being in the possession of the defaulter at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or in his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit from attachment or sale.(5)Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim.(6)Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a Civil Court to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order of the Tax Recovery Officer shall be conclusive.

14. Removal of attachment on satisfaction or cancellation of certificate - Where-

(a)the amount due with costs and all charges and expenses resulting from the attachment of any property or incurred in order to hold a sale, are paid to the Tax Recovery Officer; or(b)the certificate is cancelled, the attachment shall be deemed to be withdrawn and in the case of immovable property the withdrawal shall, if the defaulter so desires, be proclaimed at his expenses and a copy of the proclamation shall be affixed in the manner provided by this Schedule for a proclamation of sale of immovable property.

15. Officer entitled to attach and sell - The attachment and sale of property shall be made by the Tax Recovery Officer.

16. Defaulting purchaser answerable for loss on resale - Any deficiency of price which may happen on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified by the Tax Recovery Officer and shall be recoverable from the defaulting purchaser under the procedure provided by this Schedule :

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale.

17. Adjournment or stoppage of sale - (1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour.

(2)Where a sale of immovable property is adjourned under Sub-rule (1) for a longer period than one calendar month, a fresh proclamation of sale under this Schedule shall be made unless the defaulter consents to waive it.(3)Every sale shall be stopped if before the lot is knocked down, the arrears and

costs (including the costs of the sale) are tendered to the Tax Recovery Officer.

18. Prohibition against bidding or purchase by officer - No officer or other person having any duty to perform in connection with any sale under this Schedule shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

19. Prohibition against sale on holidays - No sale under the Schedule shall take place on a Sunday or other general holiday recognised by the State Government or any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place.

20. Assistance by police - The Tax Recovery Officer may apply to the Officer-in-charge of the nearest police-station for such assistance as may be necessary in the discharge, of his duties, and the authority to whom such application is made shall depute a sufficient number of Police Officers for furnishing such assistance.

Part-II Attachment and sale of movable property

21. Warrant - When any movable property is to be attached, the Tax Recovery Officer shall prepare a warrant under his signature in Form 3 specifying the name of the defaulter and the amount to be realised and cause a copy of the warrant to be served on the defaulter.

22. Attachment - If, after service of the copy of the warrant, the amount is not paid forthwith, the Tax Recovery Officer shall proceed to attach the movable property of the defaulter.

23. Property in defaulter's possession - Where the property proceeded against his movable property (other than agricultural produce) in the possession of the defaulter it shall be attached by actual seizure and the officer shall keep the property in his custody or in the custody of one of his subordinate or in the custody of a Zamindar, who shall be responsible for the custody thereof :

Provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value the officer may sell it at once.

24. Agricultural produce - Where the property proceeded against is agricultural produce, it shall be attached by affixing a copy of the warrant-

(a)where such produce is growing crop, on the land on which such crop has grown, or(b)where such produce has been cut or gathered, on the threshing floor or place for treading out grain or the like, or fodderstock, on or in which it is deposited.and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, thereupon, be deemed to have passed into the possession of the Tax Recovery Officer.

25. Provisions as to agricultural produce under attachment - (1) Where agricultural produce attached, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof as he may deem sufficient; and the assessing authority shall bear an amount as the Tax Recovery Officer shall require in order to defray the cost of such arrangement.

(2)Subject to such condition as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it; and if the defaulter fails to do all or any of such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.(3)Agricultural produce attached as growing crop shall not be deemed to have ceased to be under attachment or to require reattachment merely because it has been severed from the soil.(4)Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending execution of the order of attachment.(5)A growing crop which from its nature does not admit of being stored, shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

26. Debts and share, etc, - (1) In the case of-

(a)a debt not secured by a negotiable instrument;(b)a share in a corporation; or(c)other movable property not in the possession of the defaulter except property deposited in, or in the custody of any Court, the attachment shall be made by a written order in Form 4 prohibiting-(i)in the case of a debt, the creditor from recovering the debt and debtor from making payment thereof until further order of the Tax Recovery Officer;(ii)in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;(iii)in the case of any

other movable property (except as aforesaid), the person in possession of the same from giving it over to the defaulter.(2)A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent in the case of debt, to the debtor, in the case of share, to the proper officer of the corporation and in the case of other movable property (except as aforesaid) to the person in possession of the same.(3)A debtor prohibited under Clause (i) of Sub-rule (1) may pay the amount of his debt to the Tax Recovery Officer and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

27. Share in movable property - Where the property proceeded against consist of the share or interest of the defaulter in movable property belonging to him and another as co-owners, the attachment shall be made by a notice in Form 5 to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

28. Attachment of negotiable instrument - Where the property is a negotiable instrument not deposited in a Court nor in the custody of a public officer, the attachment shall be made by actual seizure.

29. Attachment of property in custody of Courts or public officer - Where the property proceeded against is in the custody of any Court or public officer, the attachment shall be made by a notice in Form 6 to such Court or officer requesting that such property and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued :

Provided that where such property is in the custody of a Court, any question of title or propriety relating to any person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such Court.

30. Attachment of partnership property - (1) Where the property proceeded against consists of an interest of the defaulter being a partner, in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared on accruing and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2)The other person shall be at liberty at any time to redeem the interest charged or in the case of a sale being directed, to purchase the same.

31. Attachment not to be excessive - The attachment by seizure shall not be excessive, that is to say, the property seized shall be as nearly as possible proportionate to the amount specified in the warrant.

32. Inventory - In the case of attachment of movable property by actual seizure, the officer shall, after seizure of the property, prepare an inventory or all the property attached, specifying in it the place where it is lodged or kept, and a copy of the inventory shall be delivered to the defaulter.

33. Seizure between sunrise and sunset - Attachment by seizure shall be made after sunrise and before sunset and not otherwise.

34. Power to break open door, etc. - The officer may break open any inner or outer-door of any building and after any building in order to seize any movable property if he has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and he has notified his authority and intention of breaking open if admission is not given. He shall, however, give all reasonable opportunity to women to withdraw.

35. Sale - The Tax Recovery Officer may direct that any movable property attached under this Schedule or such portion thereof as may seem necessary to satisfy the certificate shall be sold.

36. Issue of proclamation - When any sale of movable property is ordered by the Tax Recovery Officer he shall issue a proclamation in Form 7 in the language of the district, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

37. Proclamation how made - (1) Such proclamation shall be made by beat of drum or other customary mode-

(a)in the case of property attached by actual seizure-(i)in the village in which the property was seized or if the property was seized in a town or city then in the locality in which it was seized; and(ii)at such other places as the Tax Recovery Officer may direct; and(b)in the case of property attached otherwise than by actual seizure, in such places, if any, as the Tax Recovery Officer may

direct.(2)A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

38. Sale after fifteen days - Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale proclamation was affixed in the office of the Tax Recovery Officer.

39. Sale of agriculture produce - (1) Where the property to be sold is agricultural produce the sale shall be held-

(a)if such produce is a growing crop, on or near the land on which such crop has grown, or(b)if such produce has been cut or gathered, at or near the threshing floor or place for treading out grain or the like, or fodder-stock, on or in which it is deposited.Provided that the Tax Recovery Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.(2)Where, on the produce being put-up for sale-(a)fair price, in the estimation of the Tax Recovery Officer is not offered for it, and(b)the owner of the produce, a person authorised to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, till the next market day, the sale shall be postponed accordingly and shall be then completed, whatsoever price may be offered for the produce.

40. Special provisions relating to growing crops - (1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day and the sale shall not be held until the crop has been cut or gathered and is ready for storing,

(2)Where the crop from its nature does not admit of being stored can be sold to a greater advantage in an unripe stage, as in the case of green wheat, it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

41. Sale to be by auction - The property shall be sold by public auction in one or more lots as the officer may consider advisable and if the amount to be realised by him is satisfied by the sale of a portion of the property the sale shall be immediately stopped with respect to the remainder of the lots.

42. Sale by public auction - (1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs and in default of payment, the property shall forthwith be resold.

(2) On payment of the purchase money, the officer holding the sale shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser, and the sale shall become absolute. (3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the binding shall be deemed to be the bidding of the co-owner.

43. Irregularity not to vitiate sale, but any person injured may sue - No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person, may institute a suit in a Civil Court against him for compensation or (if such other person is the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

44. Negotiable instruments and shares in a corporation - Notwithstanding anything contained in this Schedule where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of selling it by public auction sell such instrument or share through a broker.

45. Order for payment of coin or currency notes to the Tax Recovery Officer - Where the property attached is current coin or currency notes, the Tax Recovery Officer may, at any time during the continuance of the attachment direct that such coin or notes, or a part thereof sufficient to satisfy the certificate be paid over to the authority, who may be specified by the Tax Recovery Officer in writing.

Part-III Attachment and sale of immovable property

46. Attachment - Attachment of immovable property of the defaulter shall be made by an order in Form 8 prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under the such transfer or charge.

47. Service of notice of attachment - A copy of the order of attachment shall be served on the defaulter.

48. Proclamation of attachment - The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum of other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer.

49. Attachment to relate back from the date of service of notice - Where any immovable property is attached under this Schedule, the attachment shall relate back to, and take effect from the date on which the notice to pay the arrears issued under this Schedule was served on the defaulter.

50. Sale and proclamation of sale - (1) The Tax Recovery Officer may direct that any immovable property which has been attached or such portion thereof, as may seem necessary to satisfy the certificate, shall be sold.

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation in Form 7 of the intended sale to be made in the language of the district.

51. Contents of proclamation - A proclamation of sale of immovable property shall be drawn up after notice to defaulter and shall State the time and place of sale and shall specify, as fairly and accurately as possible-

(a) the property to be sold; (b) the revenue, if any, assessed upon the property or any part thereof; (c) the amount for the recovery of which the sale is ordered; and (d) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of the property.

52. Mode of making proclamations - (1) Every proclamation for the sale of immovable property, shall be made at some place on or near such property by-beat of drum or other customary mode and a copy of the proclamation shall be affixed on a conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer.

(2) Where the Tax Recovery Officer so directs such proclamation shall also be published in the official Gazette or in a local news paper, or in both, and the cost of such publication shall be deemed to be cost of the sale. (3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper

notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given.

53. Time of sale - No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date which a copy of the proclamation of the sale has been affixed of the property or in the office of the Tax Recovery Officer, whichever is later.

54. Sale to be by auction - The sale shall be by public auction to the highest bidder and shall be subjected to confirmation by the Tax Recovery Officer.

55. Deposit by purchaser and resale in default - (1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty-five per cent of the amount of his purchase money, to the Tax Recovery Officer and in default of such deposit, the property shall forthwith be resold.

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer, or before the fifteenth day from the date of the sale of the property.

56. Procedure in default of payment - In default of payment within the period mentioned in the preceding rule, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sales, be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of sum for which it may subsequently be sold.

57. Authority to bid - All persons bidding at the sale shall be required to declare if they are bidding on their behalf or on behalf of their principals. In the latter case, they shall be required to deposit their authority, and in default, their bids shall be rejected.

58. Application to set aside sale of immovable property on deposit - (1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale may, at any time within thirty days from the date of sale apply to the Tax Recovery Officer to set aside the sale, on his depositing-

(a)for the payment towards the arrear, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, with interest thereon at the rate of twelve per cent per annum calculated from the date of proclamation of sale to the date when the deposit is made; and(b)for the payment to the purchaser as penalty, a sum equal to five per cent of the purchase money, but not less than one rupees.(2)Where a person makes an application under Rule 60 for setting aside the sale of his immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this rule.

59. Application to set aside sale of immovable property on ground of non-service of notice or irregularity - Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required by this Schedule on the ground or a material irregularity in publishing or conducting the sale;

Provided that-(a)no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity; and(b)an application made by a defaulter under this rule shall be disallowed unless the applicant deposits the amount recoverable from him in execution of the certificates.

60. Setting aside sale where defaulter has no saleable interest - At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

61. Confirmation of sale - (1) Where no application is made for setting aside the sale under the foregoing rules or where such an application is made and disallowed by the Tax Recovery Officer, he shall, if the full amount of the purchase money has been paid, make an order confirming the sale; and thereupon, the sale shall become absolute.

(2)Where such application is made and allowed and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale ;Provided that no order shall be made unless notice of the application has been given to the persons affected thereby.

62. Return of purchase money in certain cases - Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow, shall be paid to the purchaser.

63. Sale certificate - (1) Where a sale of immovable property has become absolute the Tax Recovery Officer shall grant a certificate in Form 9 specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser.

(2) Such certificate shall state the date on which the sale become absolute.

64. Postponement of sale to enable defaulter to raise amount due under certificate - (1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount or the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or any other immovable property of the defaulter the Tax Recovery Officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount.

(2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter authorising him within a period to be mentioned therein and, notwithstanding anything contained in this Schedule, to make the proposed mortgage, lease or sale :Provided that all money payable under such mortgage, lease or sale shall be paid, not to the defaulter but to the Tax Recovery Officer :Provided further that no mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer.

65. Fresh proclamation before resale - Every resale of immovable property in default or payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore provided for the sale.

66. Bid of co-sharer to have preference - When the property sold is a share of undivided immovable property, and two or more persons of whom one is co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

Part-IV Arrest and detention of the defaulter

67. Notice to show-cause - (1) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before him on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Tax Recovery Officer, for reasons recorded in writing is satisfied.

(a)that defaulter, with the object of obstructing the execution of the certificate, has after the receipt of the certificate in the office of the Tax Recovery Officer, dishonestly transferred concealed or removed any part of his property; or(b)that the defaulter has, or has had, since the receipt of the certificate in the office of the Tax Recovery Officer, the means to pay the arrears of some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.(2)Notwithstanding anything contained in Sub-rule (1), a warrant for the arrest of the defaulter may be issued by the Tax Recovery Officer if the Tax Recovery Officer is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Tax Recovery Officer.(3)Where appearance is not made in obedience to a notice issued and served under Sub-rule (1), the Tax Recovery Officer may issue a warrant for the arrest of the defaulter.(4)Every person arrested in pursuance of a warrant of arrest under Sub-rule (2) or Sub-rule (3) shall be brought before the Tax Recovery Officer as soon as practicable and in any event within twenty four hours of his arrest (exclusive of the time required for the journey) :Provided that, if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him.

68. Hearing - When a defaulter appears before the Tax Recovery Officer in obedience to a notice to show-cause or is brought before the Tax Recovery Officer under Rule 71, the Tax Recovery Officer shall proceed to hear the issue and take all such evidence as may be necessary in support of execution by arrest, and shall then give the defaulter an opportunity of showing cause why he should not be committed to the civil prison.

69. Custody pending hearing - Pending the conclusion of the enquiry the Tax Recovery Officer may, in his discretion, order the defaulter to be detained in the custody of such officer as the Tax Recovery Officer may think fit or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance when required.

70. Order of detention - (1) Upon the conclusion of the enquiry the Tax Recovery Officer may make an order for the detention of the defaulter in the civil prison and shall in that event cause him to be arrested if he is not already under arrest :

Provided that in order of give the defaulter an opportunity of satisfying the arrears, the Tax Recovery Officer may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or any other officer for a specified period not exceeding fifteen days, or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance at the expiration of the specified period if the arrears are not so satisfied.(2)When the Recovery Officer does not make an order of detention under Sub-rule (1) he shall, if the defaulter is under arrest, direct his release.

71. Detention in and release from prison - (1) Every person detained in the civil prison in execution of a certificate may be so detained-

(a)where the certificate is for a demand of an amount exceeding two hundred and fifty rupees for a period of six months; and(b)in any other case, for a period of six weeks :Provided that he shall be released from such detention-(i)on the amount mentioned in the warrant for his detention being paid to the Officer-in-charge of the civil prison; or(ii)on the order of the Tax Recovery Officer on any ground other than the grounds mentioned in Rules 72 and 73.(2)A defaulter released from detention under this rule shall not, merely by reason of his release, be discharged from his liability for the arrears but he shall not be liable to be re-arrested under the certificate in execution of which he was detained in the civil prison.

72. Release - (1) The Tax Recovery Officer may order the release of a defaulter who has been arrested in execution of a certificate upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Recovery Officer and that he has not committed any act of bad faith.

(2)If the Tax Recovery Officer has ground for believing the disclosure made by a defaulter under Sub-rule (1) to have been untrue, he may order the rearrest of the defaulter in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by Rule 71.

73. Release on ground of illness - (1) At any time after a warrant for the arrest of a defaulter has been issued, the Tax Recovery Officer may cancel it on the ground of his serious illness.

(2)Where a defaulter has been arrested, the Tax Recovery Officer may release him if, in the opinion

of the Tax Recovery Officer, he is not in a fit state of health to be detained in the Civil Prison.(3)Where a defaulter has been committed to the civil prison, he may be released therefrom by the Tax Recovery Officer on the ground of existence of any infectious or contagious disease, or on the ground of his suffering from any serious illness.(4)A defaulter released under this rule may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed that authorised by Rule 71.

74. Entry into dwelling house - For the purpose of making an arrest under this Schedule-

(a)no dwelling house shall be entered after sunset and before sunrise;(b)no outer door of a dwelling house shall be broken open unless such dwelling house or a portion thereof is in the occupancy of the defaulter and he or any other occupant of the house refuses or in any way prevents access thereto; but when the person executing any warrant has duly gained access to any dwelling house, he may break open the door of any room or apartment if he has reason to believe that the defaulter is likely to be found there; and(c)no room, which is in the actual occupancy of a woman who according to the customs of the country, does not appear in public, shall be entered into unless the officer authorised to make the arrest has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing-.

75. Prohibition against arrest of women or minors, etc. - The Tax Recovery Officer shall not order the arrest and detention in the civil prison of-

(a)a woman, or(b)any person who, in his opinion, is a minor or of unsound mind.

76. Subsistence allowance - (1) When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released shall be borne by the State Government.

(2)Such sum shall be calculated on the scale fixed by the State Government for the subsistence of judgement-debtors arrested in execution of a decree of a Civil Court.(3)Sums payable under this rule shall be deemed to be costs in the proceeding :Provided that the defaulter shall not be detained in the civil prison or arrested on account of any sum so payable.Part-V Miscellaneous

77. Power to take evidence - Every Tax Recovery Officer or other officer acting under this Schedule shall have the powers of a Civil Court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the productions of documents.

78. Appeal - (1) An appeal from any order passed by the Tax Recovery Officer under this Schedule shall lie to the Transport Commissioner and, after admitting an appeal the Transport Commissioner may dispose of it himself or, if he so decides, may make over to an officer subordinate to him not below the rank of Joint Commissioner, Transport.

(2) Every appeal under this rule must be presented within thirty days from the date of the order appealed against. (3) Pending the decision of any appeal execution of the certificate may be stayed if the appellate authority so directs, but not otherwise.

79. Review - Any order passed under this Schedule may, after notice to all persons interested, be reviewed by the officer who made order, or by his successor-in-office on account of any mistake apparent on the record.

80. Recovery from surety - Where any person has, under this Schedule, become surety for the amount due by the defaulter, he may be proceeded against under this Schedule as if he was the defaulter.

81. Application of Code of Civil Procedure, 1908 - In the matters of procedure not provided for in this Schedule the relevant provisions of the Code of Civil Procedure, 1908 shall mutatis mutandis apply.

82. Repeal and savings - (1) The Orissa Motor Vehicles Taxation (Amendment) Ordinance 6 of 1993 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act. [Schedule-III] [Inserted vide Orissa Act No. 3 of 2005-w.e.f. 25.2.2005.] [See Section 4-A]

Sl. No.	Period of Vehicle	Motor Cycle with or without attachment	Motor Cabs, Motor Cars, Jeeps, Omnibuses used personally or kept for personal use not exceeding 2286 kgs. in ULW			
			Not exceeding 91 kgs. ULW	Exceeding 91 kgs. ULW	Not exceeding 762 kgs. ULW	Exceeding 762 kgs. not exceeding
						Exceeding 1524 kgs. not exceeding

				1524 kgs. ULW	2286 kgs. ULW
	(1)	(2)	(3)	(4)	(5)
	Rs. 1500 of 5% of the cost o of the cost o Vehicle which is higher	Rs. 2000 or 5% of the cost of the Vehicle which is higher	5% of the cost of the Vehicle of ten times of annual tax whichever is higher	5% of the cost of the Vehicle of ten times of annual tax whichever is higher	5% of the cost of the Vehicle of ten times of annual tax whichever is higher
	At the time of Registration of new Vehicles				
	If the Vehicle is already registered and its age is,-				
1	Not more than one year	1500	2000	9800	14100
2	More than 1 year but not more than 2 years	1400	1870	9100	13100
3	More than 2 years but not more than 3 years	1300	1740	8400	12100
4	More than 3 years but not more than 4 years	1200	1610	7700	11100
5	More than 4 years but not more than 5 years	1100	1480	7000	10100
6	More than 5 years but not more than 6 years	1000	1350	6300	9100
7	More than 6 years but not more than 7 years	900	1220	5600	8100
8	More than 7 years but not more than 8	800	1090	4900	7000

	years					
9	More than 8 years but not more than 9 years	700	960	4200	6000	8500
10	More than 9 years but not more than 10 years	600	830	3500	5000	7100
11	More than 10 years but not more than 11 years	500	700	2800	4000	5700
12	More than 11 years but not more than 12 years	400	570	2100	3000	4200
13	More than 12 years but not more than 13 years	300	440	1400	2000	2800
14	More than 13 years	Equal to annual tax	Equal to annual tax	Equal to annual tax	Equal to annual tax	Equal to annual tax

Explanation - Cost of Vehicle shall include all taxes, duties, etc. charged by the dealer as per the invoice. Annexure Form 1 Certificate for recovery of arrear

1. Tax Recovery Officer.....of.....

(Place and address)

2. Region.....

3. District.....

No. of certificate	Details and address of authority to whom the arrear is payable	Name, father's name and address of the defaulter	Name and address of surety (ies) if any	Amount of arrear M.V. Tax/Addl. Tax/Penalty for which the certificate is signed and the period to which such dues relate	Particulars of the Motor Vehicle and other particulars of the arrear for which the certificate is signed
1	2	3	4	5	6

I hereby certify that above mentioned sum of Rs.....(in words.....) is due from the above-named defaulter and that the recovery of the said amount by suit is not barred by law. Dated this.....day of.....20....Signature of Tax Recovery Officer

Note - An explanatory note to give further details of the arrear and leviability thereof shall be attached, if necessary.

Form 2[See sub-rule (1) of Rule 3]

Notice to the defaulterTo(Name and address of the defaulter)You are hereby informed that a certificate against you for Rs.....due from you on account of.....has been signed by me under Rule 2 of the Schedule II appended to the Orissa Motor Vehicles Taxation Act, 1975, if you deny your liability to pay the said sum of Rs..... you may, within days from the service of this notice, file before me a petition denying the liability, in whole or in part, on one or more of the grounds specified below : (a)The demanded amounts have been fully or partly paid ;(b)The person on whom such notice has been served is not the defaulter ;(c)The amount, by law, is not recoverable from you. If within.....days from the date of service of this notice, you fail to file such a petition or if you fail to show-cause or do not show sufficient cause, why such certificate should not be executed, if it will be executed unless you pay Rs.....(Rs on account of the amount so demanded and Rs..... on account of costs of realisation) into my office within the above period. Until the said amount is so paid you are hereby prohibited from making any private transfer or delivery of any of your immovable property owned/possessed by you or of any interest in any such property. If you, in the mean time conceal, remove or dispose of any part of your movable property or if you appear to avoid the payment of the amount the certificate will be executed immediately. A copy of the certificate above-mentioned is hereto annexed. Dated this day of 20....Tax Recovery Officer

Form 3[See Rule 21]

Warrant of attachment of movable propertyIn the Office of the Tax Recovery Officer of.....at.....Certificate No.....of 20...Name and address of the defaulter.....To.....Whereas Certificate No dated has been filed in this office against the aforesaid defaulter and the sum of Rs.....(in words.....) as noted below is due from him in respect of the said certificate ;And whereas the said sum of Rs. has not been paid ;Principal (M.V. Tax/Addl. Tax/Penalty)Certificate interest.....Cost and other charges.....TotalThere are to command you to attach the movable property of the said defaulter as set forth in the Schedule annexed hereto or which shall be found by you and unless the said defaulter shall pay to you the said sum of Rs.....together with the cost of this attachment, to hold the same until further orders from the undersigned. You are further commanded to return this warrant on or before the days of 20 with an endorsement certifying that the day on which and the manner in which it has been executed or why it has not been executed. Given under my hand and seal, this day the of 20.....Tax Recovery Officer

Form 4[See Sub-rule (1) of Rule 26]

Attachment of a debt not secured by negotiable instrument/share in a corporation/movable property in the possession of the defaulter except property in the custody of a CourtTo.....Sir, Whereas Shri.....has failed to pay Rs being the tax/additional tax/penalty, it is ordered that said Shri.....be and is hereby prohibited and restrained until further order by me. *(i) from receiving from you the debt alleged now to be due from you to the said Shriand that you are hereby prohibited and restrained until further order by me from making payment of the said debt or any part thereof to any person whomsoever or otherwise that to me. *(ii) from making any transfer of shares in.....corporation or from receiving payment of any dividend thereon and you the Secretary of the said corporation are hereby prohibited and restrained from permitted any such transfer or making any such payment. *(iii) from receiving from you the following property in you possession to which defaulter Shri.....is entitled and you are hereby

prohibited and restrained until further order by me from delivering the said property to any person or persons whomsoever. Description of property Given under my hand and seal on this day of 20.....Tax Recovery Officer*Strike off whichever is not applicable. Form 5[See Rule 27] Attachment of the share or interest in movable property To Shri.....Whereas you have failed to pay Rs being the tax/additional tax/penalty, you are hereby prohibited and restrained until further order by me, from transferring the share or interest you have in the property specified below of from charging it in any way. Description of the property.....Dated this day of , 20Tax Recovery Officer Form 6[See Rule 29] Prohibitory Order To ShriWhereas the undersigned.....has issued a certificate under Rule 2 of Schedule II to the O.M.V.T. Act, 1975, for recovery of Rs.....from Shriand it is stated that Rs..... is due from you to said Shri on account of (Specify how money is due and on what account), it is ordered that you will hold the said money subject to any further order as may be passed by the undersigned. Date this.....day of 20.....Tax Recovery Officer Form 7[See Rules 36 and 50] Proclamation of sale Name and address of the defaulter.....Whereas an order has been made by me for the sale of the attached property specified in the Scheduled below in satisfaction of the certificate issued by me.....under Rule 2 of Schedule II to the Orissa Motor Vehicles Taxation Act, 1975 for Rs.....interest thereon and costs of this execution. The sale will be by public auction and the property shall be put up for sale in the lots specified in the Schedule. The sale will be of the right, title and interest of the defaulter said Shri and the liabilities are those specified in the Schedule against each lot. In the absence of any order of postponement the sale will be held at at A.M. In the event however the entire amount due is rendered or laid before the knocking down of any lot the sale will be stopped. The sale will be subject to and in accordance with Schedule II to the Orissa Motor Vehicles Taxation Act, 1975. In the case of movable property the price of each lot shall be paid at the time of sale or as soon as after the Tax Recovery Officer directs and in default to payment the property shall forthwith be again put up and resold. In the case of immovable property the person declared to be the purchaser shall pay immediately after such declaration twenty-five percent of the amount of his purchase money to the. Tax Recovery Officer and in default the property shall forthwith be resold. The balance purchase money shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day of the date of the sale of the property; if the fifteen day be a Sunday or other holiday then on the first office day after the fifteenth day.

Schedule

Number of lots	Description of the property with the name of the owner	Nature of the interest in the property	Encumbrance to which the property is liable	Claims put forward
(1)	(2)	(3)	(4)	(5)

Dated..... day of..... 20.....Tax Recovery Officer Form 8[See Rule 46] Notice of attachment of immovable property Part-I To.....(Defaulter) Take notice that you have failed to pay the amount of Rs being the arrears of tax/additional tax/penalty payable by you under the provisions of the Orissa Motor Vehicles Taxation Act, 1975 within the time specified in the recovery notice served on you on.....The immovable property mentioned in the following Table are therefore hereby attached any they will be sold for the recovery of the said amount. You are

hereby prohibited from transferring or charging the said property in any way and transfer or charge created by you shall be invalid.

Sl. No.	Survey No.	Boundaries	Village	Taluk	District	Name of the defaulter who holds the property
1	2	3	4	5	6	7

Part II – To

The General Public A copy of the notice of attachment issued to Shri.....is enclosed herewith. The immovable property mentioned therein have been attached by me in exercise of the powers conferred on me by Sub-section (1) of section 14 of the Orissa Motor Vehicles Taxation Act, 1975 and the rules made thereunder. The said owner of the property has been prohibited from transferring or charging the said property in any way. Notice is hereby given to the general public that any transfer or delivery of the said property or of any interest therein and any payment to the said defaulter of any debt, dividend or other moneys contrary to such attachment shall be void against all claims enforceable under the attachment. Tax Recovery Officer This is to certify that the following property Form 9 [See Rule 63] Sale Certificate

Sl. No.	Survey No.	Boundaries	Village	Tahsil and district	Extent	Name of the defaulter who held the property
1	2	3	4	5	6	7

has been sold to.....at.....in public auction of the property held under section 14(1) of the Orissa Motor Vehicles Taxation Act, 1975 and rules made thereunder on.....for Rs.....and the said (purchaser) has been declared to be the purchaser of the said property at the time of the sale. The sale price of the said property was received on.....The sale was confirmed and.....(Signature) Name.....Full designation of the Tax Recovery Officer