



The Tamil Nadu Taxation Special Tribunal Act, 1992

Act 42 of 1992

Keyword(s):

Act Repealed by 34 of 2004, Administrative Member, Judicial Member, Special Tribunal, Member, Vice-Chairman

Amendment appended: 34 of 2004

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Part IV—Section 2

Tamil Nadu Acts and Ordinances.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 7th August 1992 and is hereby published for general information :—

ACT No 42 OF 1992.

An Act to provide for the adjudication or trial by a Special Tribunal of any disputes, complaints or offences with respect to the levy, assessment, collection and enforcement of any tax under any specified State Act, in pursuance of Article 323-B of the Constitution and for matters connected therewith or incidental thereto.

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

1. (1) This Act may be called the Tamil Nadu Taxation Special Tribunal Act, 1992.

Short title
extent and
commencement.

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

(3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

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

Definitions.

(a) "Administrative Member" means a Member of the Special Tribunal appointed as such who possesses the qualifications specified in clause (d) of sub-section (3) of section 3;

(b) "appointed day" means the date appointed under sub-section (3) of section 1;

(c) "appropriate authority" in relation to any specified State Act means the authority in charge of levy, assessment, collection or enforcement of tax ;

(d) "Bench" means a Bench of the Special Tribunal ;

(e) "Chairman" means the Chairman of the Special Tribunal ;

(f) "Government" means the State Government ;

(g) "Judicial Member" means a Member of the Special Tribunal appointed as such who possesses any of the qualifications specified in clause (c) of sub-section (3) of section 3 ;

(h) "Member" means a Member (whether Judicial or Administrative) of the Special Tribunal and includes the Chairman and the Vice-Chairman ;

(i) "Special Tribunal" means the Tamil Nadu Taxation Special Tribunal constituted under section 3 ;

(j) "Specified State Act" means a State Act specified in the Schedule to this Act ;

(k) "Vice-Chairman" means the Vice-Chairman of the Special Tribunal ;

(l) words and expressions used in this Act, but not defined herein and defined in the specified State Act or the rules made thereunder, shall have the meanings respectively assigned to them by such Act or the rules made thereunder.

**Constitution
of Special
Tribunal.**

3. (1) The Government shall, by notification in the *Tamil Nadu Government Gazette*, constitute for the State a Special Tribunal called the Tamil Nadu Taxation Special Tribunal to exercise the jurisdiction, powers and authority conferred on such Special Tribunal by or under this Act.

(2) The Special Tribunal shall consist of a Chairman, a Vice-Chairman, a Judicial Member and an Administrative Member appointed by the Governor of the State.

(3) No person shall be qualified for appointment—

(a) as Chairman of the Special Tribunal unless he—

(i) is, or has been, a judge of a High Court ; or

(ii) has, for at least two years, held the office of Vice-Chairman ;

(b) as Vice-Chairman of the Special Tribunal unless he—

(i) is, or has been, or is qualified to be, a judge of a High Court ;

(ii) has been an officer of the Government not below the rank of Special Commissioner and Secretary to Government, whether in the Secretariat or elsewhere, for a period of not less than two years ; or

(iii) has been Secretary to Government, Law Department of the State Government, for a period of not less than two years; or

(iv) has, for a period of not less than two years, held office as a Judicial Member or an Administrative Member;

(c) as a Judicial Member of the Special Tribunal unless he—

(i) is, or has been, or is qualified to be, a judge of a High Court;
or

(ii) has been Secretary to Government, Law Department of the State Government for a period of not less than two years;

(d) as an Administrative Member of the Special Tribunal unless he has been an officer of the Government not below the rank of Commissioner and Secretary to Government, whether in the Secretariat or elsewhere for a period of not less than two years and has dealt with taxation measures during his service in the Government in any capacity for a period of not less than two years in the aggregate.

(4) No appointment of a person possessing the qualification specified in this section as the Chairman, the Vice-Chairman or a Member shall be made except after consultation with the Chief Justice of India.

(5) Any vacancy in the office of Chairman, Vice-Chairman or other Member shall be filled in by the Governor of the State in accordance with the provisions of this Act:

Provided that in the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, or when the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Government may authorise—

(i) the Vice-Chairman; or

(ii) the Judicial Member, if there is any vacancy in the office of the Vice-Chairman by reason of his death, resignation or otherwise, or the Vice-Chairman is unable to discharge his functions owing to absence, illness or any other cause,

to discharge the functions of the Chairman until the Chairman resumes his office or a Chairman appointed in accordance with the provisions of this Act, enters upon his office.

4. (1) The Chairman, Vice-Chairman or other Members shall hold office as such for a term of three years from the date on which he enters upon his office but shall be eligible for re-appointment for another term of three years:

Provided that no Chairman, Vice-Chairman or other Members shall hold office as such after he attained,—

(a) in the case of the Chairman or Vice-Chairman, the age of sixty-five years, and

(b) in the case of any other Member, the age of sixty-two years.

Terms and
conditions
of service of
Chairman,
Vice-
Chairman
and
Members.

(2) The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairman, Vice-Chairman or other Members shall be such as may be prescribed:

Provided that neither the salaries and allowances nor the other terms and conditions of service of the Chairman, Vice-Chairman or other Members shall be varied to his disadvantage after his appointment.

(3) (a) The Chairman, Vice-Chairman or other Members may, by notice in writing under his hand addressed to the Governor of the State, resign his office:

Provided that the Chairman, Vice-Chairman or other Members shall, unless his resignation is accepted sooner by the Governor of the State, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(b) The Chairman, Vice-Chairman or other Members shall not be removed from his office except by an order made by the Governor of the State on the ground of proved misbehaviour or incapacity after an enquiry, made by a Judge of the High Court, in which such Chairman, Vice-Chairman or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(c) The Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairman, Vice-Chairman or other Members referred to in clause (b).

5. (1) The Government shall determine the nature and categories of the officers and other employees required to assist the Special Tribunal in the discharge of its functions and provide the Special Tribunal with such officers and other employees as it may think fit.

(2) The officers and other employees of the Special Tribunal shall discharge their functions under the general superintendence of the Chairman.

(3) The salaries and allowances and conditions of service of the officers and other employees of the Special Tribunal shall be such as may be prescribed.

(4) The Chairman shall exercise financial and administrative powers for the functioning of the Special Tribunal or may delegate the same in accordance with the rules made under this Act:

6. Save as expressly provided under any specified State Act, this Act shall apply to all matters of adjudication or trial of any dispute, complaint or offence with respect to levy, assessment, collection and enforcement of any tax under any specified State Act and matters connected therewith and incidental thereto.

7. (1) Save as otherwise expressly provided in this Act, the Special Tribunal shall, with effect on and from the appointed day, exercise, the jurisdiction, powers and authority exercisable immediately before that day by all courts including the High Court (except the Supreme Court) for adjudication or trial of disputes or complaints with respect to all matters of levy, assessment, collection and enforcement of any tax under any specified State Act and matters connected therewith or incidental thereto.

(2) Notwithstanding anything contained in this Act, all proceedings triable by any Court or Courts in accordance with the provisions of the Code of Criminal Procedure, 1973, shall continue to be tried by such Court and the Special Tribunal shall have no jurisdiction to try such proceedings.

8. The Special Tribunal shall have and exercise the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise, and, for this purpose, the provisions of the Contempt of Courts Act, 1971, shall have effect subject to the modifications that—

(a) the reference therein to a High Court shall be construed as including a reference to the Special Tribunal;

Staff of
Special
Tribunal.

Application of
this Act to
specified
State Acts.

Jurisdiction,
powers and
authority of
Special
Tribunal.

Power to
punish for
contempt.

Central Act
V of 1974

Central Act
V of 1974

Central Act
2 of 1974.

Central Act
70 of 1971.

(b) the reference to the Advocate-General in section 15 of the said Act shall be construed in relation to the Special Tribunal as a reference to the Advocate-General of the State.

9. (1) The Special Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Government, the Special Tribunal shall have power to regulate its own procedure, including the place of sitting and time of its hearing.

Procedure to be followed by Special Tribunal.

(2) The Special Tribunal shall have, for the purpose of discharging its functions under this Act, the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery, inspection and production of books of account and other documents;
- (c) reviewing its decisions;
- (d) dismissing an appeal for default or deciding it *ex-parte*; and
- (e) any other matter which may be prescribed.

10. The Bench shall consist of,—

- (i) the Chairman, Vice-Chairman and any other Member; or
- (ii) the Vice-Chairman and any other Member; or
- (iii) a single Member:

Composition of Benches.

Provided that if any case which comes up before a Bench consisting of a single Member (who is not the Chairman) or a Bench consisting of more than one Member (of which the Chairman is not a Member) involves a question of law, such Bench may, in its discretion, refer such case for the decision by a Bench of which the Chairman shall be a Member.

Explanation.—The single Member referred to in clause (iii) may be either the Chairman, Vice-Chairman or any other Member.

11. On an application made by any party and after notice to such party and after hearing such party as he may desire to be heard, or in his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.

Power of Chairman to transfer cases from one Bench to another.

12. If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided they shall state the point or points on which they differ, and make a reference to the Chairman, who shall either hear the point or points himself or refer the case for hearing on such point or points by a Bench consisting of one or more of the other Members and such point or points shall be decided according to the opinion of the majority of the Members who have heard the case, including those who first heard it.

Decision to be by majority.

13. The Special Tribunal shall have the power to award costs in any matter decided by it and the amount of such costs awarded against an authority under the relevant specified State Act shall be payable by the appropriate authority under the said Act, or in case the amount of such costs awarded against any other person shall be paid by him to the Special Tribunal in such manner as may be prescribed.

Power to award cost.

14. On and from the appointed day, no court (except the Supreme Court), shall have, or be entitled to exercise, any jurisdiction, powers or authority in relation to matters specified in the specified State Acts.

Exclusion of jurisdiction of courts, except Supreme

15. No writ shall lie in the High Court to set aside or modify any proceeding or order taken or made by the appropriate authority under the specified State Acts.

Special Act of 1908.

Special Act of 1908.

Special Act of 1974.

Special Act of 1971.

Members and staff of Special Tribunal to be public servants.

16. The Chairman, Vice-Chairman and other Members and the Officers and other employees of the Special Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith.

17. No suit, prosecution or other legal proceedings shall lie against the Government or against the Chairman, Vice-Chairman and other Members of the Special Tribunal for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Act to have overriding effect.

18. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any law other than this Act.

Transfer of pending cases from High Court.

19. (1) All matters and proceedings including appeals relating to the levy, assessment, collection and enforcement of tax under any specified State Act and matters connected therewith or incidental thereto, pending before the High Court on the appointed day, shall stand transferred to the Special Tribunal:

Provided that, if any matter or any proceeding has been heard in part or heard but judgment is not delivered on or before the appointed day nothing in this section shall apply to such matter or proceeding.

Explanation.—No application or proceeding shall be deemed to have been heard in part only by reason of any interim order having been passed therein.

(2) Where any matter or proceeding including appeal stands transferred from the High Court to the Special Tribunal under sub-section (1)—

(a) the High Court shall, as soon as may be after such transfer, forward the records pertaining to such matter or proceeding to the Special Tribunal; and

(b) the Special Tribunal, shall, on receipt of such records, proceed to deal with such matter or proceeding from the stage at which it is transferred or from any earlier stage or *de novo* as the Special Tribunal may deem fit:

Provided that an interlocutory order granted on an application by the High Court shall continue to be in operation unless the Special Tribunal by an order varies or modifies the same.

(3) An appeal transferred from the High Court to the Special Tribunal shall be decided by a Bench of three Members.

Review.

20. The Special Tribunal may, upon an application made within sixty days from the date of the order or on its own motion at any time within five years from the date of the order, review an order passed by it under this Act with a view to rectifying any mistake apparent on the face of the record and amend its earlier order.

Right to be represented by the legal practitioner.

21. (1) In any proceeding pending before the Special Tribunal under this Act, the petitioner may appear either in person or through a legal practitioner of his choice to present his case before the Special Tribunal.

(2) The Government may authorise one or more legal practitioners or any of its officers to act as presenting officers and any person so authorised by it may present its case in any proceeding before the Special Tribunal.

Power to make rules.

22. (1) The Government may make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all and any of the following matters, namely:—

(a) the salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairman, Vice-Chairman and other Members, under sub-section (2) of section 4;

(b) the procedure for the investigation of misbehaviour or incapacity of the Chairman, Vice-Chairman or other Members under clause (c) of sub-section (3) of section 4;

(c) the salaries and allowances and conditions of service of the officers and other employees of the Special Tribunal under sub-section (3) of section 5;

(d) the rules subject to which the Special Tribunal shall have power to regulate its own procedure under sub-section (1) of section 9 and the additional matters in respect of which the Special Tribunal may exercise the powers of the Civil Court under clause (e) of sub-section (2) of section 9;

(e) any other matter which has to be, or may be, prescribed by rules under this Act.

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

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

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

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of three years from the date of publication of this Act in the *Tamil Nadu Government Gazette*.

(2) Every order made under sub-section (1) shall, as soon as possible, after it is made, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such order or the Assembly decides that the order should not be issued, the order 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 order.

24. The Tamil Nadu General Sales Tax Act, 1959 shall have effect as if,—

(1) in section 2, after clause (n), the following clause had been inserted, namely:—

“(nn) ‘Special Tribunal’ means the Special Tribunal as defined in clause (i) of section 2 of the Tamil Nadu Taxation Special Tribunal Act, 1952;”;

(2) in section 16,—

(a) in sub-section (5), for the words “High Court” the words “Special Tribunal” had been substituted;

(b) in sub-section (6), for the words “Special Appellate Tribunal”, the words “Special Tribunal” had been substituted;

(3) in section 32, in sub-section (2), for the words “High Court” wherever they occur, the words “Special Tribunal” had been substituted:

Tamil Nadu Act 1 of 1959, as subsequently modified, to have effect subject to modifications

(4) in section 34, in sub-section (2), for the words "High Court" wherever they occur, the words "Special Tribunal" had been substituted;

(5) in section 30, in sub-section (3), for the words "High Court" wherever they occur, the words "Special Tribunal" had been substituted;

(6) after section 36, the following section had been inserted, namely:—

"36-A. *Tribunals under Article 323-B of the Constitution for sales tax matters.*—It is hereby declared that the assessing authority referred to in clause (c) of section 2, the Appellate Assistant Commissioner referred to in section 31, the Deputy Commissioner referred to in sections 31-A, 32 and 33, the Joint Commissioner of Commercial Taxes referred to in sections 34 and 35, the Appellate Tribunal appointed under section 30 and the Special Tribunal referred to in clause (nn) of section 2 shall be the hierarchy of Tribunals for purposes of clause 3 (a) of Article 323-B of the Constitution for adjudication or trial of any dispute or complaint with respect to levy, assessment, collection and enforcement of sales tax matters arising under this Act."

(7) in section 37,—

(a) including the marginal heading, for the words "High Court" wherever they occur, the words "Special Tribunal" had been substituted;

(b) in sub-section (1), for the words "Board of Revenue", the words "Joint Commissioner of Commercial Taxes" had been substituted;

(8) in section 38, including the marginal heading, for the words "High Court" wherever they occur, the words "Special Tribunal" had been substituted;

(9) after section 38, the following section shall be inserted, namely:—

"38-A. *Special powers of revision by Special Tribunal.*—(1) Notwithstanding anything contained in this Act, the Special Tribunal may, of its own motion or on application, call for and examine the record of the Appellate Assistant Commissioner, the Deputy Commissioner, the Joint Commissioner of Commercial Taxes or the Appellate Tribunal in respect of any proceeding under this Act to satisfy itself as to the regularity of such proceeding or the correctness or legality or propriety of any decision passed or order made therein, and if, in any case, it appears to the Special Tribunal that any such decision or order should be modified, annulled, reversed, or remitted for reconsideration, it may pass orders accordingly:

Provided that every application to the Special Tribunal for the exercise of the powers under this section shall be preferred within such period as may be prescribed:

Provided further that the Special Tribunal may admit an application after the expiration of the prescribed period if it is satisfied that the party concerned had sufficient cause for not presenting it within such period:

Provided also that this section shall not apply to any proceeding of the Joint Commissioner of Commercial Taxes under section 34, or the Appellate Tribunal under section 36, in respect of which, appeal under section 37, or revision under section 38, respectively, lies to the Special Tribunal.

(2) No order prejudicial to any person shall be passed under sub-section (1), unless such person has been given an opportunity of making his representations.

(3) Notwithstanding that an application has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the application has been preferred:

Provided that the Special Tribunal may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the application, if the applicant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed."

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(10) section 50 had been omitted;

(11) in section 52, for the words "High Court", the words "Special Tribunal" had been substituted.

Tamil Nadu Act
58 of 1986.

25. The Tamil Nadu General Sales Tax (Seventh Amendment) Act, 1986, is hereby repealed. Repeal of Tamil Nadu Act 58 of 1986.

THE SCHEDULE.

[See section 2 (j).]

Tamil Nadu Act
1 of 1959.

1. The Tamil Nadu General Sales Tax Act, 1959.

Tamil Nadu Act
14 of 1970.

2. The Tamil Nadu Additional Sales Tax Act, 1970.

Tamil Nadu Act
24 of 1971.

3. The Tamil Nadu Sales Tax (Surcharge) Act, 1971.

(By order of the Governor.)

MD. ISMAIL,

Secretary to Government, Law Department.

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 8th December 2004 and is hereby published for general information:—

ACT No. 34 OF 2004.

An Act to repeal the Tamil Nadu Taxation Special Tribunal Act, 1992.

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

1. (1) This Act may be called the Tamil Nadu Taxation Special Tribunal (Repeal) Act, 2004.

Short title
and
commence-
ment.

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

2. The Tamil Nadu Taxation Special Tribunal Act, 1992, is hereby repealed.

Repeal.

3. (1) On and from the date of commencement of this Act (hereafter in this section referred to as the said date), all matters and proceedings pending before the Tamil Nadu Taxation Special Tribunal (hereafter in this section referred to as the said Special Tribunal) on the said date, shall stand transferred to the High Court.

Transfer of
pending
cases from
Special
Tribunal.

(2) The High Court shall proceed to deal with such matter or proceeding from the stage at which it is transferred or from any earlier stage or *de novo* as the High Court may deem fit:

Provided that an interim or interlocutory order granted by the said Special Tribunal shall continue to be in operation unless the High Court by an order varies or modifies the same.

(By order of the Governor)

L. JAYASANKARAN,

*Secretary to Government-in-charge,
Law Department.*