



The Orissa Rural Infrastructure and Socio-Economic Development Act, 2004

Act 2 of 2005

Keyword(s):

Annual Value of Mineral Bearing Land, Coal Bearing Land, Mineral Bearing Land, Proceeds of Tax

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**THE ORISSA RURAL INFRASTRUCTURE AND
SOCIO-ECONOMIC DEVELOPMENT ACT, 2004**

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***THE ORISSA RURAL INFRASTRUCTURE AND SOCIO-ECONOMIC
DEVELOPMENT ACT, 2004
(ORISSA ACT 2 OF 2005)**

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first published in an extraordinary issue of the Orissa Gazette,
dated the 1st February, 2005 (No. 194)]**

AN ACT TO PROVIDE FOR ADDITIONAL RESOURCES FOR DEVELOPMENT
OF INFRASTRUCTUTRE, PROMOTION OF EDUCATION AND EMPLOYMENT
AND FOR THE SOCIO-ECONOMIC DEVELOPMENT IN RURAL, BACKWARD
AND MINING AREAS OF THE STATE.

BE it enacted by the Legislature of the State of Orissa in the
Fifty-fifth Year of the Republic of India as follows :-

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Orissa Rural Infrastruture and Socio-economic Development Act, 2004.

(2) It shall extend to the whole of the State of Orissa.

(3) It shall come into force on such date as the State Government may, by **notification, appoint.

Definitions.

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

(a) "annual value of mineral bearing land" in relation to a financial year, means one-half of the value of mineral produced from mineral bearing land during the two years immediately preceding that financial year, the value of mineral being that as could have been fetched by the entire production of mineral during the said two immediately preceding years, had the owner of such mineral bearing land sold such mineral at the price or prices excluding the amount of tax, fee, duty, royalty, or any other amount as may be prescribed, that prevailed on the date immediately preceding the first day of that financial year.

EXPLANATION /— Where different prices are prevailing on the date immediately preceding the first date of that financial year for different grades or qualities of mineral, the value of mineral of each grade or quality produced during the two years immediately preceding that financial year shall be determined accordingly.

* For the Bill, see *Orissa Gazette*, Extraordinary dated the 5th November 2004 (No. 1473)

** Came into force w.e.f. 1st February, 2005, vide *Orissa Gazette* Extraordinary, dated the 9th February, 2005 (No. 252).

EXPLANATION II — Where no prices of mineral are available on the date immediately preceding the first date of that financial year, the price or prices of mineral shall be determined by the State Government, in such manner as may be prescribed.

- (b) "appellate authority" means the authority as may be prescribed;
- (c) "coal bearing land" means any land acquired or declared from time to time under any law for the purpose of obtaining coal;
- (d) "mineral bearing land" means any land which bears minerals as defined in clause (a) of section 3 of the Mines and Mineral (Development and Regulation) Act, 1957 and held for carrying on mining operation; and includes coal bearing land; 67 of 1957.
- (e) "prescribed" means prescribed by rules;
- (f) "proceeds of tax" means the proceeds of tax levied under section 3;
- (g) "rules" means rules made under this Act;
- (h) "tax" means the rural Infrastructure and socio-economic development tax levied under section 3; and
- (i) "year" means the financial year.

Levy of tax.

3.(1) On and from commencement of this Act, there shall be levied and collected a rural infrastructure and socio-economic development tax on all mineral bearing land in the manner hereinafter provided.

EXPLANATION.— For the removal of doubts, it is hereby declared that any land which is subject to levy of tax under sub-section (1), shall not be liable to Cess under the Orissa Cess Act, 1962.

Orissa Act
11 of 1962.

(2) The rural infrastructure and socio-economic development tax shall be levied annually on all mineral bearing land at such rate, not exceeding twenty percentum of the annual value of such mineral bearing land, as the State Government may, by notification, fix in that behalf, and different rates may be fixed for different mineral bearing land:

Provided that where in case of any mineral bearing land, there is no production of mineral for two consecutive years of more, such land shall be liable for levy of tax at such rate, not exceeding the dead rent payable under the law for the time being in force on that mineral bearing land, as may be prescribed:

Provided further that the State Government shall notify the rate of tax in respect of any such mineral bearing land once during any period of two years.

(3) The State Government, before fixing the rate of tax under sub-section (2), shall appoint a Committee, in such manner as may be prescribed who shall recommend to the State Government the annual value of mineral bearing lands and the rate at which the tax may be levied.

Payment
and recovery
of tax.

(4) Every notification issued under sub-section (2) shall be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions.

4. (1) The tax payable under sub-section (2) of section 3 in respect of mineral bearing land shall be paid by the person who holds such land to an authority, not below the rank of a Mining Officer or Deputy Director of Mines in charge of a mining circle, as the State Government may, by notification, specify (hereinafter referred to as the notified authority), in such manner, at such interval and by such date or dates as may be prescribed:

Provided that where any person holds mineral bearing land for more than one mineral, the tax shall be paid by him in such manner as may be determined by rules made under this Act.

(2) Every holder of a mineral bearing land shall be liable to pay, by way of penalty in default of payment of tax payable by him under sub-section (1) for any period by the prescribed date, an amount not exceeding three times of the tax so payable by him for that period:

Provided that the notified authority shall give the holder of mineral bearing land a reasonable opportunity of being heard before imposition of such penalty.

(3) The tax payable under sub-section (1) shall be assessed by the notified authority in the prescribed manner.

(4) Recovery of tax assessed under sub-section (3) or refund of any amount of such tax found to have been paid in excess after assessment shall be made in the prescribed manner.

(5) The amount of tax assessed under sub-section (3) and penalty, if any, imposed, if not paid, shall be recovered by the notified authority as an arrear of land revenue.

Appeal.

5. (1) Any person aggrieved by any order of assessment passed by the notified authority may prefer an appeal before the appellate authority within thirty days from the date of receipt of the copy of such order and the appellate authority may pass such order thereon as it may deem just and proper:

Provided that the appellate authority may admit the appeal after the period so specified if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period:

Provided further that no appeal shall be entertained by the said authority unless half of the tax assessed and demanded is paid.

(2) Any order passed by the notified authority, subject to the order passed in appeal, if any, shall be final.

Appointment of
persons to assist
notified authority.

6. (1) The State Government or the notified authority may appoint any person to assist the notified authority.

Rural Infra-structure and Socio-economic Development Fund.

(2) Any powers, duties or functions of the notified authority may be delegated to any person appointed under sub-section (1) in such manner and subject to such conditions as may be prescribed.

7. (1) There shall be established a fund to be called "The Orissa Rural Infrastructure and Socio-Economic Development Fund" which shall be administered in such manner as may be prescribed.

(2) The fund shall consist of—

- (a) all proceeds of tax ;
- (b) any sum granted by the State Government ; and
- (c) any other sum received from any source whatsoever.

Application of fund.

8. The fund shall be utilised by the State Government for improvement and development of infrastructure, implementation of production programmes, promotion of education, health, sanitation and employment in rural areas, backward areas and mining areas, for which, the State Government shall take appropriate measures by drawing up suitable infrastructural development programmes :

Provided that not less than ten per centum of the fund shall be utilized in the mining area.

Notified Authority and other persons to be public servant.

9. The notified authority and every person appointed under sub-section (1) of section 6 duly authorised to discharge the powers and functions of the notified authority under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860

Protection of action taken in good faith.

10. No suit, prosecution or other legal proceedings shall lie against the State Government or notified authority or person appointed under sub-section (1) of section 6 or the appellate authority in respect of anything which is in good faith done or intended to be done in pursuance of provisions of this Act or rules or order made thereunder.

Power to make rules.

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

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

- (a) in the matter of determination of annual value of mineral bearing land under clause (a) of section 2 ;
- (b) appointment and manner of appointment of appellate authority under clause (b) of section 2 ;
- (c) determination of tax under proviso to sub-section (2) of section 3 in respect of mineral bearing land in which mineral has not been produced ;
- (d) appointment of Committee under sub-section (3) of section 3 ;

- (e) submission of returns and other relevant information as may be necessary for the purposes of sub-section (1) of Section 4 ;
- (f) payment of tax where a person holds mineral bearing land for more than one mineral under proviso to sub-section (1) of section 4 ;
- (g) assessment of tax by the notified authority under sub-section (3) of section 4 ;
- (h) delegation of powers, duties and functions of the notified authority under sub-section (2) of section 6 ; and
- (i) all other matters which may be, or are required to be, prescribed under this Act.

(3) In making any rule under this section, the State Government may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees and where the breach is a continuing one, with further fine which may extend to five hundred rupees for every day after the first during which the breach continues.