THE ANDHRA PRADESH GAZETTE
PART IV-B EXTRAORDINARY
PUBLISHED BY AUTHORITY


ANDHRA PRADESH ACTS, ORDINANCES AND
REGULATIONS ETC.

The following Act of the Andhra Pradesh Legislature received the assent of the Governor on the 8th January, 2016 and the said assent is hereby first published on the 12th January, 2016 in the Andhra Pradesh Gazette for general information:-

ACT NO. 4 OF 2016.

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH VALUE ADDED TAX ACT, 2005

Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixty-sixth year of the Republic of India as follows:-

1. [(1) This Act may be called the Andhra Pradesh Value Added Tax (Amendment) Act, 2016.]

   (2) [(i) sub-section (1) of section 5 shall be deemed to have come into force with effect on and from the 1st April, 2015.]
   (ii) section 22 and clause (ii) of section 23 shall be deemed to have come into force on 23.09.2015.
   (iii) section 24 shall be deemed to have come into force on 23.10.2015.
   (iv) the remaining sections shall come into force at once.

[1]
2. In the Andhra Pradesh Value Added Tax Act, 2005, [herein after referred to as Principal Act], in section 2, for sub-section (47), the following shall be substituted, namely:

"(47) Zero Rated Sales‘ means the sales which are taxable at the rate of zero and which are also eligible for input tax credit subject to the conditions as may be prescribed".

3. In the Principal Act, in section 4, in sub-section (4),

(1) in clause (iii), the word “or” shall be added at the end.
(2) after clause (iii), so amended and before the proviso thereunder, the following shall be inserted, namely,

"(iv) dispatched to a place outside the State otherwise than by way of sale in the course of inter-state trade and commerce or export out of the territory of India."

4. After section 4, the following new section shall be inserted, namely,

"(Levy of Tax on the Sales of HSD and Furnace Oil to ships.)"

4-A. Notwithstanding anything contained in this Act, or in the Schedule, every dealer shall, subject to conditions and restrictions as may be prescribed, be liable to pay tax,

(a) on the sales of High Speed Diesel (HSD) and Furnace Oil to the foreign going international ships at the rate of 0.5%;

(b) on the sales of Furnace oil to coastal ships at the rate of 5%.

5. In the Principal Act, in section 13,

(1) in sub-section (3), after clause (a), the following shall be inserted, namely,

"(aa) input tax credit under sub-section (1) only when the selling dealer has paid the tax in respect of the same goods under this Act;"

(2) in sub-section (5), after clause (j), the following shall be inserted, namely,

"(k) Purchase of goods made by a VAT dealer which are subsequently destroyed or lost and therefore do not have corresponding sales. The Input Tax Credit claimed on such purchases shall be reversed in the return for the month in which such goods are lost or destroyed."

(3) after sub-section (5A), the following shall be inserted, namely,

"(5B) Notwithstanding anything contained in sub-section (5), a VAT dealer acquiring any business as an ongoing concern and continuing the same business activity after the acquisition shall, subject to the conditions as may be prescribed be eligible to claim Input Tax Credit available to such business as on the date of such transfer."

6. In the Principal Act, in section 21,

(1) after sub-section (1), the following sub-sections shall be inserted, namely,
Every VAT dealer, shall in such manner, as may be prescribed, furnish a Certificate of audit of the accounts for every financial year, by 31st day of December subsequent to the financial year to which the statements are related, along with other statements as may be prescribed duly certified by a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949:

Provided that the VAT dealer, who fails to furnish the Certificate of audit of the accounts statements on or before the due date shall be liable to pay a penalty of Rs.3,000/- for every day of delay from the due date till the date of submission.

(1B) every TOT dealer shall in such manner, as may be prescribed, furnish a Certificate of audit of the accounts for every financial year, by 31st day of December subsequent to the financial year to which the statements are related, along with other statements as may be prescribed duly certified by a Sales Tax Practitioner with a standing of five years and possessing a Certificate of an Enrolment issued by the Commissioner:

Provided that the TOT dealer, who fails to furnish the Certificate of audit of the accounts statements on or before the due date shall be liable to pay a penalty of Rs.750/- for every day of delay from the due date till the date of submission."

(2) for sub-section (4), the following shall be substituted, namely:-

"(4) The authority prescribed may, based on any information available or on any other basis, conduct a detailed scrutiny of the accounts of any dealer and where any assessment as a result of such scrutiny becomes necessary, such assessment shall be made within a period of four years from the end of the period for which the assessment is to be made".

(3) for sub-sections (7) and (8), the following shall be substituted, namely:-

"(7) Where any proceeding of assessment has been deferred or stayed by the Appellate Tribunal or by the High Court or by the Supreme Court for any reason, the period, during which such order of deferment or stay was in force, and also a further period of 90 days from the date of receipt of the orders, having the effect of vacation of such orders of deferment or stay, shall be excluded in computing the period of four years or six years, as the case may be, for the purpose of making any assessment under this section:

Provided that on vacation of the orders of deferment or stay, referred to in the section, the proceedings of such assessment shall recommence from the stage at which it was deferred or stayed.

(8) Where an assessment made has been set-aside by any Court, the period between the date of such assessment and the date on which it has been set-aside and a further period of 90 days shall be excluded in computing the period of four years or six years as the case may be, for making any fresh assessment.".

In the Principal Act, in section 22, for sub-sections (3B) and (4), the following shall be substituted, namely:-
“(3B) Any person or authority, notified by the Commissioner, shall deduct from out of the amounts payable by him to a dealer in respect of sales of any goods, as may be specified, an amount calculated at the rate as may be notified and such person or authority, deducting such tax at source, shall remit it in the manner as may be prescribed.

(4) If any authority or person fails to deduct tax at source in accordance with the sub-sections (3), (3A) or (3B) or remit the amount of tax, so deducted, within the prescribed time to the State Government, such amount of tax, not collected or not remitted, shall be recoverable from such authority or person, as if it were the tax liable to be paid by him under the Act:

Provided that all the provisions of this Act including the provisions relating to interest and penalty applicable to failure to pay tax under the Act shall apply mutatis-mutandis to the tax not deducted and remitted.”.

Amendment of section 31.
8. In the Principal Act, in section 31, in sub-section (1), after the first proviso, the following shall be inserted, namely:-

“Provided further that the Commissioner may, in general but not in specific cases and in such circumstances, in which the appellate authorities are not able to discharge their normal functions due to natural calamities, public agitations or other similar reasons, notify the period of time to be excluded for the purpose of computation of the time limit for filing of appeals prescribed under this sub-section.”.

Amendment of section 32.
9. In the Principal Act, in section 32,-

(1) sub-section (5) shall be omitted.

(2) for sub-sections (6) and (7), the following shall be substituted, namely:-

“(6) Where an order, passed under this section, has been set-aside by any court or other competent authority under the Act for any reason, the period between the date of such revision order and the date of receipt of the order, setting it aside, and also a further period of 90 days shall be excluded in computing the period of four years, specified in sub-section (3), for the purpose of making a fresh revision, if any, under this section;

(7) Where any proceeding under this section has been deferred or stayed by the Appellate Tribunal or by the High Court or by the Supreme Court for any reason, the period, during which such order of deferment or stay was in force, and also a further period of 90 days from the date of receipt of the orders, having the effect of vacation of such orders of deferment or stay, shall be excluded in computing the period of four years specified in sub-section (3) for the purpose of exercising the power under this section:

Provided that on vacation of the orders of deferment or stay, referred to in the section, the proceedings of suchrevision shall recommence from the stage at which it was deferred or stayed.”.

Amendment of section 34.
10. In the Principal Act, in section 34, in sub-section (1) and in the proviso there under, for the words, “ninety days”, the words “one hundred and twenty days” shall be substituted.
11. In the Principal Act, in section 38, in sub-section (6), for the words, “one percent”, the expression “1.25%” shall be substituted.

12. In the Principal Act, in section 39, in sub-section (2), for the words, “one percent”, the expression “1.25%” shall be substituted.

13. In the Principal Act, in section 45,-

(1) in sub-section (2), in clause (b), after the words ‘delivery notes’, the words “or Way Bills” shall be inserted.

(2) in sub-section (3), in clause (b), for sub-clause (ii), the following shall be substituted, namely,-

“(ii) that the sale or purchase of the goods carried has, for the purpose of payment of tax not been properly accounted for in the documents referred to in clause (b) of sub-section (2) and if the said officer is satisfied, after making such enquiry as he deems fit, that with a view to prevent the evasion of tax payable in respect of the said or purchase of the goods carried, it is necessary to detain the goods he shall detain the goods and direct the driver or any other person in-charge of the goods vehicle or vessel or consignor or consignee to pay such tax, and to furnish security for an amount equal to two times the amount of tax payable in such form and in such manner and to such authority as may be prescribed, on behalf of the person liable to pay such tax.”.

(3) in sub-section (4), for the words “if the tax is paid or the security is furnished”, the words “if the tax is paid and the security is furnished” shall be substituted.

(4) in sub-section (6), for the words “tax directed to be paid or the security directed” the words “tax directed to be paid and the security directed” shall be substituted.

14. In the Principal Act, in section 47,-

(1) for the marginal heading ‘Transit Pass’, the following shall be substituted, namely,-

“Transit Pass and a Radio Frequency Identification (RFID) Tag or any other tracking device offered by the Department”.

(2) after the words, a ‘transit pass’, the following shall be inserted, namely,-

“and a Radio Frequency Identification (RFID) Tag or any other tracking devise offered by the Department.”.

(3) after the proviso, and before Explanation thereunder, the following provisos shall be added, namely,-
"Provided further that where it is found any motor vehicle fails to carry the Radio Frequency Identification (RFID) Tag or any other tracking device offered by the Department or tampers the tag or device, the driver or other person in-charge of such vehicle shall be liable to a penalty of Rs.10,000/- (Rupees ten thousand only) or equal the amount of the tax on goods carried in the vehicle, whichever is higher:

Provided also that before levying the penalty the officer in-charge of the Check-Post or barrier shall give the person affected an opportunity of being heard."

Amendment of section 48.

15. In the Principal Act, in section 48, in clause [a], after the words "delivery note", the words "and way bill" shall be added.

Amendment of section 48-A.

16. In the Principal Act, in section 48A,-

(1) to sub-section (1), the following provisos shall be added, namely-,

"provided that where the owner or person in-charge of the goods vehicle or vessel, entering or leaving the territories of the State is unable to produce the required documents prescribed in the sub-section (1) above to the officer in-charge of the check-post or barrier, such owner or person in-charge of the goods vehicle or vessel shall be liable to pay a penalty of Rs.15,000/- (Rupees fifteen thousand only) for each offence:

Provided further that, before levying the penalty, the officer shall give the person affected an opportunity of being heard."

(2) in sub-section (2),

(i) after the words "having a place of business in the State of Andhra Pradesh", the words "or entering or leaving the territories of the State of Andhra Pradesh" shall be inserted;

(ii) after the words "it has a principal place of business", the words "or the place of destination of goods in the State of Andhra Pradesh" shall be inserted.

(3) after sub-section (2) so amended, the following shall be added, namely-,

"(3) Every carrier of goods or transport company having a place of business in the State of Andhra Pradesh and transporting the goods on behalf of dealer shall obtain a Radio Frequency Identification (RFID) Tag or any other tracking device offered by the Department from the Commercial Tax Officer in whose territorial jurisdiction such carrier of goods or transporting company is located, for each of their vehicles or vessels by paying the requisite fee as notified by the Commissioner. Such RFID Tag or any other tracking device shall accompany the vehicle or vessel carrying the goods in the State of Andhra Pradesh or to a destination outside the State of Andhra Pradesh:

Provided that, the carrier of goods or Transport Company described in sub-section (3) above, fails to obtain a Radio Frequency Identification (RFID) Tag or any other tracking device offered by the Department or tampers the Tag or device, he shall be liable for a penalty of Rs.10,000/- (Rupees ten thousand only) or equal to the amount of tax on goods carried in the vehicle whichever is higher:

Provided further that, before levying the penalty the officer in-charge of the Check-Post or barrier shall give the person affected an opportunity of being heard."
17. In the Principal Act, after section 56, the following section shall be inserted, namely,-

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56A. Where any registered VAT dealer, fails to upload details of tax invoices as prescribed, notwithstanding that the returned turnovers are correct, is liable to pay a penalty at 5% of the total turnover covered by such invoices:

Provided that before levying penalty, the authority prescribed shall give the dealer a reasonable opportunity of being heard.
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18. In the Principal Act, in section 57, in sub-section (5), and in the proviso thereunder, for the words "three years", the words "six years" shall be substituted.

19. In the Principal Act, for section 59 along with marginal heading, the following shall be substituted, namely,-

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59. Any dealer who obstructs the authority prescribed in the performance of his duties under the Act or the driver or any person in-charge of the goods vehicle or vessel who fails to stop the vehicle or vessel when so required by any officer prescribed shall on conviction be punishable with imprisonment for a term which shall not be less than one month but which may extend to six months and with fine*.
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20. In the Principal Act, in section 61, in sub-section (1),

(i) after the words 'any dealer' the words "or transporter" shall be inserted;

(ii) in clause (a) the word, "and" shall be omitted.

(iii) after clause (a) so amended, the following new clause shall be inserted, namely,

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(faa) in the case of transporters, who have committed an offence under section 59, a sum not exceeding Rs.1,00,000/- (Rupees one lakh only).
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21. In the Principal Act, in section 63, in sub-section (2), for the expression 'a sum not exceeding five hundred rupees as it or he thinks fit' the following expression shall be substituted, namely,-

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a sum of Rs.1,000/- (Rupees one thousand only) for every day of delay after 30 days (thirty days) from the date of summons/notice issued subject to a maximum of Rs. 30,000/- (Rupees thirty thousand only) in case of a VAT dealer and Rs. 350/- (Rupees three hundred and fifty only) for every day of delay after 30 days (thirty days) from the date of summons/notice issued subject to maximum of Rs. 10,000/- (Rupees Ten thousand only) in case of a TOT dealer; and Rs. 500/- (Rupees five hundred only) per day in the case of all other persons subject to a maximum of Rs. 15,000/- (Rupees fifteen thousand only as it or he thinks fit*.
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22. In the Principal Act, in Schedule-I, for the entry at Sl.No. 57, the following shall be substituted, namely,-
23. In the Principal Act, in Schedule-IV, (i) in the entry at Sl.No. 100, after Item No.235, the following shall be added, namely,

"236. Furnace Oil".

(ii) the entry at Sl.No. 128, shall be omitted.

24. In the Principal Act, in Schedule-VI,- (i) in the Table, for Item No.1-A, the following shall be substituted, namely,-

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Point of levy</th>
<th>Rate of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-A</td>
<td>Indian Made Foreign Liquor (other than Beer, Wine and Ready to drink varieties bottled and/or packed in India as per the provisions of Andhra Pradesh Excise Act, 1968, but excluding Toddy and Arrack) Basic price (per case) :</td>
<td>At the point of first sale in the state</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Upto Rs. 400/-</td>
<td></td>
<td>140%</td>
</tr>
<tr>
<td></td>
<td>(b) Above Rs. 400/- up to Rs. 2,500/-</td>
<td></td>
<td>150%</td>
</tr>
<tr>
<td></td>
<td>(c) Above Rs. 2,500/- up to Rs. 3,500/-</td>
<td></td>
<td>160%</td>
</tr>
<tr>
<td></td>
<td>(d) Above Rs. 3,500/- up to Rs. 5,000/-</td>
<td></td>
<td>140%</td>
</tr>
<tr>
<td></td>
<td>(e) Above Rs. 5,000/-</td>
<td></td>
<td>130%</td>
</tr>
</tbody>
</table>

(ii) in the Table, for Item No.1-B, the following shall be substituted, namely,-

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description</th>
<th>Point of levy</th>
<th>Rate of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-B</td>
<td>Beer bottled and/or packed in India as per the provisions of the Andhra Pradesh Excise Act, 1968 Basic price (per case) :</td>
<td>At the point of first sale in the state</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(a) Rs. 200/- and below</td>
<td></td>
<td>150%</td>
</tr>
<tr>
<td></td>
<td>(b) Above Rs. 200/-</td>
<td></td>
<td>175%</td>
</tr>
</tbody>
</table>

(iii) in the Table, for Item No. 1-C, the following shall be substituted, namely,-

<table>
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<tr>
<th>Item No.</th>
<th>Description</th>
<th>Point of levy</th>
<th>Rate of Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-C</td>
<td>(a) Wines</td>
<td>At the point of first sale in the State</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>(b) Ready to drink varieties (RTD)</td>
<td></td>
<td>150%</td>
</tr>
</tbody>
</table>

C.S.S.V. DURGA PRASAD,
Secretary to Government,
Law Department.