



The Karnataka Tax on Luxuries Act, 1979

Act 22 of 1979

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THE KARNATAKA TAX ON LUXURIES ACT, 1979

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STATEMENT OF OBJECTS AND REASONS

I

Act 22 of 1979.- In order to augment the revenues of the State it is proposed to levy a tax on luxuries provided in hotels and lodging houses.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 261 dated 27-3-1979 at page 15.)

II

Amending Act 9 of 1981.- According to the existing provisions of Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979, tax ranging from 1 1/2 % to 7% of the lodging charges is collected if the charges per person per day are Rs. 30/- and above. In the Budget speech for the year 1981-82, it has been indicated that the tax on luxuries shall be increased, so as to include hotels with lodging charges of Rs 20/- per day, per person and above. The luxury tax proposed to be levied ranges from 5% to 10% of the lodging charges and it will cover a larger number of hotels. This is proposed in order to augment the revenues of the State by an amount of Rs. 30 lakhs per annum.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 198 dated 26-3-1981.)

III

Amending Act 18 of 1982.- According to the existing provisions of the Karnataka Tax on Luxuries (Hotel and Lodging houses) Act, 1979 tax ranging from 5 per cent of the lodging charges is collected if the charges per person per day are Rs. 20 and above. It has been decided to raise the minimum limit of lodging charges from Rs. 20 to Rs. 25 per day per head in respect of liability to pay tax for the reason that a room with a rent of Rs. 20 per person per day can hardly be regarded as a 'Luxury' at the current price levels. The financial implication on account of the enhancement of the limit from Rs. 20 to Rs. 25 may be about Rs. 10 lakhs per annum.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 27-3-1982 as, No 226.)

(Obtained from L.A. Bill No. 11 of 1982.)

IV

Amending Act 21 of 1985.- In the Budget-Speech for the year 1985-86 the Chief Minister indicated that the levy and collection of tax on luxury provided in the Hotels are on as based charges, collected per room per day.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 414 dated 1-8-1985 at page 5.)

V

Amending Act 10 of 1986.- It is proposed to amend the Karnataka Tax on Luxuries (Hotel and Lodging Houses) Act, 1979 empowering the Government to collect tax from registered proprietors and to streamline the tax collection procedure.

Hence the Bill.

(Obtained from L.A. Bill No. 25 of 1986.)

VI

Amending Act 12 of 1987.- To give effect to the proposal made in the budget speech, it is proposed to amend the Karnataka Tax on Luxuries (Hotel and Lodging Houses) Act, 1976. Hence the Bill.

(Obtained from L.A. Bill No. 16 of 1987.)

VII

Amending Act 17 of 1989.- To give effect to the proposals made in the Budget speech it is proposed to amend the Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No.163 dated 27-3-1989 at page 3.)

VIII

Amending Act 11 of 1993.- It is considered necessary to amend the Karnataka tax on Luxuries (Hotel and Lodging Houses) Act, 1979, the Karnataka Tax on Professions, Traders Callings and Employments Act, 1976, the Karnataka Entertainments Tax Act, 1958 and the Karnataka Sales Tax Act, 1957 to give effect to the proposals made in the budget speech and matters connected therewith.

Hence the Bill.

(Obtained from L.A. Bill No. 15 of 1993.)

IX

Amending Act 6 of 1995.- It is considered necessary to amend the Karnataka Sale Tax Act, 1957, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Entertainment Tax Act, 1958, the Karnataka Tax on Entry of Goods Act, 1979, Karnataka Tax on Luxuries, (Hotels and Lodging House) Act, 1979, the Mysore Betting Tax Act, 1932 and to give effect to the proposals made in the Budget speech and matters connected therewith.

Hence this Bill.

(Obtained from L.A. Bill No. 4 of 1995.)

X

Amending Act 5 of 1996.- It is considered necessary to amend the Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979, the Karnataka Tax on professions, Trades, Callings and Employments Act, 1976, the Karnataka Entertainments Tax Act, 1958, the Karnataka Agricultural Income Tax Act, 1957, and the Karnataka Sales Tax Act, 1957 to give effect to the proposals made in the Budget speech and matters connected therewith proposals made in the Budget speech and matters connected therewith.

Hence this Bill.

(Obtained from L.A. Bill No. 12 of 1996.)

XI

Amending Act 15 of 1996.- It is considered necessary to make amendments to the following enactments.

1. xxx

2. Consequent to the amendment of section 3 of the Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979, Clause (5) of section 2 thereof is proposed to be amended.

3. xxxx

5. Certain consequential amendments are also made.

(Obtained from L.A Bill No. 23 of 1996)

XII

Amending Act 7 of 1997.- It is considered necessary to amend the Karnataka Tax on Luxuries (Hotels, Lodging Houses and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Professions, Trades, callings and Employments Act, 1976 (Karnataka Act 35 of 1976), the Karnataka Excise Act 1966 (Karnataka Act 21 of 1966), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Mysore Betting Tax Act 1932 (Mysore Act IX of 1932, and to give effect to the proposals made in the budget speech and matters connected therewith. Certain consequential amendments are also made.

Hence this Bill.

(Obtained from L.A. Bill No. 12 of 1997)

XIII

Amending Act 3 of 1998.- It is considered necessary to amend the Karnataka Taxation Laws Amendment Act, 1997. (Karnataka Act 27 of 1979). the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Luxuries (Hotels, Lodging Houses and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979) the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976 (Karnataka

Act 35 of 1976). the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958), the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) and to give collect to the proposals made in the Budget Speech and matters connected therewith. Certain consequent amendments are also made.

Hence this Bill.

(Published in the Karnataka Gazette Part IV-2A (Extraordinary) No. 349, dated 26-3-1998.)

XIV

Amending Act 4 of 1999.- It is considered necessary to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Tax on entry of goods Act 1979 (Karnataka Act 27 of 1979) the Karnataka Tax on Luxuries (Hotel, Lodging Housed and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979) and the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958) to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill No. 6 of 1999.)

XV

Amending Act 5 of 2000.- It is considered necessary to amend the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979) and the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958) to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill. No. 6 of 2000.)

XVI

Amending Act 2 of 2001.- Gutkha which is a product containing among other mainly arecanut and tobacooo was subject to sales tax at 15% till 31.3.2000 and at 16% from 1.4.2000 under the Karnataka Sales Tax, 1957. Apart from this, gutkha is also liable for 4% entry tax under the Karnataka Tax on Entry of Goods Act, 1979 and in cases where entry tax is not payable it is liable for 4% luxuries tax under the Karnataka Tax on Luxuries Act, 1979.

As per the agreement made with the Union Government by all States, the States have agreed for levy and collection of Additional Duty of Excise in lieu of sales tax by the Union Government under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 on tobacco (and also on tobacco products, textiles and sugar). The Additional duty of Excise so collected by the Union Government is shared among all the States and

any state levying sales tax on these goods would lose its share from such Additional duty of Excise collected.

Till 31.3.1992 tobacco and its products, textiles and sugar had been generally exempted from sales tax under the Karnataka Sales Tax, 1957. However by an amendment to the Fifth Schedule with effect from 1.4.92, exemption of sales tax was confined only to the goods which are specified from time to time in the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957. This was done to empower the State to levy sales tax on those goods on which no Additional Duty of Excise in lieu of sales tax, was proposed to be levied by the Union Government. Accordingly sales tax was being levied by the State on tobacco and its products.

Similarly, certain other states were also levying sales tax on tobacco and its products, which were not specified under the Additional duties of Excise (Goods of Special Importance) Act, 1957. The levy of Sales Tax by the State of Andhra Pradesh on gutkha, which was not specified under the Additional Duties of Excise (Goods of special Importance) Act, 1957. The levy of sales tax by the State of Andhra Pradesh on gutkha, which was not specified under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 was questioned before Supreme Court in M/s Kothari Products Limited Vs. Govt. of Andhra Pradesh and the Apex Court in its judgement dated 25.1.2000 has held that gutkha is tobacco specified under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and therefore not liable for sales tax. As the ratio of the aforesaid case is also applicable to the State, it is not possible to continue to levy of sales tax on gutkha in the State.

Discontinuance of sales tax on gutkha would entail a revenue loss of about rupees thirty crores per annum.

It was therefore considered necessary to increase the rate of luxury tax on gutkha from 4% to 20% by amending the Karnataka Luxuries Tax Act, 1979 which was in addition to the existing entry tax at 4%.

As the matter was urgent, the Karnataka Tax on Luxuries (Amendment) Ordinance, 2001 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Vide L.A. Bill No. 3 of 2001 File No. SAMVYASHAE 4 SHASANA 2001)

XVII

Amending Act 5 of 2001.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958), the Karnataka Tax on Professionals, Trades, Callings and Employments Act, 1976 (Karnataka Act 35 of 1976) and the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957). Certain consequential amendments are also made.

Hence the Bill.

(Vide L.A Bill No. 7 of 2001 File No. SAMVYASHAE 9 SHASANA 2001)

XVIII

Amending Act 5 of 2002.- It is considered necessary to amend the Karnataka Agricultural Income Tax, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Taxes on Luxuries Act, 1979, the Karnataka Taxes on Entry of Goods Act, 1979 and the Karnataka Entertainment Tax Act, 1958 to give effect to the proposal made in the Budget speech and matters connected therewith.

Certain consequential and incidental amendments are also made

Hence the Bill.

(Vide L.A. Bill No. 12 of 2002 File No. SAMVYASHAE 18 SHASANA 2002)

XIX

Amending Act 3 of 2004.- The Hon'ble High Court of Karnataka in S.T.R.P. numbers 46 to 57/2003 has held that tax cannot be levied on civil works like asphaltting and repairing of roads under the existing provisions of the Karnataka Sales Tax Act, 1957. However, taxes have been levied and collected on such civil works from 1st April 1986 relying on the existing entries. In view of the decision of the Hon'ble High Court, it is considered necessary to incorporate an enabling provision to levy such tax by amending the Karnataka Sales Tax Act, 1957 with retrospective effect.

Similarly, the Hon'ble High Court of Karnataka in W. P. Nos. 8607-8608/2003 has held that the tax cannot be levied on works contract of processing and supplying of photographs, photo prints and photo negatives under the existing provisions of the Karnataka Sales Tax Act, 1957. The Hon'ble High court has held that though the State Legislature has the power to levy tax on such works contracts, in view of the relevant entry having been struck down by the Hon'ble Supreme Court, in September 1999, tax cannot be levied and collected on such works contracts till the relevant entry is re-introduced in the Karnataka Sales Tax Act, 1957. Taxes have been levied and collected on such works contracts from 1st July 1989. In view of the decision of the Hon'ble Supreme Court and the High Court, it is considered necessary to amend the Karnataka Sales Tax Act, 1957 with retrospective effect.

It is also considered necessary that there should be a provision under the Karnataka Sales Tax Act, 1957 to constitute a Settlement Commission to reduce long pending disputes and recover tax arrears expeditiously.

The rate of sales tax being levied at present on Camphor is 5%. Whereas the Empowered Committee of State Finance Ministers has appealed to all the States / UTs to adopt the floor rates on all items. Hence, the rate of sales tax on Camphor is being increased to the floor rate of 8% by amending the Karnataka Sales Tax Act, 1957.

It is also considered necessary to amend the Karnataka Tax on Luxuries Act, 1979, to give tax relief to clubs situated within areas outside municipal corporations and to give tax relief to senior citizens and members of a youth club registered or recognised by the Department of Youth Services.

It is also considered necessary to omit the provisions under the Karnataka Entertainments Tax Act, 1958 relating to collection of service charges by the owners of theatres.

Hence the Bill.

[L.A. BILL No. 6 OF 2004]

XX

Amending Act 26 of 2004.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Mysore Betting Tax Act, 1932(Mysore Act IX of 1932), the Karnataka Sales Tax Act, 1957(Karnataka Act 25 of 1957), the Karnataka Entertainments Tax Act, 1958(Karnataka Act 30 of 1958), the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976(Karnataka Act 35 of 1976), the Karnataka Tax on Luxuries Act, 1979) and the Karnataka Tax on Entry of Goods Act, 1979(Karnataka Act 27 of 1979).

Opportunity is also taken to rationalize certain provisions of the said Acts and also to codify and make certain consequential amendments to implement reliefs already announced.

Hence the Bill.

[L.A. BILL No. 18 OF 2004]

KARNATAKA ACT No. 22 OF 1979

(First published in the Karnataka Gazette Extraordinary on the Thirty First day of March 1979)

THE KARNATAKA TAX ON LUXURIES ACT, 1979

(Received the assent of the Governor on the Thirty-first day of March 1979)

(As Amended by Acts 9 of 1981, 18 of 1982, 21 of 1985, 10 of 1986, 12 of 1987, 17 of 1989, 11 of 1993, 6 of 1995, 5 of 1996, 15 of 1996, 7 of 1997, 3 of 1998, 4 of 1999, 5 of 2000, 2 of 2001, 5 of 2001, 5 of 2002, 3 of 2004 and 26 of 2004.)

An Act to provide for the levy and collection of a tax on luxuries 1[x x x]1.

WHEREAS it is expedient to provide for the levy and collection of tax on luxuries 1[x x x]1 and for matters connected therewith:

BE it enacted by the Karnataka State Legislature in the Thirtieth Year of the Republic of India as follows :-

1. Omitted by Act 7 of 1997 w.e.f. 1.4.1997

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Tax on Luxuries 1[x x x]1 Act, 1979.

1. Omitted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force on such 1[date]1 as the State Government may, by notification in the official Gazette, appoint.

1. Act came into force on 1.6.1979.

1[CHAPTER I

PRELIMINARY]1

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

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

(1) "charges for lodging" include charges for air conditioning, telephone, television, radio, music, extra beds and the like but do not include any charges for food, drink 1[telephone calls, laundry or other amenities]1;

1. Substituted by Act 5 of 2000 w.e.f. 1.4.2000

Explanation.- If any question arises whether any charges are charged for lodging, such question shall be referred to the State Government and the decision of the State Government shall be final and shall not be called in question in any court ;

1[(1A) "Charges for marriage hall" include charges for air conditioning, chairs, utensils and vessels, shamiana, electricity, water, fuel, interior or exterior decoration 2[or any amount received by way of donation or charity or by whatever name called in relation to letting out the marriage hall]2 but do not include any charges for food and drinks;

Explanation.- If any question arises whether any charges are charges for marriage hall, such question shall be referred to ³[the Commissioner]³ and decision of ³[the Commissioner]³ shall be final and shall not be called in question in any Court¹;

1. Clause 1A and explanation inserted by Act 6 of 1995 w.e.f. 1.4.1995

2. Substituted by Act 5 of 2000 w.e.f. 1.4.2000

3. Substituted by Act 4 of 1999 w.e.f. 1.4.1999

¹₂[(1B)]² "Commissioner" means the Commissioner of Commercial Taxes appointed under section 3 of Karnataka Sales Tax Act, 1957;¹

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986

2. Renumbered by Act 6 of 1995 w.e.f. 1.4.1995.

¹[(1-C) "**Charges for hospital**" means charges for accommodation provided in a hospital for any patient or inmate or resident, by whatever name called and his attendant including charges for air-conditioning, telephone, telephone calls, television, radio, music, extra beds and the like but does not include any charges for food, drink, laundry or other amenities, medicines, medical including consultation, testing, diagnostic and nursing services, therapeutic services or other similar services;]¹

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

2) "concessional rate" in relation to luxury provided ¹[in a hotel or a marriage hall]¹ means a rate lower than the normal rate fixed for such luxury ¹[by the proprietor of a hotel or a marriage hall]¹ or lower than that fixed by the Government or any other authority under any law for the time being in force;

1. Substituted by Act 5 of 2001 w.e.f. 1.4.2001.

¹[(3) "Hospital" includes a nursing home, therapy center, rejuvenation or recuperation center, nature care or cure center, ayurvedic cure or care or any treatment center, personal care center and beauty treatment center, by whatever name called;

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

(4) "hotel" means a building or part of a building where lodging accommodation, with or without board is by way of business provided for a monetary consideration, and includes a lodging house ¹[club]¹; ²[and holiday resorts]²;

1. Inserted by Act 5 of 2000 w.e.f. 1.6.1979.

2. Inserted by Act 6 of 1995 w.e.f. 1.4.1994.

¹[(**Explanation.-** A club, a lodging house and a holiday resort for which charges are collected for providing accommodation whether or not in the course of business shall be deemed to be a hotel for the purpose of this Act.)]¹

1. Inserted by Act 5 of 2000 w.e.f. 1.6.1979.

¹[(4A) "Joint Commissioner" means the Joint Commissioner of Commercial Taxes appointed under section 3 of the Karnataka Sales Tax Act, 1957;]¹

1. Inserted by Act 10 of 1986 w.e.f. 31.3.1986.

¹[(4B) "Luxuries" means commodities or services specified in the Schedule ministering to enjoyment, comfort or pleasure extraordinary to necessities of life;]¹

1. Inserted by Act 7 of 1997 w.e.f. 1.4.2097.

1[(5) "luxury provided in a hotel" means,-

(i) accommodation for lodging provided in a hotel, the rate of charges for which (including charges for air-conditioning, telephone, television, radio, music, extra beds and other amenities for which charges are compulsorily payable, but excluding charges for food and drinks) is not less than 2[one hundred and fifty]2 rupees per room per day;

(ii) provision in hotels, whether to residents or others of such facility as health club, beauty parlour, swimming pools, conference hall and the like for which charges are separately made;]1

1. Substituted by Act 6 of 1995 w.e.f. 1.4.1995.

2. Substituted by Act 15 of 1996 w.e.f. 1.4.1996.

1[(5A) "Luxury Tax Officer" means the person appointed by the State Government to exercise and perform functions of the Luxury Tax Officer under this Act ;]1

1. Inserted by Act 10 of 1986 w.e.f. 31.3.1986.

1[(5B) "Marriage hall" means Kalyana Mantap, Shadi Mahal, Community Hall, a building or part of a building where accommodation is provided for marriage or reception or matters related therewith, 2[and includes seminar, convention, banquets, meeting or exhibition cum sale hall or such other hall as may be specified by the Commissioner, whether functions are conducted in such halls regularly or nor]2;]1

1. Inserted by Act 6 of 1995 w.e.f. 1.4.1995.

2. Substituted by Act 4 of 1999 w.e.f. 1.4.1999.

1[(6) "Proprietor", in relation to a hotel or a marriage hall means any person who is owning or holding a hotel or a marriage hall in any capacity recognised by law, and includes, the person who for the time being is incharge of the management of the hotel or marriage hall;]1

1. Substituted by Act 26 of 2004 w.e.f. 1.8.2004.

1[(6A) "Schedule" means the Schedule appended to this Act ;]1

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(6B) "Stock of luxuries" means the quantity of luxuries being the own stock of the stockist or stocks entered in the records or accounts of the stockist or the quantity of luxuries the stockist receives or procures, during any year, for stocking, vending or distributing or supplying to a wholesaler, intermediary, retailer or any person, but shall not include any quantity of such luxuries held in stock on the day of the date of commencement of the Karnataka Taxation Laws (Amendment) Act, 1997; 1[or on the first day of April 2000, on which tax under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) has been paid or has become payable;]1

1. Inserted by Act 2 of 2001 w.e.f. 23.1.2201.

1[**Exception.** - A handloom or power loom weaver (other than one whose establishment falls within the definition of a "Factory" under the Factories Act, 1948 (Central Act 63 of 1948)) who is in possession of stock of silk fabrics manufactured by him in Karnataka shall not be deemed to be a stockist for the purpose of this Act.]1

1. Inserted by Act 5 of 2001 w.e.f. 1.4.2001.

(6C) "Stockist" means a person who has in his possession or custody or under his control a stock of luxuries procured in any manner or manufactured, made or processed by him, in the course of business in the State or brought or caused to be brought by him into the State either on his own account or on account of others from any place outside the State, for stocking, vending or supplying such luxuries;]¹

(7) "tax" means the luxury tax levied and collected under this Act.;

¹[(8) "value of stock of luxuries" means,-

1. Section 8 to 11 Substituted by Act, 7 of 1997 w.e.f. 1.4.1997.

(i) in respect of a stockist being a manufacturer of any of the luxuries, the value of such luxuries calculated at the ex-factory price ;

(ii) in respect of any other stockist, the value of such luxuries calculated at the price thereto as per the bill, invoice or consignment note or other document of like nature, of any person within the State or outside the State, from whom such luxuries are received ;

(iii) in respect of any stockist mentioned in sub-clauses (i) and (ii), the value of stock of luxuries shall include,-

(a) excise duty, countervailing duty paid or payable on such luxuries by a manufacturer or importer thereof, as the case may be, and

(b) transport charges, insurance charges, packing charges, forwarding and handling charges, if any, for carrying such luxuries to any premises, godown, warehouse or any other place of the stockist in the State;

(9) "Turnover of stock of luxuries" in relation to a stockist, in respect of any year, means the aggregate of the value of stocks of luxuries;

(10) "year" means the year commencing on the first day of April;

(11) Words and expressions used in this Act, but not defined shall have the meaning assigned to them in the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957);]¹

¹[**2A. Instructions to subordinate authorities.-** (1) The State Government or the Commissioner may, from time to time, issue such orders, instructions and directions to all officers and persons employed in the execution of this Act, as they may deem fit for the administration of this Act, and all such officers and persons shall observe and follow such orders, instructions and directions of the State Government and the Commissioner:

Provided that no such orders, instructions, or directions shall be issued so as to interfere with the discretion of any Appellate Authority in the exercise of its appellate functions.

(2) All officers and persons employed in the execution of this Act, shall observe and follow such administrative instructions as may be issued to them for their guidance by the Joint Commissioner within whose jurisdiction they perform their functions.]¹

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

¹[**2-B. Jurisdiction of officers.-** (1) The Joint Commissioners shall perform their functions in respect of such areas or of such proprietors or stockist or classes of

proprietors or stockists or of such cases or classes of cases as the Commissioner may direct.

(2) The Luxury Tax Officers shall perform their functions in respect of such areas or of such proprietors or stockists or classes of proprietors or stockists or such cases or classes of cases as the Commissioner may direct.

2-C. Change of incumbent of an office. - Whenever in respect of any proceeding under this Act, a Luxury Tax Officer or any other officer ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the authority or officer so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the proprietor or stockist may demand that before the proceeding is so continued the previous proceedings or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard.]¹

1. Inserted by Act 5 of 2001 w.e.f. 1.4.2001.

¹[CHAPTER II

LEVY OF TAX ON LUXURY PROVIDED IN HOTELS, LODGING HOUSES, HEALTH CLUBS, ETC. AND MARRIAGE HALLS]¹

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

3. ¹[Levy and collection of tax on luxury provided in a hotel]¹.- ²[³[(1) Subject to the provisions of this Act, there shall be levied and collected a tax on the luxury provided in a hotel in respect of every room (to be known as Luxury Tax) at the following rates, namely :-

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Sub-section 1 and 2nd provision Substituted by Act 11 of 1993 w.e.f. 1.4.1993.

3. Substituted by Act 6 of 1995 w.e.f. 1.4.1995.

¹ “(a) Where the charges for lodging per room per day are more than one hundred and fifty rupees but less than four hundred rupees	Four per cent of such charges
(b) Where the charges for lodging per room per day are not less than four hundred rupees but less than one thousand rupees	Eight per cent of such charges
(c) Where the charges for lodging per room per day are not less than one thousand rupees	Twelve per cent of such charges] ¹
	”

1. Substituted by Act 26 of 2004 w.e.f. 1.8.2004.

Provided that where charges for lodging are payable otherwise than on daily basis, then, for the purposes of determining the tax liability under this section, the charges shall be computed as for a day, based on the period of lodging for which the charges are payable :

Provided further that where any charges for lodging are paid by any person who is a member of a Foreign Diplomatic Mission in India, then such person shall be exempt from the payment of tax;]²

¹[Proviso x x x]¹

1. Inserted by Act 5 of 2001 w.e.f. 30.11.1998 and Omitted by the same Act w.e.f. 31.3.2000.

¹[(1A) tax levied under sub-section (1), shall be paid by every proprietor.]¹

1. Inserted by Act 4 of 1999 w.e.f. 1.4.1999.

¹[²[(1B)]² Notwithstanding anything contained in sub-section (1), no tax shall be levied and collected from a hotelier to the extent of tax not collected by him during the period from the 1st day of August, 1985 to the 31st day of March, 1986.]¹

1. Inserted by Act 12 of 1987 w.e.f. 1.4.1987.

2. Renumbered by Act 4 of 1999 w.e.f. 1.4.1999.

¹[(2) x x x]¹

1. Omitted by Act 21 of 1985 w.e.f. 1.8.1985

(3) In computing the amount of tax payable under this section, the amount shall, if it is not a multiple of five paise, be increased to the next higher multiple of five paise.

¹[²[3A. x x x]²

1. Section 3A to 3C Inserted by Act 65 of 1995 w.e.f. 1.4.1995

2. Omitted by Act 3 of 1998 w.e.f. 1.4.1998.

3B. Tax on luxuries like health club etc.- There shall be levied and collected a tax at the rate of twenty per cent on the charges collected for luxuries provided in a hotel for residents or others such as health club, beauty parlour, swimming pool, conference hall and the like when such charges are collected separately.

¹[**3C. Levy and collection of tax on charges for marriage hall.-** Subject to the provisions of this Act, where charges for luxury provided in a marriage hall are not less than two thousand rupees per day there shall be levied and collected a tax at the rate of fifteen per cent of such charges.]¹

1. Substituted by Act 5 of 2000 w.e.f. 1.4.2000.

Provided that where charges for marriage hall are payable otherwise than on daily basis, then for the purposes of determining the tax liability under this section, the charges shall be computed as for a day based on the period of occupancy for which the charges are payable.]¹

¹[**3-D. Levy and collection of tax on luxury provided in a club.-** (1) There shall be levied and collected a tax on luxuries provided in a club to the members who are required to pay any amount as fee, deposit, donation or any other such charges by whatever name called, at the rate as specified in column (3) of the table below.

Sl. No.	Location of club	Rate of tax
(1)	(2)	(3)
1.	Corporation area	Six hundred rupees per member per annum
2.	Other areas	Three hundred rupees per member per annum

Provided that no tax shall be payable in respect of a member who has attained sixty five years of age and who is not a corporate member subject to such conditions as may be prescribed.

Provided further that no tax shall be payable in respect of a member of a Youth club registered or recognised as such by the Department of Youth Services.

(2) The tax levied under sub-section (1) shall be paid by every proprietor within such period and in such manner as may be prescribed.

Explanation I.- For the purpose of this Section, luxuries means more than one of the facilities like card room, bar, billiards room, snooker room, tennis court, swimming pool, sauna, jacuzzi and the like, gymnasium, golf course, internet facility, video, video compact disk, digital video disk and computer games.

Explanation II.- Where any corporate membership or similar membership allows use of luxuries provided in a club by more than one person (other than a person who is a dependent of the member), tax shall be levied and collected in respect of every such person."¹

1. Substituted by Act 3 of 2004 w.e.f. 1.4.2004.

¹["**3-E. Levy and collection of tax on luxury provided in a hospital.-** (1) Where charges for luxury provided in a hospital are more than one thousand rupees per day, there shall be levied and collected a tax at the rate of eight per cent of such charges.

(2) The tax levied under sub-section (1) shall be paid by every proprietor within such period and in such manner as may be prescribed."¹

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

4. Mode of collection of tax.- (1) Where the rate of charges for luxury provided in a hotel is inclusive of the charges for food or drink or other amenities, if any (being amenities referred to in clause (5) of section 2), then the [Luxury Tax Officer] may, from time to time, after giving the proprietor an opportunity of being heard, fix separate rates of charges for such luxury and for food or drink or other amenities, if any, being amenities referred to in clause (5) of section 2, for the purpose of calculating the tax under this Act.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated to the proprietor and not paid to the staff, then, such charges shall be deemed to be part of the charges for luxury provided in the hotel.

¹[xxx]¹

1. Omitted by Act 26 Of 2004 w.e.f. 7.6.2004.

(4) Where luxury provided in a hotel for a specified number of persons is shared by more than the number specified, then, in addition to the tax paid for the luxury provided to such specified number of persons, there shall also be levied and collected separately, the tax in respect of the charges made for the additional number of persons accommodated.

¹[(5) x x x]¹

1. Omitted by Act 10 Of 1086 w.e.f. 31.3.1986

¹**4A.** ²**[Registration of proprietors and stockists]**²-(1) Every proprietor ¹[or a stockist]¹ liable to pay tax under this Act shall get himself registered under this Act in such manner and within such period as may be prescribed and shall pay a registration fee of two hundred and fifty rupees.

1. Sub-section 1 to 6 Inserted by Act 21 of 1985 w.e.f. 1.8.1985.

2. Substituted by Act 7 of 1987 w.e.f. 1.4.1987.

(2) The registration granted shall be valid for one year and shall be renewed from year to year on payment of the fee specified in sub-section (1).

(3) Where, however, the proprietor ¹[or a stockist]¹ is already registered under the Karnataka Sales Tax Act, 1957, then, he shall not be liable to pay the registration or renewal fee prescribed under this section.

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(4) The ¹[Luxury Tax Officer]¹ may for good and sufficient reasons, demand from a proprietor ²[or a stockist]² liable to pay tax under this Act, security for due payment of tax and on such demand the proprietor ²[or a stockist]² shall furnish security within eight days from the date of receipt of the order demanding security.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(5) The amount of security payable under sub-section (4) shall not exceed an amount equivalent to one fourth of tax anticipated for the year from the proprietor ¹[or a stockist]¹. The ²[Luxury Tax Officer]² may demand an additional security, if he has reason to believe that the security furnished already is inadequate.

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(6) The security furnished shall be maintained in full unless the ¹[Luxury Tax Officer]¹ is satisfied that there are no reasons for its continuance or until the registration certificate is cancelled.]¹

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

¹[(7) Where a proprietor or a stockist has more than one place of business, the registration certificate shall cover all such places of business. The Luxury Tax Officer shall issue copies of the registration certificates to the proprietor or the stockist for exhibition at each of his places of business.

1. Sub-section 7 to 10 Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(8) A proprietor or a stockist registered under sub-section (1) shall be entitled to have his registration cancelled if he is able to prove to the satisfaction of the Luxury Tax Officer that he has discontinued, transferred or otherwise disposed off his business.

(9) The Luxury Tax Officer shall have power, for good and sufficient reasons, to cancel, modify or amend any registration certificate issued by it.

(10) A certificate of registration shall be personal to the proprietor or the stockist to whom it is granted and shall not be transferable.]₁

1[4-AA. Declaration of charges for marriage hall.- (1) Every proprietor of a marriage hall liable to pay tax under this Act, shall declare the normal rate fixed for luxury provided by him in such manner and within such period as may be prescribed.

1. Inserted by Act 5 of 2001 w.e.f. 1.4.2001.

(2) Where luxury provided in a marriage hall to any person is not charged at all, or is charged at a concessional rate, then the tax on such luxury, shall be levied and collected as if full charges for such luxury were paid to the proprietor of the marriage hall.]₁

1[CHAPTER III

LEVY OF TAX ON LUXURIES

4B. Levy of tax on luxuries.- (1) Subject to the provisions of this Act, there shall be levied and collected a tax on the turnover of stock of luxuries in respect of luxuries mentioned in column (2) of the Schedule at the rate specified in the corresponding entry of column (3) of the said Schedule.

1. Section 4B and Chapter III and IV Heading Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) The tax levied under sub-section (1) shall be paid by every registered stockist or a stockist liable to get himself registered under this Act.

(3) Notwithstanding anything contained in sub-section (1), but subject to the production of proof as may be prescribed, no tax shall be leviable on the value of stock of luxuries,-

(i) despatched to places outside the State ;

₁[(ia) on which tax under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) has been paid or has become payable.]₁

1. Inserted by Act 2 of 2001 w.e.f. 23.1.2001.

(ii) on which tax under this Act has been paid or has become payable; and

₁₂[(iii) other than relating to gutka on which tax under the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979) has been levied or has become leviable]₁

1. Inserted by Act 5 of 2002 w.e.f. 1.4.2001.

1[4-C. Reduction in tax liability. - Where a stockist liable to pay tax under this Act, being a dealer in such goods excluding gutkha becomes liable to pay tax under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) as a result of the sale of such goods, then the amount of tax payable under the said Act shall be reduced by the amount of tax paid under this Act.]₁

1. Inserted by Act 5 of 2000 w.e.f. 1.4.2001.

CHAPTER IV

RETURN, ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF TAXES]

5. Returns.- (1) Notwithstanding anything contained in section 5A, every proprietor or stockist] liable to pay tax under this Act shall furnish to the assessing authority within sixty days of the expiry of the year, a return in the prescribed form.

1. Section 5 and 5A Substituted by Act 6 of 1995 w.e.f. 1.4.1995.

(2) Before any proprietor or stockist] submits any return under sub-section (1), he shall in the prescribed manner, pay in advance the full amount of tax payable by him on the basis of such return as reduced by any tax already paid under section 5-A and shall furnish along with the return satisfactory proof of the payment of such tax, and a return without such proof of payment shall not be deemed to have been filed. After the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(3) Every return shall be verified in the prescribed manner.

5A. Payment of tax in advance.- (1) Every proprietor or stockist] liable to pay tax under this Act shall furnish to the assessing authority within twenty days of the expiry of a month, a statement in the prescribed form, showing therein the whole amount of tax due from him according to such statement.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) Every statement under sub-section (1) shall be accompanied by a treasury challan in proof of payment of the full amount of tax due according to the statement, and a statement without such proof of payment shall not be deemed to have been duly filed and the amount so payable shall for the purpose of section 7 and section 8 be deemed to be tax due under this Act from such proprietor or stockist].

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2-A) If default is committed in the payment of tax for any month beyond ten days whether or not a statement as required under sub-section (1) is filed; or if the amount of tax paid is less than the amount of tax payable for any month, the dealer defaulting payment of tax or making short-payment of tax shall, in addition to the tax, pay interest calculated at the rate of two per cent per month from the date of such default or short-payment to the date of payment of such tax or upto the date specified for payment of tax assessed under section 6, as the case may be.]

1. Inserted by Act 5 of 2001 w.e.f. 1.4.2001.

(3) If no such statement is submitted by any proprietor or stockist] under sub-section (1) before the date specified therein or if the statement submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may assess the proprietor or stockist] provisionally for that month to the best of his judgement, recording the reasons for such assessment and proceed to demand and collect the tax on the basis of such assessment :

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

Provided that before taking action under sub-section (3) the ₁[proprietor or stockist]₁ shall be given an opportunity of being heard.]₁

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

6. Assessment and collection of tax.- (1) If the ₁[Luxury Tax Officer]₁ is satisfied that the return furnished under sub-section (1) of section 5 is complete and he has no reason to believe that it is incorrect, he shall assess the amount of tax due from the ₁[proprietor or stockist]₁ on the basis of such return.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(2) (a) If the ₁[Luxury Tax Officer]₁ is not satisfied that the return furnished under sub-section (1) of section 5 is complete or he has reason to believe that it is incorrect and he considers it necessary to require the presence of the ₂[proprietor or stockist]₂ or the production of further evidence, he shall serve on such ₂[proprietor or stockist]₂ in the proscribed 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 evidence on which such ₂[proprietor or stockist]₂ relies in support of his return or to produce such evidence as is specified in the notice.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(b) On the date specified in the notice, or as soon as may be thereafter, the ₁[Luxury Tax Officer]₁ shall, after considering all the evidence which may be produced, assess the amount of tax due from the ₁[proprietor or stockist]₁.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(c) If the ₁[proprietor or stockist]₁ fails to comply with the terms of the notice issued to him under clause (a), the ₂[Luxury Tax Officer]₂ shall assess to the best of his judgement, the amount of tax due from him.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(3) If a ₁[proprietor or stockist]₁ liable to pay tax under this Act fails to furnish a return in respect of any period within the period specified in sub-section (1) of section 5, the ₂[Luxury Tax Officer]₂ shall, after giving the ₁[proprietor or stockist]₁ a reasonable opportunity of being heard, assess to the best of his judgement, the amount of tax if any, due from him.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(4) Any assessment made under this section shall be without prejudice to any penalty or prosecution for an offence under this Act.

₁[6A. Collection of tax by a registered ₂[proprietor or stockist]₂ and forfeiture of illegal or excess collection of taxes.- ₂[(1) A proprietor or a stockist, who is not

registered under this Act, shall not collect any amount by way of tax or purporting to be by way of tax under this Act, nor shall a registered proprietor or a registered stockist collect any amount by way of tax or purporting to be by way of tax at a rate exceeding the rate specified under this Act at which he is liable to pay tax.]²

1. Section 6A sub-section (1) and (2) Clause A and B Inserted by Act 10 of 1986 w.e.f.31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) If any ¹[proprietor or stockist]¹ contravenes the provisions of sub-section (1), the Luxury Tax officer, after giving such ¹[proprietor or stockist]¹ a reasonable opportunity of being heard,-

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(a) shall, by order in writing, forfeit in favour of the State Government the amount unauthorisedly collected or collected in excess of the prescribed rate ; and

(b) may, in addition, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the amount so collected.]¹

7. Imposition of penalty in certain cases.- Where any ¹[proprietor or stockist]¹ liable to pay tax under this Act,-

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

- (a) fails without sufficient cause or neglects to furnish a return as required by sub-section (1) of section 5, or
- (b) while furnishing a return under sub-section (1) of section 5 fails, without sufficient cause or neglects, to pay into government treasury the whole amount of tax due from him according to such return as required by sub-section (2) of section 5, or
- (c) fails without sufficient cause, to comply with the terms of notice issued to him under clause (a) of sub-section (2) of section 6, or
- (d) conceals the particulars of any transaction or deliberately furnishes inaccurate particulars of any transaction liable to tax,

the ¹[Luxury Tax Officer]¹ may impose upon such ²[proprietor or stockist]² by way of penalty, in addition to any tax assessed under section 6, a sum not exceeding one and a half times the amount of the tax.

1. Substituted by Act 10 of 1986w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

¹[Provided that no penalty shall be imposed for failure to furnish a return or pay tax on turnover of stock of luxury as required relating to Gutkha if such return is furnished or tax is paid within thirty days from the date of commencement of the Karnataka Tax on Luxuries (Amendment) Act, 2001.]¹

1. Inserted by Act 5 of 2001 w.e.f. 1.4.2001.

¹[7A. Assessment of escaped tax.- (1) Where for any reason the whole or any part of the ²[charges for lodging, charges for luxuries provided in a hotel for residents or

others, charges for luxuries provided in a marriage hall or turnover of stock of luxuries]² has escaped assessment to tax or has been assessed at a lower rate than the rate at which it is assessable, the Luxury Tax Officer may, at any time within a period of five years from the expiry of the ²[year]² to which the tax relates, proceed to assess to the best of his judgement the tax payable on such charges after issuing a notice to the ²[proprietor or stockist]¹ and after making such enquiry as he considers necessary.

1. Section 7A sub-section 1 and 2 Inserted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) In making an assessment under sub-section (1) the Luxury Tax Officer may, if he is satisfied that the tax escaped from assessment is due to willful non-disclosure of the charges for lodging by the proprietor ¹[or turnover of stock of luxuries by the stockist]¹, after giving a reasonable opportunity of showing cause, direct the proprietor ¹[or the stockist, as the case may be]¹ to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and a half times the tax so assessed.]¹

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

8. Payment of tax and penalty.- (1) (a) The amount of tax,-

- (i) due where returns have been furnished without full payment therefore ;
- (ii) assessed for any period ¹[x x x]¹ less any sum already paid by the ²[proprietor or stockist]² in respect of such period ;

1. Omitted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(b) the amount of penalty, if any, levied ¹[under this Act]¹,

shall be paid by the ²[proprietor or stockist]² ¹[in such manner as may be prescribed and]¹ by such date as may be specified in the notice issued by the ¹[Luxury Tax Officer]¹ for this purpose being a date not later than thirty days from the date of service of notice :

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

¹[Proviso x x x]¹

1. Omitted by Act 7 of 1997 w.e.f. 1.4.1997.

¹[(1A) If default is made in making payment in accordance with sub-section (1),-

(i) the whole of the amount towards tax or penalty out-standing on the date of default shall become immediately due and shall be a charge on the properties of the proprietor liable to pay such tax or penalty, and

(ii) the proprietor liable to pay such tax or penalty shall be liable to pay simple interest at two per cent of the amount of the tax or penalty due for each month or part thereof for the period for which the tax or penalty remains unpaid.]¹

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

1[(2) Any tax or penalty which remains unpaid on the date specified in the notice of payment 2[x x x]2 shall be recoverable,-

1. Sub-section (2) Clause (a) and (b) Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Omitted by Act 7 of 1997 w.e.f. 1.4.1997.

(a) as if it were an arrear of land revenue ; or

1[(aa) by attachment and sale or by sale without attachment of any property of such proprietor or stockist or any other person by the Luxury Tax Officer or any prescribed officer in accordance with such rules as may be prescribed;]1

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(b) on application to any magistrate by such magistrate, as it it were a fine imposed by him.]1

1[(3) Notwithstanding anything contained in sub-section (1-A), where the amount of penalty does not exceed five lakh rupees, the Commissioner and in other cases, the State Government, may, subject to such conditions as may be prescribed, remit the whole or any part of the penalty payable in respect of any period by any proprietor or stockist.]1

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

1[**8A. Recovery of tax from certain other persons.-** (1) The Luxury Tax Officer may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the 2[proprietor or stockist]2, at his last address known to the Luxury Tax Officer) require any person from whom money is due to the 1[proprietor or stockist]1 or any person who holds or may subsequently hold money for or on account of the 1[proprietor or stockist]1 to pay to the Luxury Tax Officer either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money, becomes due or is held) so much of the money as is sufficient to pay the amount due by the 1[proprietor or stockist]1 in respect of arrears of tax or penalty or the whole of the money when it is equal to or less than that amount.

1. 8A to 8C inserted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) The Luxury Tax Officer may at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with the notice under this section shall be deemed to have made the payment under the authority of the 1[proprietor or stockist]1 and the receipt of the Luxury Tax Officer shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(4) Any person discharging any liability to the 1[proprietor or stockist]1 after receipt of the notice referred to in this section shall be personally liable to the Luxury Tax Officer to the extent of the liability discharged or to the extent of the liability of the 1[proprietor or stockist]1 for the amount due under this Act, whichever is less.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the proprietor or stockist, or that he does not hold any money for or on account of the proprietor or stockist, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the Luxury Tax Officer.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(6) Any amount which a person is required to pay to the Luxury Tax Officer or for which he is personally liable to the Luxury Tax Officer under this section shall, if it remains unpaid be a charge on the properties of the said person and may be recovered in the manner specified in section 8.

Explanation.- For the purposes of this section, the amount due to proprietor or stockist, or money held for or on account of proprietor or stockist shall be computed after taking into account such claims, if any, as may have fallen due for payment by such proprietor or stockist to such person and as may be lawfully subsisting.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

8B. Liability of firms.- (1) Where any firm is liable to pay any tax or penalty or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax or penalty or other amount under this Act retires he shall, notwithstanding any contract to the contrary, be liable to pay the tax or penalty or other amount remaining unpaid at the time of his retirement and any tax or penalty or other amount upto the date of retirement, though unassessed.

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

8C. Tax payable on transfer of business etc.- (1) When the ownership of the business of a proprietor or stockist, liable to pay tax or penalty or any other amount under this Act is transferred and the transferor and the transferee shall jointly and severally be liable to pay tax or penalty or any other amount under this Act in respect of such business which remains unpaid at the time of transfer and for the purpose of recovery from the transferee, such transferee shall be deemed to be the proprietor or stockist, liable to pay the tax or penalty or other amount under this Act.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) Where a proprietor or stockist, dies, his executor, administrator or other legal representative shall be deemed to be the proprietor or stockist, for the purpose of this Act and the provisions of this Act shall apply to him in respect of the business of the deceased proprietor or stockist :

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

Provided that, in respect of any tax or penalty assessed as payable by any such ¹[proprietor or stockist]¹ or any tax or penalty which would have been payable by him under this Act, if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(3) When an undivided Hindu family or Aliya Santhana family liable to pay tax or penalty is partitioned, the assessment of the tax and the imposition of the penalty shall be made as if no partition of the family has taken place, and every person who was a member of the family before the partition shall be jointly and severally liable to pay the tax or penalty assessed or imposed.]¹

¹[CHAPTER V

APPEALS AND REVISIONS]¹

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

9. Appeal.- (1) Any ¹[proprietor or stockist]¹ aggrieved by the order of assessment ²[x x x]² or by an order imposing penalty ³[passed under the provisions of this Act]³ may within ¹[thirty days]¹ from the date of receipt of the order, make an appeal to the prescribed authority (hereinafter referred to as " the appellate authority").

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Omitted by Act 10 of 1986 w.e.f. 31.3.1986.

3. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

¹[(2) On receipt of an appeal under sub-section (1) the appellate authority shall, after giving the appellant an opportunity of being heard,-

- (a) confirm, reduce, enhance, annul or modify the assessment or penalty ; or
- (b) set aside the order of assessment or order imposing penalty and direct the Luxury Tax Officer to pass a fresh order after such enquiry as may be directed ; or
- (c) pass such orders as it may think fit.]¹

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

¹[10. Revisional powers of Joint Commissioner and Commissioner.- (1) The Joint Commissioner may of his own motion, call for and examine the records of any order passed or proceedings recorded under the provisions of this Act by a Luxury Tax Officer sub-ordinate to him, for the purpose of satisfying himself as to the legality or propriety of such orders or as to the regularity of such proceedings in so far as it is prejudicial to the interest of revenue, and may pass such order with reference thereto as he thinks fit.

1. Sub-section 1 to 7 substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) The Commissioner may of his own motion, call for and examine the record of any order passed or proceeding recorded under the provisions of this Act by a Joint Commissioner subordinate to him for the purpose of satisfying himself as to the legality or propriety of such order or as to the regularity of such proceeding in so far as it is prejudicial to the interest of revenue, and pass such orders with reference thereto as he thinks fit.

(3) The powers under sub-sections (1) and (2) shall be exercisable only with a period of four years from the date on which the order was passed.

(4) No order shall be passed under sub-section (1) or (2) enhancing any assessment, unless an opportunity has been given to the proprietor or the stockist to show cause against the proposed enhancement.

(5) The power under this section shall not be exercisable in respect of matters subjected to appeal under section 9.

(6) Every order passed in revision under sub-section (1) shall, subject to the provisions of section 10A and sub-section (2) of this section, be final.

(7) Every order passed in revision under sub-section (2), shall subject to the provisions of sections 10A and 11B, be final.

Explanation I.- For the purposes of this section, "the record" shall include all records relating to any proceedings under this Act available at the time of examination by the Commissioner or the Joint Commissioner.

Explanation II.- In computing the period of limitation under this section, the period during which any proceedings under this section is stayed by an order or injunction of any court shall be excluded.]¹

10A. Rectification of mistakes.- (1) With a view to rectifying any mistake apparent from the record, the Luxury Tax Officer, the appellate authority or the revising authority may, at any time within five years from the date of an order passed by him or it as the case may be, amend such order:

¹ Sub-section 1 to 3 Inserted by Act 10 of 1986 w.e.f. 31.3.1986.

Provided that an amendment which has the effect of enhancing an assessment or otherwise, increasing the liability of the proprietor or stockist shall not be made unless the Luxury Tax Officer, the appellate authority or the revising authority, as the case may be, has given notice to the proprietor or stockist of his or its intention and has allowed the proprietor or stockist an opportunity of being heard.

¹ Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) An order passed under sub-section (1) shall be deemed to be an order passed under same provision of law under which the original order, the mistake in which was rectified had been passed.

(3) Where such rectification has the effect of reducing an assessment or penalty, the assessing authority shall make any refund which may be due to the proprietor or stockist.]¹

¹ Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

11. Appeal to the Appellate Tribunal.- (1) Any officer empowered by the State Government in this behalf or any other person objecting to an order passed by the appellate authority under section 9 or an order passed by a revisional authority under sub-section (1) of section 10, may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him:

¹ Sub-section 1 to 11 Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

Provided that the Appellate Tribunal may admit an appeal preferred after the period of sixty days aforesaid but within a further period of one hundred and eighty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(2) The officer authorised under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal against the order of the Joint Commissioner has been preferred under sub-section (1) by the other party, may, notwithstanding that he has not appealed against such order or any part thereof, file at any time before the appeal is finally heard, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Joint Commissioner, as the case may be, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).

(3) The appeal or the memorandum of cross-objections shall be in the prescribed form, shall be verified in the prescribed manner, and in the case of an appeal preferred by any person other than an officer empowered by the State Government under sub-section (1), shall be accompanied by a fee equal to two per cent of the amount of assessment objected to: Provided that the sum payable shall in no case be less than two hundred rupees or more than one thousand rupees.

(4) Notwithstanding that an appeal has been preferred under sub-section (1), the payment of tax or penalty or any other amount, payable in accordance with any order passed by the Joint Commissioner under section 9 or sub-section (1) of section 10, shall not be stayed by the Appellate Tribunal during pendency of the appeal.

(5) The Appellate Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit :

Provided that if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it till such revision petition in the High Court or the appeal in the Supreme Court is disposed of :

Provided further that if as a result of the appeal any change becomes necessary in the assessment which is the subject-matter of the appeal, the Appellate Tribunal may authorise the Luxury Tax Officer to amend the assessment and the Luxury tax Officer shall amend the assessment accordingly and, thereupon, any amount over-paid by the assessee shall be refunded to him without interest, or any additional amount of tax due from him shall be collected in accordance with the provisions of the Act, as the case may be.

(6) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case:

Provided that the Appellate Tribunal may, except in case of an appeal against an order passed by the Joint Commissioner under section 9 in its discretion, give such

directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such form and manner as may be prescribed.

(7) (a) The Appellate Tribunal may, on the application either of the appellant or of the respondent, review any order passed by it under sub-section (5) on the basis of facts which were not before it when it passed the order:

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner within six months from the date on which the order to which the application relates was communicated to the applicant and , where the application is preferred by any person other than an officer empowered by the State Government under sub-section (1), it shall be accompanied by a fee equal to that which had been paid in respect of the appeal :

Provided that if the application for review is preferred within ninety days from the date on which the order to which application relates is communicated to the applicant, the application shall be accompanied by half the fee which had been paid in respect of the appeal.

(8) With a view to rectifying any mistake apparent from the record, the Appellate Tribunal may, at any time, but within five years from the date of any order passed by it under sub-section (5) or sub-section (7), amend such order:

Provided that no order under this sub-section shall be made without giving the parties affected by the order a reasonable opportunity of being heard.

(9) Except as provided in the rules made under this Act, the Appellate Tribunal shall not have the power to award costs to either of the parties to the appeal or review.

(10) Every order passed by the Appellate Tribunal under sub-section (5) or sub-section (7) or sub-section (8), shall be communicated to the appellant, the respondent, the authority on whose order the appeal was preferred, the Joint commissioner concerned and the Commissioner.

(11) Every order passed by the Appellent Tribunal under sub-section (5) shall, subject to the provisions of sub-section (4) of section 11A, be final.]¹

1[CHAPTER VI

MISCELLANEOUS

11A. Revision by High Court.- (1) Within sixty days from the date on which an order under section 11 was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either failed to decide or decided erroneously any question of law :

Provided that the High Court may admit a petition preferred after the period of sixty days aforesaid, if it is satisfied that the petitioner has sufficient cause for not preferring the petition within that period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, when it is preferred by any person other than an officer empowered

by the State Government under sub-section (1) of section 11, be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred, or remit the matter to the Appellate Tribunal with the opinion of the High Court on the questions or question of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Appellate Tribunal under clause (a) with its opinion on question or questions of law raised, the latter shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do, remit the petition to the Appellate Tribunal and direct it to return the petition with its finding on any specific questions or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case :

Provided that if as a result of the petition, any change becomes necessary in such assessment, the High Court may authorise the Luxury Tax Officer to amend the assessment and the Luxury Tax officer shall amend the assessment accordingly and thereupon the amount overpaid by the assessee shall be refunded to him without interest or the additional amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(7) With a view to rectify any mistake apparent from the record, the High Court may, at any time, within five years from the date of the order passed by it under sub-section (4), amend such order :

Provided that no order under this sub-section shall be made without giving to both parties affected by the order a reasonable opportunity of being heard.

(8) In respect of every petition preferred under sub-section (1) or (7), the costs shall be in the discretion of the High Court.

11B. Appeal to High Court.- (1) Any assessee objecting to an order passed under sub-section (2) of section 10, may appeal to the High Court within sixty days from the date on which the order was communicated to him :

Provided that the High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by a fee of five hundred rupees.

(3) The High Court shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.]¹

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

12. Payment of interest.- Where any amount refundable to any person under an order made under any provision of this Act is not refunded to him within ninety days,-

(a) of the date of such order, if that order is made by the refunding authority, or

(b) of the date or receipt of such order by the refunding authority, if that order is made by an authority other than the refunding authority,

the refunding authority shall pay such person simple interest at the rate of twelve percent per annum on the said amount from the date immediately following the expiry of the said ninety days to the day of the refund :

Provided that the interest shall be calculated on the balance of the amount remaining after adjusting out of refundable amount any tax, penalty or other amount due under this Act, for any year by the person on the date from which such interest is calculable.

Explanation.- If the delay in granting the refund within the aforesaid period of ninety days is attributable to the person to whom the refund is payable, the period of such delay shall be excluded for the purpose of calculation of interest.]¹

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

12A. Power of State Government to exempt or reduce tax.- The State Government may, if in its opinion, it is necessary in the public interest so to do, by notification and subject to such restrictions and conditions and for such period as may be specified in the notification, exempt or reduce the tax payable under this Act in respect of specified class of Hotels ²[or class of stockists]².]¹

1. Inserted by Act 11 of 1993 w.e.f. 1.4.1993.

2. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

12B. Accounts to be maintained by proprietors and stockists.- Every registered proprietor or registered stockist under this Act or every proprietor or stockist liable to get himself registered under this Act, shall maintain and keep true and complete accounts relating to his business, as may be prescribed.]¹

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

13. Offences.- (1) Any person who, being a ³[proprietor or stockist]³ liable to pay tax under this Act,-

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(a) furnishes or allows or causes to be furnished an incorrect or incomplete return or fails to submit the returns as required by or under the provisions of this Act, or

(b) fraudulently evades or allows to be evaded the payment of any tax due from him, or

- (c) fraudulently makes or causes or allows to be made any wrong entry in, or fraudulently omits or causes or allows to be omitted any entry from, any statement furnished or any accounts or register, or
- (d) knowingly collects from any person any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act, or
- (e) wilfully acts in contravention of any of the provisions of this Act or the rules made thereunder or any lawful orders passed in accordance therewith,
- ¹[(f) fails to maintain true and complete accounts,]¹

shall, on conviction be punished with imprisonment for a term which may extend to six months or with fine ²[which shall not be less than ³[one thousand rupees]³] but which may extend to ³[five thousand rupees]³² or with both.

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

3. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) No court shall take cognizance of any offence punishable under sub-section (1) except upon a report in writing of the facts constituting such offence made by the ¹[Luxury Tax Officer]¹.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

14. Offences by companies.- (1) Where an offence under this Act has been committed by a company every person who, at the time when the offence was committed, was in charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section-

(a) "company" means a body corporate, and includes a firm or other association of individuals, and

(b) "director", in relation to a firm means a partner in the firm

15. Compounding of offences.- (1) Subject to such conditions as may be prescribed, the ¹[Luxury Tax Officer or any officer authorised under sub-section (1) of section 17 may]¹, either before or after the institution of proceedings for an offence under this Act, permit any person who has committed or is suspected to have committed the

offence to compound the offence on payment of such sum, not exceeding double the amount of tax to which the offence relates ¹[as the Luxury Tax Officer or such authorised officer may]¹ determine.

12. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(2) On payment of such sum as may be determined by the ¹[Luxury Tax Officer or the authorised officer]¹ under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

16. Powers to enforce attendance etc.- All authorities under this Act, shall for the purpose of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while trying a suit, in respect of enforcing the attendance of and examining, any person on oath or affirmation or for compelling the production of any document.

17. Powers of inspection of accounts and documents and search of hotels.- (1) The ¹[Luxury Tax Officer or any officer authorised by the State Government in this behalf]¹ may, subject to such conditions as may be prescribed require any proprietor ²[or stockist]² to produce before him the working records of accounts, registers or other documents or to furnish any information relating to the business of the hotel ²[or business of the stockist]² as may be necessary for the purposes of this Act.

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(2) All working records of accounts, registers or other documents relating to the business of any hotel ²[lodging house, health club, beauty parlour, swimming pool, conference hall and the like, business of marriage hall and the business of any stockist]² shall at all reasonable times be open to inspection by the ¹[Luxury Tax Officer or the authorised officer]¹ and the ¹[Luxury Tax Officer or the authorised officer]¹ may take or cause to be taken such copies or extracts of such records as may be necessary for the purpose of testing the accuracy of the charges for such luxury ²[or the value of stock of luxuries]² or for informing himself as to the particulars regarding which information is required for the purpose of this Act or any rules thereunder as would appear to him necessary.

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

2. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

(3) If the ¹[Luxury Tax Officer or the authorised officer]¹ has reason to believe that any ²[proprietor or stockist]² has evaded or is attempting to evade the payment of tax due from him, he may for reasons to be recorded in writing, seize such records of accounts, registers or other documents of the ²[proprietor or stockist]² as may be necessary and shall grant a receipt for the same and shall retain the same so long only as may be necessary in connection with any proceeding under this Act or for a prosecution:

³[Provided that accounts, registers, records and other documents so seized shall not be retained by such officer for a period exceeding one hundred eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are

recorded by him , in writing and the approval of the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time.]³

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997

3. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

(4) For the purposes of this Act, the ¹[Luxury Tax Officer or the person authorised by him in this behalf or the officer authorised under sub-section (1)]¹, may enter and search any hotel or any place of business of the ²[proprietor or stockist]² or any other place where the ¹[Luxury Tax Officer or the officer authorised under sub-section (1)]¹ has reason to believe that the ²[proprietor or stockist]² keeps, or is for the time being keeping, any records of accounts, registers or other documents ²[relating to his business]².

1. Substituted by Act 10 of 1986 w.e.f. 31.3.1986.

2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997

1[18. Burden of proof.- (1) For the purpose of assessment of tax on luxuries under this Act, the burden of proving that any turnover of stock of luxuries is not liable to tax under this Act shall lie on the stockist.

(2) Notwithstanding anything contained in this Act or in any other law, if in respect of any turnover of stock of luxuries claimed to be not liable to tax under this Act, the burden of proof under sub-section (1) is not discharged, the stockist failing to discharge the burden of proof shall be deemed to be the stockist liable to tax under this Act in respect of such turnover of stock of luxuries.]¹

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997

1[18A. Assessment, etc. not to be questioned in prosecution.- The validity of the assessment of any tax or other amount made under this Act or the liability of any person to pay any tax or other amount so assessed or levied shall not be questioned in any criminal court in any prosecution or other proceedings whether under this Act or otherwise.]¹

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997

19. Bar of proceedings.- (1) No suit shall lie in any Civil Court to set aside or modify an assessment made or order passed under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against the State Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

20. Power to make rules.- (1) The State Government may make rules for securing the payment of the tax and generally for carrying into effect the provisions of this Act.

(2) Any rule under this Act may be made with retrospective effect and when such rule is made, the reasons for making the rules shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (3), every rule made under this Act shall have effect as if enacted in this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive

sessions, and if before the expiry of the session in which it is so laid or the session, immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

1[20A. Laying of notifications before the State Legislature.- Every notification issued under the provisions of this Act shall be laid as soon as may be after it is published, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions immediately following, and if both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the 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 the notification]1

1. Inserted by Act 7 of 1997 w.e.f. 1.4.1997

21. Power to remove difficulties.-If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions as may appear to it to be necessary or expedient for removing the difficulty.

¹[SCHEDULE

[See section 2 (6A)]

Sl. No.	Description of Luxuries	Rate of Tax
1	2	3
1	Cigarettes	4 per cent
2	Tobacco products other than cigarettes, including cigars, churuts, zarda, ² [xxx] ² , quimam etc., but excluding beedies and snuff	4 per cent] ¹
	1. Serial No. 1 and 2 Inserted by Act 7 of 1997 w.e.f. 1.4.1997 2. Omitted by Act 2 of 2001 w.e.f. 3.1.2001.	
3	³ [xxx]	¹ [++] ¹
	1. Omitted by Act 2 of 2001 w.e.f. 3.1.2001.	
¹ [4	Silk Fabrcis	2 per cent] ¹
	1. Serial No. 4 and 5 Inserted by Act 5 of 2001 w.e.f. 22.1.2001.	
¹ [5	Electronic goods imported from outside the country, namely	
	(i) Television sets	
	(ii) Telephones of every description including cellular phones	
	(iii) Audio and Video cassette/discs/players and recorders	
	(iv) Photographic and Video cameras	

- (v) Music and Home Theatre systems; speakers
- (vi) Electronic toys and games
- (vii) Electronic clocks, time pieces and watches
- (viii) Electronic Calculators
- (ix) Digital Diaries
- (x) Musical instruments Twelve per cent]¹

1. Substituted by Act 5 of 2002 w.e.f. 1.4.2001.

¹[Explanation: Where the rate of tax payable on any electronic goods by a stockist, under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) is lower than the rate of tax payable on the said goods under this Act, then the rate of tax payable under this Act shall be at such lower rate]¹

1. Substituted by Act 5 of 2002 w.e.f. 1.4.2001.

NOTIFICATION

Bangalore dated 31-5-1979 [No. FD 54 CSL 79]

S.O. 1271.- In exercise of the powers conferred by sub-section (3) of section of the Karnataka Tax on Luxuries (Hotels and Lodging Housed) Act, 1979 (Karnataka Act No. 22 of 1979), the Government of Karnataka hereby appoints the 1st day of June, 1979 as the date on which the said Act shall come into force.

By Order and in the name of Governor of Karnataka,

(L.S. JAGIRDAR)

Secretary to Government,

Finance Department (CT).

* * * * *

Extract of Karnataka Act 3 of 2004

5. Validation of assessments etc.,- Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority to the contrary, anything done or any action taken or purporting to have been done or taken (including any notices or orders issued and all proceedings held for the levy, assessment and collection of tax or amount purported to have been collected by way of tax in relation to such levy, assessment and collection) under the provisions of the Karnataka Sales Tax, 1957 (Karnataka Act 25 of 1957) (hereinafter referred to as the said Act) before the commencement of the Karnataka Taxation Laws (Amendment) Act, 2003 (hereinafter referred to as the Amendment Act) shall be and shall be deemed to be valid and effective as if such levy, assessment or collection or action or thing had been made, taken or done under the said Act, as amended by clause (3) of section 2 of the Amendment Act and accordingly,-

- (a) all acts, proceedings or things taken or done by any authority in connection with levy, assessment or collection of such tax shall, for all purposes be

deemed to be, and to have always been taken or done in accordance with law;

- (b) no suit or other proceedings shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such tax; and
- (c) no Court shall enforce any decree or order directing the refund of any such tax.

Extract of Karnataka Act 26 of 2004

8. Validation of assessments etc.,- (1) Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority to the contrary, anything done or any action taken or purporting to have been done or taken (including any notices or orders issued and all proceedings held for the levy, assessment and collection of tax or amount purported to have been collected by way of tax in relation to such levy, assessment and collection) under the provisions of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) (hereinafter referred to as the said Act) before the commencement of the Karnataka Taxation Laws (Second Amendment) Act, 2004 (hereinafter referred to as the Amendment Act) shall be and shall be deemed to be valid and effective as if such levy, assessment or collection or action or thing had been made, taken or done under the said Act, as amended by clause (17) of Section 3 of the Amendment Act and accordingly,-

- (a) all acts, proceedings or things taken or done by any authority in connection with levy, assessment or collection of such tax shall, for all purposes be deemed to be, and to have always been taken or done in accordance with law;
- (b) no suit or other proceedings shall be maintained or continued in any Court of Tribunal or before any authority for the refund of any such tax; and
- (c) no Court shall enforce any decree or order directing the refund of any such tax.

(2) Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority to the contrary, anything done or any action taken or purporting to have been done or taken (including any notices or orders issued and all proceedings held for the levy, assessment and collection of tax or amount purported to have been collected by way of tax in relation to such levy, assessment and collection) under the provisions of the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979) (hereinafter referred to as the said Act) before the commencement of the Karnataka Taxation Laws (Second Amendment) Act, 2004 (hereinafter referred to as the Amendment Act) shall be and shall be deemed to be valid and effective as if such levy, assessment or collection or action or thing had been made, taken or done under the said Act, as amended by clause (1) of Section 7 of the Amendment Act and accordingly,-

- (a) all acts, proceedings or things taken or done by any authority in connection with levy, assessment or collection of such tax shall, for all purposes be deemed to be, and to have always been taken or done in accordance with law;
- (b) no suit or other proceedings shall be maintained or continued in any Court of Tribunal or before any authority for the refund of any such tax; and
- (c) no Court shall enforce any decree or order directing the refund of any such tax.

KARNATAKA ACT NO.2 OF 2001
THE KARNATAKA TAX ON LUXURIES
(AMENDMENT) ACT, 2001

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement.
2. Amendment of section 2
3. Amendment of section 4B.
4. Substitution of section 12B
5. Insertion of new section 17A
6. Amendment of Schedule
7. Repeal and savings

STATEMENT OF OBJECTS AND REASONS

Gutkha which is a product containing among others mainly arecanut and tobacco was subject to sales tax at 15% till 31.3.2000 and at 16% from 1.4.2000 under the Karnataka Sales Tax, 1957. Apart from this, gutkha is also liable for 4% entry tax under the Karnataka Tax on entry of goods Act, 1979 and in cases where entry tax is not payable, it is liable for 4% luxuries tax under the Karnataka tax on Luxuries Act, 1979.

As per the agreement made with the Union Government by all States, the States have agreed for levy and collection of Additional Duty of Excise in lieu of sales tax by the Union Government under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 on tobacco (and also on tobacco products, textiles and sugar). The Additional duty of Excise so collected by the Union Government is shared among all the States

and any state levying sales tax on these goods would lose its share from such Additional duty of Excise collected.

Till 31.3.1992 tobacco and its products, textiles and sugar had been generally exempted from sales tax under the Karnataka Sales Tax Act, 1957. However by an amendment to the Fifth Schedule with effect from 1.4.92, exemption of sales tax was confined only to the goods which are specified from time to time in the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957. This was done to empower the State to levy sales tax on those goods on which no Additional Duty of Excise in lieu of sales tax, was proposed to be levied by the Union Government. Accordingly sales tax was being levied by the State on tobacco and its products.

Similarly, certain other states were also levying sales tax on tobacco and its products, which were not specified under the Additional duties of Excise (Goods of Special Importance) Act, 1957. The levy of Sales tax by the State of Andhra Pradesh on gutkha, which was not specified under the Additional Duties of Excise (Goods of special Importance) Act, 1957 was questioned before Supreme Court in M/s Kothari Products Limited Vs. Govt. of Andhra Pradesh and the Apex Court in its judgement dated 25.1.2000 has held that gutkha is tobacco specified under the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and therefore not liable for sales tax. As the ratio of the aforesaid case is also applicable to the State, it is not possible to continue to levy of sales tax on gutkha in the State.

Discontinuance of sales tax on gutkha would entail a revenue loss of about rupees thirty crores per annum.

It was therefore considered necessary to increase the rate of luxury tax on gutkha from 4% to 20% by amending the Karnataka Luxuries Tax Act, 1979 which was in addition to the existing entry tax at 4%.

As the matter was urgent, the Karnataka Tax on Luxuries (Amendment) Ordinance, 2001 was promulgated.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Vide L.A.Bill No.3 of 2001 File No. ಸಂವ್ಯಶಾಇ 4 ಶಾಸನ 2001)

KARNATAKA ACT NO. 2 OF 2001

*(First Published in the Karnataka Gazette
Extra-ordinary on the thirtieth day of March, 2001)*

**THE KARNATAKA TAX ON LUXURIES (AMENDMENT)
ACT, 2001**

*(Received the assent of the Governor on the thirtieth day of
March, 2001)*

An Act further to amend the Karnataka Tax on Luxuries Act, 1979.

Whereas it is expedient further to amend the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Fifty second year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Tax on Luxuries (Amendment) Act, 2001.

(2) It shall be deemed to have come into force on the twenty third day of January 2001.

2. Amendment of Section 2.- In Section 2 of the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979) (hereinafter referred to as the principal Act),-

(1) for clause (5-A), the following shall be substituted, namely:-

“(5-A). “Luxury Tax Officer” means an Assistant Commissioner of Commercial Taxes or any other officer of the Commercial Taxes Department as the State Government or the

(Published in the Karnataka Gazette Part IV-A Extra Ordinary No.653 dated 30-3-2001 in Notification No. ಸಂವ್ಯಶಾಇ 4 ಶಾಸನ 2001)

Commissioner may, by notification in this behalf, appoint to exercise powers and perform functions of the Luxury Tax Officer under this Act;”

(2) in clause (6-B), the following shall be inserted at the end, namely:-

“or on the first day of April 2000, on which tax under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) has been paid or has become payable;”

3. Amendment of Section 4B.- In Section 4B of the principal Act, in sub-section (3),-

(1) after clause (i), the following shall be inserted, namely:-

“(ia) on which tax under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) has been paid or has become payable.”

(2) in clause (iii), before the words “on which”, the following words and punctuation mark shall be inserted, namely, -

“other than relating to gutkha,”

4. Substitution of Section 12B.- For Section 12B of the principal Act, the following shall be substituted, namely:-

“12-B. Maintenance of accounts and issue of sale bills or cash memorandum.- (1) Every registered proprietor, stockist and every proprietor or stockist liable to get himself registered under this Act shall maintain and keep true and complete accounts relating to his business as well as such other registers or records as may be prescribed in this regard. All such accounts, registers or records shall be retained by him in his safe custody till his assessment or re-assessment, as the case may be, for the relevant year is completed or, in cases where any appeal,

revision or other proceedings in respect of such year has been filed and is pending, the same is disposed of.

(2) Every proprietor liable to pay luxury tax under the Act shall issue a bill or cash memorandum in respect of the charges for lodging accommodation or charges for marriage hall recovered by him from a guest or any person and shall specify in such bill or cash memorandum, the full name of the hotel or marriage hall, the amount of luxury tax recovered, the name of the guest or any person from whom it is recovered and where the charges are recovered in any foreign exchange, the name of the currency.

(3) Every registered stockist or a stockist liable to registration under the Act, in respect of each and every delivery of a luxury which is in pursuance of a sale shall issue a bill of sale containing the particulars and which is other than in pursuance of a sale shall issue a delivery note, prescribed, respectively, in sub-section (1) of section 27 and sub-section (2) of section 28A of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).”

5. Insertion of new Section 17A.- After Section 17 of the principal Act, the following shall be inserted, namely:-

“17-A. - Recognition of sales tax check posts or barriers for the purposes of the Act. - (1) With a view to prevent or check evasion of tax under this Act, check posts or barriers or both, as the case may be, established or erected under the provisions of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) (hereinafter referred to as the “Sales Tax Act”) shall be recognized for the purposes of this Act.

(2) The owner or person-in-charge of the goods vehicle carrying any luxury shall carry with him the documents prescribed

for the purpose of sub-section (2) of Section 28-A of the Sales Tax Act and produce and give a copy of the same in the manner and to the officer prescribed in the said Section.

(3) Where the owner or person in-charge of the goods vehicle carrying any luxury is not required to carry the documents prescribed for the purpose of sub-section (2) of Section 28-A of the Sales Tax Act, he shall give a declaration in the prescribed form to the prescribed officer in the said section.

(4) The officer referred to in sub-section (4) of Section 28-A of the Sales Tax Act may, in cases of the type and in the circumstances mentioned in the said sub-section levy penalty not exceeding three times the amount of tax leviable under this Act in respect of the luxury under transport.

(5) Where luxuries are delivered to a carrier or other bailee for transmission, the movement of the luxuries shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. Where before delivery is taken from him a carrier or bailee to whom luxuries are delivered for transmission, keeps the said luxuries in any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place, any officer empowered to exercise the powers under sub-section (3-A) of section 28-A of the Sales Tax Act, shall have power to enter into and search such office, shop, godown, vessel, receptacle, vehicle or any other place of business or building or place, and to examine the luxuries and inspect all records relating to such luxuries. The carrier or bailee or the person-in-charge of the luxuries and records shall give all facilities for such examination or inspection and shall, if so required, produce the bill of sale or delivery note or other documents referred to in sub-section (2) and give a declaration containing such particulars as may be prescribed

regarding the luxuries and give his name and address and the name and address of the carrier or the bailee and the consignee.

(6) If any officer empowered to enter into and search any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place where a carrier or bailee keeps the luxuries delivered to him for transmission, has reason to suspect that such carrier or bailee has colluded with the owner of the luxuries in evading payment of any tax, he may for reasons to be recorded in writing, seize accounts, registers, records or other documents of the bailee or carrier as he may consider necessary and shall give a receipt for the same. The accounts, registers, records and other documents 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 all searches and seizures under sub-section (5) or 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):

Provided further that accounts, registers, records and other documents so seized shall not be retained by such officer for a period exceeding one hundred eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him in writing and the approval of the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time.

(7) Where the officer-in-charge of the check post or barrier, or the officer empowered as aforesaid on interception of the goods vehicle or inspection of any godown, is of the opinion that further verification is necessary with respect to either accuracy of the particulars furnished in the documents

accompanying the luxuries under transport or in transit, or, as to the sufficiency and the cause adduced in respect of any contravention of sub-section (2), he may verify the particulars himself or if it is necessary cause it to be verified by referring the matter to any other officer and if such verification is not likely to be completed within a reasonable time, he may direct in writing the carrier or the person-in-charge of the goods vehicle or the godown not to deliver the luxuries until permitted to do so by him or such other officer to whom the matter is referred for verification and allow the intercepted vehicle, if any, to pass through:

Provided that the officer shall order for detention of such quantity of luxuries as in his opinion would be equivalent to three times the amount of tax leviable on such luxuries.

(8) The verification under sub-section (7) shall be completed within a period of fifteen days from the date of the direction issued under that sub-section and where such verification cannot be completed within the aforesaid period the officer who has issued such direction, or, as the case may be, the officer to whom the matter is referred for verification shall obtain the permission in writing of the next higher authority to extend such period or completion of the verification, so however such extension shall not be permitted for the period exceeding fifteen days at a time.

(9) Where such officer or other officer to whom the matter is referred, upon such verification is of the opinion that there is a non-compliance with sub-section (2), and penalty is leviable under sub-section (4), he may, proceed against such luxuries in the custody of the carrier, or the person-in-charge of vehicle or the godown in accordance with sub-sections (4) and (11) of this Section.

(10) Where the officer-in-charge of the check post or any empowered officer has issued a notice for contravention of any of the provisions of this Section, further proceedings in pursuance to such notice may, subject to such conditions and in such manner as may be prescribed, be continued by any other officer empowered by the Commissioner in this behalf, from the stage at which it is pending.

(11) The provisions of Section 28-A of the Sales Tax Act relating to the recovery of penalty and appeals shall mutatis mutandis apply to the penalty leviable under sub-section (4) of this Section.”

6. Amendment of schedule.- In the schedule to the principal Act,-

(1) in the entries relating to Serial Number 2, in column 2, the words and punctuation mark “gutkha, “shall be omitted;

(2) after the entries relating to Serial Number 2, the following entries shall be inserted, namely:-

“3. Gutkha 20 per cent “

7. Repeal and savings.- (1) The Karnataka Tax on Luxuries (Amendment) Ordinance, 2001 (Karnataka Ordinance 3 of 2001) 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.