

List of Amendment Acts- 45 of 1991, 19 of 1998, 31 of 1998, 47 of 2000, 17 of 2015

TAMIL NADU GOVERNMENT GAZETTE EXTRAORDINARY

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 24th April 1990 and is hereby published for general information :—

ACT No. 13 OF 1990.

An Act to provide for the levy of tax on the entry of motor vehicles into local areas for use or sale therein.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-first Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement. 1. (1) This Act may be called the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall be deemed to have come into force on the 20th February 1990.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) “ accessories ” means the car air-conditioner, music system and any other article fitted to a motor vehicle and which is not included in the original invoice ;

(b) “ appellate authority ” means an appellate authority appointed under section 6 :

(c) “ assessing authority ” means an assessing authority appointed under section 5 ;

(d) “ entry of motor vehicle into a local area ” with all its grammatical variations and cognate expressions, means entry of motor vehicle into a local area from any place outside the State for use or sale therein ;

(e) “General Sales Tax Act” means the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959):

(f) “ Government ” means the State Government ;

(g) “ importer ” means a person who brings a motor vehicle into a local area from any place outside the State for use or sale therein ; and who owns the vehicle at the time of its entry into the local area ;

(h) “ local area ” means the area within the limits of,—

(i) the City of Madras as defined in the Madras City Municipal Corporation Act, 1919 (Tamil Nadu Act IV of 1919), or

(ii) the City of Madurai as defined in the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971), or

(iii) the City of Coimbatore as defined in the Coimbatore City Municipal Corporation Act, 1981 (Tamil Nadu Act 25 of 1981), or

(iv) any other Municipal Corporation that may be constituted under any law for the time being in force, or

(v) Tamil Nadu Act XXV of 1954 a municipality under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), or

(vi) a township under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), or the Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958), or the Mettur Township Act, 1940 (Tamil Nadu Act XI of 1940), or the Courtallam Township Act, 1954, or the Bhavanisagar Township Act, 1954 (Tamil Nadu Act XVI of 1954), or under any other law for the time being in force, or

(vii) a panchayat under the Tamil Nadu Panchayats Act, 1958 (Tamil Nadu Act XXXV of 1958);

(i) **Central Act 59 of 1988.** "motor vehicle " means a motor vehicle as defined in clause (28) of section 2 of the Motor Vehicles Act, 1988 ;

(j) “person” includes any company or association or body of individuals whether incorporated or not and also a Hindu undivided family, a firm, a local authority, the Government of any other State or Union Territory ;

(k) “ purchase value ” means the value of a motor vehicle, as ascertained from original invoice and includes the value of accessories fitted to the vehicle, insurance, excise duties, countervailing duties, sales tax, transport fee, freight charges and all other charges incidentally levied on the purchase of a motor vehicle :

Provided that, where purchase value of a motor vehicle is not ascertainable on account of non-availability or non-production of a original invoice or when the invoice produced is proved to be false or if the motor vehicle is acquired or obtained otherwise than by way of purchase, then the purchase value shall be the value or price at which motor vehicle of like kind or quality is sold or is capable of being sold, in open market ;

(l) “ State ” means the State of Tamil Nadu ;

(m) words and expressions used but not defined in this Act shall have the meanings assigned to them under the General Sales Tax Act.

CHAPTER II.

LEVY OF TAX

Levy of tax. 3. (1) ¹²[Subject to the provisions of this Act there shall be levied and collected a tax on the entry of any motor vehicles into any local area for use or sale therein which is liable for registration, or for the assignment of a new registration mark, in the State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988). The rate of Tax shall be at such rate or rates, not exceeding twenty per cent, as may be fixed by the Government, by notification, on the purchase value of the motor vehicles]:

Provided that no tax shall be levied and collected in respect of any motor vehicle which was registered in any Union Territory or any other State under the law relating to motor vehicle prior to a period of fifteen months or more from the date on which it is registered in the State.

Explanation.—For the purpose of this proviso the expression “ law 59 of 1988 relating to motor vehicle ” means the Motor Vehicles Act, 1939 (Central Act IV of 1939) or the Motor Vehicles Act, 1988 (Central Act 59 of 1988), as the case may be.

(2) The tax shall be payable by an importer in such manner and within such time as may be prescribed.

1 Amended by s.2 of TNA 45 of 1991 (w.e.f.01.10.1991).

2 Substituted by s.2 of TNA 31 of 1998 (w.e.f.01.04.1998).

Reduction in tax liability. 4. (1) Where an importer of a motor vehicle liable to pay tax under this Act, being a dealer in motor vehicles, becomes liable ¹[to pay tax under the General Sales Tax Act, additional sales tax under the Tamil

Nadu Additional Sales Tax Act, 1970 (Tamil Nadu Act 14 of 1970), and the surcharge and additional surcharge under the Tamil Nadu Sales Tax (Surcharge) Act, 1971 (Tamil Nadu Act 24 of 1971; by virtue of the sale of such motor vehicle, then his liability under those Acts shall be reduced to the extent of tax paid under this Act].

(2) Where an importer who, not being a dealer in motor vehicles, had purchased the motor vehicle for his own use in any Union Territory, or any other State then his liability under this Act shall, subject to such conditions as may be prescribed, be reduced to the extent of the amount of tax paid, if any, under the law relating to general sales tax as may be in force in the Union Territory or State.

1 Substituted by s.3 of TNA 45 of 1991 (w.e.f.01.10.1991).

CHAPTER III TAX AUTHORITIES.

Assessing authorities. 5. The Government may, by notification, appoint such officers as they think fit to be the assessing authorities for the purposes of this Act and may assign to them such local area or areas as the Government may think fit.

Appellate authorities. 6. The Government may, by notification, appoint such officers as they think fit to be the appellate authorities for the purposes of this Act and may assign to them such local area or areas as the Government may think fit.

CHAPTER IV. RETURNS, ASSESSMENT, PAYMENT, RECOVERY AND REFUND OF TAX

Return. 7. (1) Every person liable to pay tax under this Act, shall furnish returns in such form, for such period, by such dates and to such authority, as may be prescribed.

(2) If any person liable to pay tax under this Act, having furnished return under sub-section (1), discovers any omission or incorrect statement therein he may furnish a revised return before the expiry of three months from the last date prescribed for furnishing the return under sub-section (1).

¹[7-A. Powers to order production of accounts and powers of entry, inspection, etc.— (1) Any officer empowered by the Government in this behalf may require any person liable to pay tax under this Act, to produce before him the accounts, registers, records and other documents and to furnish any other information relating to the entry of motor vehicle into the local area effected by him as may be necessary for the purposes of this Act.

(2) All accounts, registers, records and other documents maintained by a person liable to pay tax under this Act relating to the entry of motor vehicle into the local area effected by him and his offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officer:

Provided that no residential accommodation (not being a place of business-cum- residence) shall be entered into and searched by such officer except on the authority of a search warrant issued by the Magistrate having jurisdiction over the area, and all searches under this sub-section shall, so far as may be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(3) If any such officer has reason to believe that any person liable to pay tax under this Act had evaded, or is attempting to evade the payment of any tax or other amount due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers, records or other documents of such person as he may consider necessary, and shall give such person a receipt for the same. The accounts, registers, records and documents so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act:

Provided that such accounts, registers, records and documents shall not be retained for more than thirty days at a time except with the permission of the next

higher authority, in which case they could be retained up to a period of ninety days at a time.

(4) Any such officer shall, for the purpose of sub-section (2) or sub-section (3), also have power to enter and search any office, shop, godown, vessel, vehicle, building or place belonging to any other person, if such officer has reason to believe that a person liable to pay tax keeps, or is keeping any of his motor vehicles, accounts, registers, records or other documents in such office, shop, godown, vessel, vehicle, building or place.

Explanation.—It shall be open to the Government to empower different classes of officers for the purpose of taking action under sub-sections (1), (2) and (3).]

1 Inserted by s.2 of TNA 47 of 2000 (w.e.f.to be updated).

Assessment. 8. (1) The amount of tax due from a person liable to pay tax under this Act shall be assessed separately for such period as may be prescribed.

(2) If the assessing authority is satisfied that the return furnished by a person liable to pay tax, is correct and complete, he shall assess the amount of tax due from the person on the basis of such return.

(3) If the assessing authority is not satisfied that the return furnished by a person liable to pay tax, is correct and complete, and he thinks it necessary to require the presence of the person or production of further evidence, he shall serve on such person in the prescribed manner a notice requiring him on a date and at a place specified therein, either to attend and produce or cause to be produced all evidences on which the said person relies in support of his return, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the assessing authority shall, after considering all the evidences which may be produced, assess the amount of tax due from the person.

(4) If a person fails to comply with the requirements of any notice issued under sub-section (3), the assessing authority shall determine the purchase value of the motor vehicle under the proviso to clause (k) of section 2 to the best of his judgement and assess the amount of tax due from him.

(5) No order of assessment under sub-section (3) or (4) shall be made after the expiry of three years from the last date prescribed for filing of returns of the

particular period. If for any reason such order is not made within the period aforesaid then the return so filed shall be deemed to have been accepted as correct and complete for assessing the tax due from such person.

Re-assessment. 9. If, after a person liable to pay tax has been assessed under section 8, for any period, the assessing authority has reason to believe that any purchase value or part thereof, has, in respect of that period, escaped assessment, or has been underassessed or assessed at a lower rate, then the assessing authority may, within five years from the date of the order of assessment of the particular period, after giving the person a reasonable opportunity of being heard, reassess, to the best of his judgement, the tax due from him.

Payment of tax. 10. (1) The tax shall be paid in the manner hereinafter provided.

(2) A person liable to pay the tax, shall, before furnishing returns as required by sub-section (1) of section 7, ¹[first pay, into the Government treasury in the prescribed manner, or to the assessing authority in cash or by cheque or Demand Draft], the whole of the amount of tax due from him according to such return.

(3) If a person liable to pay the tax, furnishes) a revised return in accordance with sub-section (2) of section 7, and if such revised return shows that a larger amount of tax than already paid is payable, he shall ¹[first pay, into the Government treasury in the prescribed manner, or to the assessing authority in cash or by cheque or Demand Draft] the additional amount of tax according to such revised return.

(4) The amount of—

(i) tax due where return has been furnished without full payment thereof,

(ii) difference in the tax assessed under section 8 or reassessed under section 9 for any period and the sum already paid by the person in respect of such period, and

(iii) penalty (if any) levied under section 15, shall be ²[paid by the person, into the Government treasury, or to the assessing authority in cash or by cheque or Demand Draft] by such date as may be specified in the notice issued by the assessing authority for this purpose, being a date not earlier than thirty days from the date of service of the notice.

(5) Any tax or penalty which remains unpaid after the date specified in the notice for payment, shall be recoverable as if it were an arrear of land revenue.

1 Substituted by s.2 (1) of TNA 19 of 1998 (w.e.f.29.07.1997).

2 Substituted by s.2 (2) of TNA 19 of 1998 (w.e.f.29.07.1997).

Refund of tax. 11. The assessing authority shall refund to a person the amount of tax and penalty, if any, paid by such person in excess of the amount due from him. The refund may be either by cash payment or, at the option of the person, by deduction of such excess from the amount of tax and penalty, if any, due from that person in respect of any other period :

Provided that, the assessing authority shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub section (4) of section 10 has been issued, and shall then refund the balance, if any.

Exemptions.12. Subject to such conditions as it may impose, the Government may, if it is necessary so to do in the public interest, by notification, exempt any specified class of importers from payment of the whole or part of the tax payable under this Act.

CHAPTER V.

APPEALS AND REVISION.

13. (1) An appeal from every original order under this Act shall lie to the appellate authority appointed under section 6.

(2) In the case of an order passed in appeal by the appellate authority, a second appeal shall lie to the Joint Commissioner of Commercial Taxes.

(3) No appeal shall be entertained by the appellate authority or the Joint Commissioner of Commercial Taxes, unless it is filed within 30 days from the date of receipt of the order appealed against by the assessee, and unless the entire amount of tax and penalty, if any, has been credited by the assessee in the Government treasury.

(4) Subject to such rules of procedure as may be prescribed, every appellate authority (both in the first appeal or the second appeal) shall have the following powers, namely :—

(a) in an appeal against an order of assessment, it may confirm, reduce, enhance or annul the assessment; or it may set aside the assessment and refer the

case back to the assessing authority for making a fresh assessment in accordance with the direction given by it and after making such further inquiry as may be necessary, the assessing authority shall thereupon proceed to make such fresh assessment and determine, where necessary, the amount of tax payable on the basis of such fresh assessment; and

(b) in any other case, the appellate authority or the Joint Commissioner of Commercial Taxes, as the case may be, may pass such orders in the appeal, as it deems just and proper.

Revision. 14. (1) The Commissioner of Commercial Taxes may suo motu or on an application made in that behalf, call for and examine the record of the proceeding of any order made by the assessing authority or, as the case may be, the appellate authority and pass such order thereon as he thinks just and proper.

(2) No application under sub-section (1) shall be entertained, if it is not made within a period of four months from the date of the order.

(3) No order which adversely affects any person shall be passed under this section, unless such person has, been given a reasonable opportunity of being heard by the Commissioner of Commercial Taxes.

(4) Where an appeal lies under section 13 and no appeal is made, no proceedings in revision shall be entertained upon an application.

(5) Where the Commissioner of Commercial Taxes rejects any application for revision under this section, he shall record the reasons for such rejection.

CHAPTER VI.

PENALTY.

Penalty. 15. (1) Where any person liable to pay tax under this Act fails to comply with any of the provisions of this Act, then the assessing authority may, after giving such person a reasonable opportunity of being heard, by order in writing impose on him in addition to any tax payable, a sum by way of penalty not exceeding twice the amount of tax.

(2) If the person does not, without reasonable cause, pay the tax within the time he is required, by or under the provisions of this Act to pay it, the assessing authority may, after giving such person a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty, in addition to the amount of tax and penalty under sub-section (1), a sum equal to,—

(a) one and one half per cent, of the amount of tax for each month for the first three months, after the last date by which the person should have paid that tax, and

(b) two per cent, of the amount of tax for each month thereafter during the time the person continues to make default in the payment of tax.

CHAPTER VII.

MISCELLANEOUS.

Officers and servants appointed under this Act to be public servants.

Central Act 16. All officers and servants appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith. 17. No suit, prosecution or other legal proceeding shall lie against the Government, or any public servant for anything which is in good faith done or intended to be done under this Act.

Power to make rules. 18. (1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely :—

(a) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(b) all matters expressly required or allowed by this Act to be prescribed;

(c) generally regulating the procedure to be followed and the forms to be adopted in the proceedings under this Act;

(d) any other matter including levy of fees for which there is no specific provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act ; and

(e) the procedure for any other matter incidental to the disposal of appeal and the value of Court-fee stamp which a memorandum of appeal or revision should bear.

(3) (a) Ail rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the date on which they are published.

(4) Every rule made or every notification' issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule or notification or the Assembly decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

Central Act 59 of 1988. Restriction on registration. 19. Notwithstanding anything contained in any other law for the time being in force, where the liability to pay tax in respect of a motor vehicle arises under this Act and such motor vehicle is required to be registered in the State under the Motor Vehicles Act, 1988, no registering officer shall register any such motor vehicle, unless payment of such tax has been made by the person concerned in respect of such vehicle.

¹[19-A. Automation.—(1) The Government may, by notification, provide that the provisions contained in the Information Technology Act, 2000 (Central Act 21 of 2000) and the rules made and directions given under the said Act, including the provisions relating to digital signatures, electronic governance, attribution, acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, insofar as they may, as far as feasible, apply to the procedures under this Act.

(2) Where any notice or communication is prepared on any automated data processing system and is properly served on any importer or person, such notice or communication shall not be required to be personally signed by any officer or person and shall not be deemed to be invalid only on the ground that it is not personally signed by any such officer].

1 Inserted by s.2 of TNA 17 of 2015 (w.e.f.to be updated).

Repeal and saving.20. (1) The Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas and ordinance, 1990 (Tamil Nadu Ordinance 1 of 1990) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under this Act.

(By order of the Governor.)

P. JEYASINGH PETER,

Secretary to Government, Law Department.

PRINTED AND PUBLISHED BY THE DIRECTOR OF STATIONERY AND
PRINTING, MADRAS ON BEHALF OF THE GOVERNMENT OF
TAMIL NADU