



**KARNATAKA LEGISLATIVE ASSEMBLY
FOURTEENTH LEGISLATIVE ASSEMBLY
THIRD SESSION**

**THE KARNATAKA TAXATION LAWS (AMENDMENT) BILL, 2014
(L.A. Bill No. 32 of 2014)**

A Bill further to amend certain taxation laws in force in the State of Karnataka.

Whereas it is expedient further to amend certain taxation laws for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Sixty fifth year of the Republic of India, as follows.-

1. Short title and commencement.- (1) This Act may be called the Karnataka Taxation Laws (Amendment) Act, 2014.

(2) Section 1 and 2 shall come into force with effect from First day of March 2014 and Section 3 shall come into force with effect from First day of April 2014.

2. Amendment of Karnataka Act 22 of 1979.- In the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979), in section 3, in sub-section (1), in the table, in the entries relating to serial number 1, for the words "five hundred rupees", the words "seven hundred and fifty rupees" shall be substituted.

3. Amendment of Karnataka Act 27 of 1979.- In the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979),-

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

"5. Returns.- (1) Subject to sub-sections (2) to (4), every registered dealer, and every dealer who is liable to get himself registered under this Act, shall furnish a return to the assessing authority in such form and manner, including electronic methods, and shall pay the tax due on such return within twenty days or fifteen days after the end of the preceding month or any other tax period as may be prescribed:

Provided that the specified class of dealers as may be notified by the Commissioner shall furnish particulars for preparation of the return in the prescribed form or submit the return in the prescribed form, electronically in the manner specified in the notification issued:

Provided further that the specified class of dealers as may be notified by the Commissioner shall pay tax payable on the basis of the return, by electronic remittance in the manner specified in the notification issued.

(2) The tax on entry of goods declared in a return furnished shall become payable at the expiry of the period specified in sub-section (1) without requiring issue of a notice for payment of such tax.

(3) Subject to such terms and conditions as may be specified, the assessing authority may require any registered dealer.-

(a) to furnish a return for such periods, or

(b) to furnish separate branch returns where the registered dealer has more than one place of business.

(4) If any dealer having furnished a return under this Act, other than a return furnished under sub-section (3) of Section 5-D, discovers any omission or incorrect statement therein, other than as a result of an inspection or receipt of any other information or evidence by the assessing authority,

(a) he shall furnish a revised return within the time prescribed for filing the return for the succeeding tax period; and

(b) he shall furnish a revised return any time thereafter but within six months from the end of the relevant tax period, if so permitted by the assessing authority.

(5) Every registered dealer shall furnish every year to the assessing authority, a statement in such form, containing such particulars and within such period as may be prescribed.”

(2) for section 5-B, the following shall be substituted, namely,-

“5-B. Interest in case of failure to furnish returns or to pay tax declared on returns or other amounts payable.- (1) Every dealer shall be liable to pay simple interest on any amount of tax which should have been declared on a return, but which has been omitted from it, unless that omission is corrected within three months of the omission subject to sub-section (2) of Section 20-B, and such interest is payable from the date the tax should have been declared, and the dealer shall declare his liability to pay that interest in such form and manner as may be prescribed.

(2) If a dealer required to furnish a return under this Act.-

(a) fails to pay any amount of tax or additional tax declared on the return, or

(b) furnishes a revised return more than three months after tax became payable, declaring additional tax, but fails to pay any interest declared to be payable under sub-section (1), or

(c) fails to declare any tax or interest which should have been declared, or

(d) fails to make a return,

such dealer shall be liable to pay interest in respect of the tax and additional tax payable declared by him or the tax payable and interest payable under sub-section (1) for the period for which he has failed to furnish a return.

(3) Where any other amount is payable under this Act is not paid within the period specified in Section 8, interest shall be payable on such amount from such period.

(4) The interest shall also be payable under this Section during any period during which recovery of any tax or other amount payable under the Act is stayed by an order of any authority or Court in any appeal or other proceedings disputing such tax or amount.”

(3) for section 5-C, the following shall be substituted, namely,-

“5-C. Rate of interest.- (1) The rate of simple interest payable under Section 5-B shall be one and one half per cent per month:

- (a) from the date the tax had become payable to the date of its payment or to the date of any assessment under this Act, whichever is earlier; and
- (b) from the date on which any amount payable under this Act was due.

(2) For the purpose of this Section interest in respect of parts of a month shall be computed proportionately and month shall mean any period of thirty days.

5-D. Assessment.- (1) Every dealer shall be deemed to have been assessed to tax based on the return filed by him under section 5, except in cases where the Commissioner may notify the dealer of any requirement of production of accounts before the assessing authority in support of a return filed for any period and such authority shall proceed to assess such dealer,-

- (a) on the basis of the return filed where he is satisfied that the return filed is correct and complete, or
- (b) to the best of its judgment, where the return filed appears to be incorrect or incomplete, after giving the dealer an opportunity of showing cause against such assessment in writing and any additional tax assessed shall be paid within thirty days from the date of service of such assessment on the dealer.

(2) Where a registered dealer fails to furnish his return on or before the date provided in this Act or the rules made thereunder, the assessing authority shall issue an assessment to the registered dealer to the best of its judgement and the tax assessed shall be paid within ten days from the date of service of such assessment on the dealer.

(3) Where an assessment has been made under sub-section (2) and the dealer subsequently furnishes a return for the period to which the assessment

relates, the assessing authority may withdraw the assessment but the dealer shall be liable to penalties and interest as applicable.

(4) Where the dealer furnishes a return under sub-section (3), such return shall be furnished within one month of service of such assessment on the dealer.

(5) (a) The assessing authority on any evidence showing a liability to tax coming to its notice may with the previous permission of his Joint Commissioner or Additional Commissioner issue a protective assessment in the case of a dealer registered under this Act or a dealer liable to be registered under this Act, if the assessing authority has reason to believe that such dealer will fail to pay any tax, penalty or interest so assessed or imposed or payable and such tax, penalty or interest shall become payable forthwith.

(b) On any application made within thirty days from the date of receipt of such protective assessment by the dealer or on his own motion within thirty days from the date of issue of such protective assessment, if the Joint Commissioner or Additional Commissioner considers that any protective assessment issued is erroneous, he may after giving the dealer concerned an opportunity of being heard and after making such enquiry as he deems necessary, pass such order thereon as the circumstances of the case may justify.

(6) The authority authorized by the Commissioner in this behalf shall assess, a dealer who fails, within the time specified, to get registered though liable to do so, to the best of its judgement for the tax period or periods that would apply to such dealer if he were to be registered, after giving the dealer an opportunity of showing cause against such assessment in writing and the tax assessed and any interest payable shall be paid within ten days from the date of service of such assessment on the dealer.” ;

(4) for section 6, the following shall be substituted, namely,-

“6. Re-assessment of tax.-(1) Where the assessing authority has grounds to believe that any return furnished which is deemed as assessed or any assessment issued under Section 5-B understates the correct tax liability of the dealer, it,-

(a) may, based on any information available, re-assess, to the best of its judgement, the additional tax payable and also impose any penalty under sub-section (2) of section 20-B and demand payment of any interest; and

(b) shall issue a notice of re- assessment to the dealer demanding that the tax shall be paid within thirty days of the date of service of the notice after giving the dealer the opportunity of showing cause against such re-assessment in writing.

(2) Where after making a re-assessment under this Section.-

(a) any further evidence comes to the notice of the assessing authority; or

(b) if the assessing authority has reason to believe that the whole or any part of the turnover of a dealer or the value of taxable goods brought or caused to be brought into a local area by a dealer whether on his own account or on account of his principal or any other person or who has taken delivery or is entitled to take delivery of such goods on its entry into local area in respect of any tax period has escaped re-assessment to tax; or

(c) tax has been under re-assessed; or

(d) has been re-assessed at a rate lower than the rate at which it is assessable under this Act; or

(e) any deductions or exemptions have been wrongly allowed in respect thereof,

The assessing authority may, notwithstanding the fact that whole or part of such escaped turnover or value of taxable goods as the case may be, was already before the said authority at the time of assessment or re-assessment, proceed to make assessment or any further re-assessments in addition to such earlier assessment or re-assessment.”

(5) for section 7, the following shall be substituted, namely.-

“7. Period of limitation for assessment and re-assessment.- (1) An assessment under Section 5-D or re-assessment under Section 6 of an amount of tax due for any prescribed tax period shall not be made after five years after the end of the prescribed tax period.

Provided that an assessment or re-assessment relating to any tax period up to the period ending 31st day of March, 2014 shall be made within a period of eight years after the end of the prescribed tax period;

(2) Notwithstanding anything contained in sub-section (1), if any tax is, not paid by a dealer who has failed to get registered though liable to do so or fraudulently evaded attracting punishment under sub-section (2) of Section 21, an assessment or re-assessment may be made within eight years from the end of the prescribed tax period;

Provided that an assessment or re-assessment relating to any tax period up to the period ending 31st day of March, 2014 shall be made under this sub-section within a period of ten years after the end of the prescribed tax period.

(3) In computing the period of limitation specified for assessment or re-assessment, as the case may be under this Act, the period taken for disposal of any appeal against an assessment or other proceeding by the appellate authority, a tribunal or competent court shall not be taken into account in computing such period for assessment or reassessment as the case may be.

Provided that nothing contained in this section limiting the time within which any action may be taken or any order, assessment or re-assessment may be

made, shall apply to an assessment or re-assessment made on the dealer or any person in consequence of, or to give effect to, any finding, direction or order made under sections 13, 14, 15, 15-A or 16 or any judgement or order made by the Supreme Court, the High Court, or any other court.”

(6) in section 8,

(i) in the heading, for the words “recovery of tax”, the words and punctuation marks “recovery of tax, penalties, interest and other amounts” shall be substituted;

(ii) for sub-section (1), excluding the proviso, the following shall be substituted namely,-

“(1) Every registered dealer shall furnish returns to the assessing authority or prescribed authority, and the tax payable or any penalty or interest due shall be paid in such manner as may be prescribed, within the period specified and on an application by a dealer, the Government or Commissioner may permit, subject to such conditions as may be specified or prescribed, payment of tax or any other amount payable, in such instalments and at such intervals as may be prescribed.” ;

(iii) after sub-section (1) so substituted, the following shall be inserted, namely,-

“(1-A) Where the amount paid falls short of the aggregate of the tax or any other amount due and interest payable, the amount so paid shall first be adjusted towards interest payable and the balance, if any, shall be adjusted towards the tax or any other amount due.

(1-B) A registered dealer, furnishing a revised return in accordance with this Act which shows a greater amount of tax to be due than was paid or payable in accordance with the original return, shall pay with that revised return the tax so payable in such manner as may be prescribed.” ;

(iv) after sub-section (4), the following shall be inserted, namely:-

“(5) The High Court may, either *suo motu* or on an application by the Commissioner or any person aggrieved by the order, revise any order made by a Magistrate under clause (c) of sub-section (4).”

(7) in section 14, in sub-section (3), the following proviso shall be inserted, namely,-

“Provided that a single appeal may be preferred against orders of assessment or reassessment or any other orders or proceedings, in respect of more than one tax periods of any year.”

(8) for Section 17, the following shall be substituted, namely:-

“17. Rectification of apparent mistakes and power of rectification of assessment or re-assessment in certain cases.- (1) With a view to rectifying any mistake apparent from the record, the prescribed authority, appellate authority or

revising authority, may, at any time within five years from the date of an order passed by it, amend such order.

(2) Any amendment which has the effect of enhancing an assessment or otherwise increasing the liability of the person concerned shall not be made unless the prescribed authority, appellate authority or revising authority, as the case may be, has given notice to the person concerned of its intention to do so and has allowed the person concerned the opportunity of showing cause in writing against such amendment.

(3) Where an order has been considered and decided in any proceedings by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

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

(5) Where any assessment or re-assessment or an order of an appellate authority or a revisional authority other than a court or tribunal, is found to be erroneous in so far as it is prejudicial to the interest of the public revenue by a judgement or an order of any court, then notwithstanding anything contained in this Act, authority concerned may proceed to rectify such assessment or re-assessment or order and determine the tax payable by the dealer in accordance with such judgement or order at any time within a period of three years from the date of such judgement or order.

(6) Where any court makes an order or gives judgement to the effect that any tax assessed under this Act or any other law should have been assessed under a provision of a law different from that under which it was assessed, then in consequence of such order or judgement or to give effect to any finding or direction contained in any such order or judgement, such turnover or part thereof, may be assessed or re-assessed to tax, as the case may be, at any time within five years from the date of such order or judgement, notwithstanding any limitation period which would otherwise be applicable under the law applicable to that assessment or re-assessment.

(7) Where any proceedings for the recovery of any tax, penalty, interest or any part thereof remaining unpaid, have been commenced in a court and the amount of tax, penalty or interest is subsequently modified, enhanced or reduced in consequence of any decision made or order passed in the appeal, the prescribed authority may, in such manner and within such period as may be prescribed, inform the dealer or the person and the authority under whose order the recovery is to be made, and thereupon such proceedings may be continued with the modified, enhanced or reduced amount of tax, penalty or interest therein substituted.

Provided that a rectification which has the effect of enhancing an assessment or otherwise increasing the liability of the assessee shall not be made unless the assessing authority, appellate authority or revising authority, as the case may be, has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(9) after section 20, the following shall be inserted, namely:-

“20-A. Penalties relating to registration.- (1)A dealer who, without reasonable cause, fails to apply for registration within the time prescribed in section 4 shall be liable to a penalty of two thousand rupees in addition to the interest chargeable on the tax payable at the rate provided under section 5-C.

(2) The power to levy the penalties shall be vested in the registering authority as prescribed.

20-B. Penalties relating to returns and assessment.- (1) A dealer who fails to furnish a return or who fails to pay the tax due on any return furnished as required under the Act shall be liable to pay together with any tax or interest due,

(a) a penalty of fifty rupees for each day of default and where such default is for more than five days, such penalty.-

(i) shall not exceed two hundred and fifty rupees if the tax due is less than the said amount;

(ii) shall be calculated at fifty rupees per day not exceeding the amount of tax due, if the tax due is more than two hundred and fifty rupees; and

(b) a further penalty equal to.-

(i) five percent of the amount of tax due or fifty rupees whichever is higher, if the default is not for more than ten days, and

(ii) ten percent of the tax due, if the default is for more than ten days.

(2) A dealer who for any prescribed tax period furnishes particulars for preparation of a return or furnishes a return which understates his liability to tax or overstates his entitlement to a tax deduction by more than five per cent of his actual liability to tax, of his actual tax deduction, as the case may be shall after being given the opportunity of showing cause in writing against the imposition of a penalty, be liable to a penalty equal to ten per cent of the amount of such tax understated or overstated.

(3) A dealer who furnishes a return which is incomplete or incorrect in any material particular as informed in a notice issued to him, shall be liable to a penalty of fifty rupees for each day the return remains incomplete or incorrect.

(4) In any case where a dealer who has failed to furnish a return has been issued with an assessment showing less than his actual liability to tax and he pays

such tax as assessed, such dealer, after being given the opportunity of showing cause in writing against the imposition of a penalty, shall be liable to a penalty of ten percent of the amount of the tax under-assessed.

(5) A dealer who fails, within the time specified, to get registered though liable to do so, after being given an opportunity of showing cause in writing against the imposition of a penalty, shall be liable to pay penalty of thirty percent of the amount of tax payable by him as assessed under section 5-D or re-assessed under section 6.

(6) The power to levy the above penalties shall be vested in the prescribed authority to which returns are required to be furnished or the prescribed authority making an assessment or re-assessment.

(7) Any dealer who fails to submit returns as required by the provisions of the Act continuously for three months or two quarters, as the case may be, shall on conviction, in addition to recovery of any tax or penalty or interest or other amount that may be due from him or levied on him, be punishable with simple imprisonment which may extend to six months or with a fine which shall not be less than five thousand rupees but which may extend to twenty five thousand rupees or with both and when the offence is a continuing one, with a daily fine not exceeding two hundred rupees during the period of continuance of the offence.”

(10) In Section 21,-

- (i) in sub-section (1), clauses (a), (b), (c), (d), (e) and (f) shall be omitted.
- (ii) in sub-section (2), clause (a) and clause (b) shall be omitted.

(11) after section 32, the following shall be inserted, namely:-

“33. Savings.- The amendments made to the provisions of this Act by Karnataka Taxation Laws (Amendment) Act, 2014 shall not affect the previous operation of the said provisions before commencement of the said Act and payment of tax in advance, submission of statement and return, assessment including self-assessment and cancellation of assessment, re-assessment, levy of penalty, liability for payment of interest, period of limitation for assessment or re-assessment and all other similar matters and obligations imposed in respect of any year prior to the commencement of the said Act shall be governed by the relevant provisions as if the said Act had not passed.”

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend the Karnataka Tax on Luxuries Act, 1979 and Karnataka Tax on Entry of Goods Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith.

Hence, the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved by the proposed measure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

- CLAUSE 3(1) -** Provisions of section 5 sought to substituted under sub-clause (1) of clause 3 empowers the State Government to make rules regarding the form and manner of furnishing of return, tax period for which a return has to be furnished and the form and particulars to be furnished in the annual statement the dealer and the period within which such statement shall be filed and also empowers the Commissioner of Commercial Taxes to notify the class of registered dealers required to file returns electronically inthe form prescribed every month and pay tax electronically.
- CLAUSE 3(2) -** Provisions of sub-section (1) of new section 5-B sought to be instituted under sub-clause (2) of clause 3 empowers the Government to prescribe by rules the form and manner of declaring the liability to pay the interest on any amount of tax which should have been declared on a return, but which has been omitted from it, unless that omission is corrected within three months of omission subject to sub-section (2) of Section 20-B.
- CLAUSE 3(6)(ii) -** Provisions of sub-section (1) of section 8 sought to be substituted under sub-clause (6) of clause 3 empower the Government or Commissioner to prescribe by rules the conditions, instalments and intervals of payment of tax or any other amount payable by a dealer making application.
- CLAUSE 3(6)(iii) -** Provisions of new sub-section (1-B) of section 8 sought to be inserted under sub-clause (6) of clause 3 empower the Government to prescribe by rules the manner of payment of any differential amount payable along with the revised return by a dealer.

The proposed delegation of Legislative power is normal in character.

SIDDARAMAIAH
CHIEF MINISTER

P. OMPRAKASHA
Secretary
Karnataka Legislative Assembly

ANNEXURE**Extract from the Karnataka Tax on Luxuries Act, 1979
(Karnataka Act 22 of 1979)****XXXXX**

3. Levy and collection of tax on luxury provided in a hotel.- (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.-

Sl.No.	Charges	Rate of tax
1	Where the charges for lodging per room per day are not less than five hundred rupees but not more than one thousand rupees	Four percent of such charges
2	Where the charges for lodging per room per day are more than one thousand rupees but not more than two thousand rupees	Eight percent of such charges
3	Where the charges for lodging per room per day are more than two thousand rupees	Twelve percent of such charges

XXXX**Extract from the Karnataka Tax on Entry of Goods Act, 1979
(Karnataka Act 27 of 1979)**

5. Returns and assessment.- (1) Notwithstanding anything contained in section 7, every registered dealer and every dealer who is liable to get himself registered under this Act shall every year submit a return to the assessing authority within such period and in such manner containing such particulars as may be prescribed.

Provided that the specified class of dealers as may be notified by the Commissioner shall submit the return in the prescribed form, electronically through internet in the manner specified in the said notification.

(2) Before any dealer 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 7 and shall furnish along with the return satisfactory proof of the payment of such tax. After the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed.

Provided that the specified class of dealers as may be notified by the Commissioner shall pay the tax payable on the basis of the return under sub-section (1), by electronic remittance through internet in the manner specified in the said notification.

(3) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete he shall assess the dealer on the basis thereof.

(4) If no return is submitted by the dealer under sub-section (1) before the period prescribed or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, he shall assess the dealer to the best of his judgement recording the reasons for such assessment:

Provided that before taking action under this sub-section the registered dealer shall be given reasonable opportunity of proving the correctness and completeness of the return submitted by him.

(5) While making any assessment under sub-section (4), the assessing authority may also direct the dealer to pay in addition to the tax assessed a penalty not exceeding one and half times the amount of tax due that was not disclosed by the dealer in his return or in the case of failure to submit a return one and a half times the tax assessed, as the case may be.

(6) No assessment under this section for any year shall be made after a period of three years from the date on which return under section 5 for that year is submitted by a dealer:

Provided that the assessment proceeding relating to any year pending before the commencement of the Karnataka Taxation Laws (Amendment) Act, 1997 in respect of which a return under sub-section (1) has been submitted before such commencement, shall be completed within a period of three years from such commencement:

Provided further that nothing contained in this sub-section limiting the time within which the assessment may be made shall apply to an assessment made on the assessee or any person in consequence of, or to give effect to any finding, direction or order made under section 13, 14, or 15 or any judgement or order made by any court;

(7) In computing the period of limitation for assessment under this section, -

(a) the time during which the proceedings for assessment in question have been deferred on account of any stay order granted by any court or any other authority shall be excluded ;

(b) the time during which the assessment has been deferred in any case or classes of cases by the Joint Commissioner for reasons to be recorded in writing shall be excluded:

(8) Where an assessment under this section is not concluded within the time specified under sub-section (6), the turnover or value of taxable goods, as the case may be declared by a dealer in his annual return shall be deemed to have been assessed for that year on the basis of the said return and the provisions of the Act relating to assessment of the such escaped turnover or purchase value of taxable goods as the case may be, payment and recovery, appeal and revision shall mutatis mutandis apply to such deemed assessment.

XXXXX

5-B. Self-assessment in the case of certain dealers.- (1) Notwithstanding anything contained in sub-sections (3) and (4) of section 5, in the case of a dealer who is eligible for self-assessment under section -12C of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the assessing authority shall subject to the same conditions and exceptions specified therein, assess such dealer on the basis of return filed without requiring the presence of the dealer or the production of books of account.

(2) Notwithstanding anything contained in sub-section (1), the assessing authority shall assess under sub-section (4) of section 5 in such cases as notified by the Commissioner under section 12-C of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).

(3) If on scrutiny assessment in cases falling under sub-section (2), it is found that the amount of tax paid by any dealer for any year was less than the tax payable for that year as assessed by more than fifteen per cent, the assessing authority shall direct such dealer to pay, in addition to the tax, a penalty equivalent to three times the amount of the tax so paid in short.

(4) Every assessment completed under sub-section (1) shall be subject to the provisions of sections 6, 15 and 17.

(5) Notwithstanding anything contained in this Section or Section 5, the Government may notify, subject to such conditions as may be specified, that

assessment of any specified class of dealers for any year shall be deemed to have been made on the basis of the return submitted in accordance with sub-section (1) of Section 5 without requiring the presence of the dealer or production of books of account by the dealer.

XXXXXX

5C. Cancellation of assessment in certain cases.- (1) Where an assessee within one month from the service of a notice of demand makes an application and satisfies the assessing authority that he was prevented by sufficient cause from appearing as required under section 5, or that he did not receive the notice issued under that section or that he had not a reasonable opportunity of being heard, the assessing authority shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 5:

Provided that no application under this sub-section shall be entertained by the assessing authority if tax admitted in the return is not paid.

(2) Nothing contained in sub-section (1) shall apply to an assessment which has been made the subject matter of an appeal under section 13.

(3) No appeal shall lie under section 13 against an order passed under this section.

(4) Every order passed under this section shall subject to the provisions of the sections 14, 15-A, 16 and 17, be final.

XXXXXX

6. Payment of tax for entry of goods escaping assessment.- (1) If the assessing authority has reasons to believe that the whole or any part of the turnover of a dealer or the value of taxable goods brought or caused to be brought into a local area by a dealer whether on his own account or on account of his principal or any other person or who has taken delivery or is entitled to take delivery of such goods on its entry into local area in respect of any period has escaped assessment to tax or has been under assessed or has been assessed at a rate lower than the rate at which it is assessable under this Act or any deduction or exemption have been wrongly allowed in respect thereof, the assessing authority may, notwithstanding the fact that whole or part of such escaped turnover or value of taxable goods, as the case may be, was already before the said authority at the time of original assessment or re-assessment, but subject to the provisions of sub-section (3) at any time within a period of eight years from the expiry of the year to which the tax relates, proceed to assess or re-assess to the best of its judgement the tax payable by a dealer in respect of such turnover or purchase value of such

goods, as the case may be, after issuing a notice to the dealer and after making such enquiry as it may consider necessary.

(2) In making as assessment under sub-section (1) the assessing authority may, if it is satisfied that the escape from assessment is due to wilful non-disclosure of the entry of such goods by the dealer direct him to pay in addition to the tax assessed under sub-section (1) a penalty not exceeding one and half times the tax so assessed:

Provided that no penalty under this sub-section shall be directed to be paid unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

(3) In computing the period of limitation for assessment under this section the time during which an assessment has been deferred on account of any stay order granted by any court or other authority or by reason of the fact that an appeal or other proceedings is pending, shall be excluded:

Provided that nothing contained in this section limiting the time within which any action may be taken or any order, assessment, or re-assessment may be made, shall apply to an assessment or re-assessment made on the assessee or any person in consequence of, or to give effect to, any finding, direction or order made under sections 13, 14, 15, 15-A or 16 or any judgement or order made by the Supreme Court, the High Court, or any other court.

XXXXXX

7. Payment of tax in advance.- (1) Subject to such rules as may be prescribed every registered dealer and every dealer liable to get himself registered under this Act shall send every month to the assessing authority a statement containing such particulars as may be prescribed and shall pay in advance the full amount or tax payable by him on the basis of the goods brought by him during the preceding month into the local area within twenty days after the close of the preceding month to which such tax relates and the amount so payable shall for the purpose of sub-section (4) of section 8 be deemed to be an amount due under this Act from such dealer:

Provided that the specified class of dealers as may be notified by the Commissioner shall submit the statement in the prescribed form, electronically through internet and also pay the tax payable on the basis of the statement, by electronic remittance through internet, in the manner specified in the said notification.

Provided that in the case of a dealer whose total turnover in any year under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) or the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004) is not more than seven lakh fifty thousand rupees, shall submit statements for each month in accordance with this sub-section once in a quarter and pay in advance the full amount of tax payable for every quarter within twenty days after the close of that quarter to which such tax relates.

(2) If default is committed in the payment of tax for any month or quarter as the case may be, 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 or quarter as the case may be, 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.

(3) If at the end of the year it is found that the amount of tax paid in advance by any dealer for any month or for the whole year in the aggregate was less than the tax payable for that month or the tax for the whole year as finally assessed, as the case may be, by more than fifteen percent the assessing authority may direct such dealer to pay in addition to the tax, by way of penalty, a sum calculated at the rate of two per cent per month of the tax paid in short from the date of expiry of thirty days after the close of the month or the quarter or the year as the case may be to which such tax relates.

Provided that no penalty under this sub-section shall be imposed unless the dealer affected has had a reasonable opportunity or showing cause against such imposition.

(4) If no such statement is submitted by a dealer under sub-section (1) before the date prescribed or if the statement submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may assess the dealer 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 :

Provided that before taking action under this sub-section the dealer shall be given a reasonable opportunity of being heard.

XXXX

8. Payment and recovery of tax.- (1) The tax under this Act shall be paid in such manner and in such installments if any, and subject to such conditions and payment of such interest and within such time, as may be prescribed.

Provided further that the specified class of dealers as may be notified by the Commissioner shall pay the tax or any other amount due under this Act, by electronic remittance through internet in the manner specified in the said notification.

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

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the property of the person or persons liable to pay tax under this Act;

(ii) the person or persons liable to pay the tax or any other amount due under this Act shall pay interest equal to one and a quarter percent of the amount of tax or any other amount due remaining unpaid for each month after the expiry of the time specified under sub-section (1).

Explanation I.- For the purposes of clause (ii) the interest payable for a part of a month shall be proportionately determined.

Explanation II.- For the purpose of this sub-section, non-payment during any period during which recovery of any amount due under the Act is stayed by an order of any authority or Court in any appeal or other proceedings disputing such amount, shall be deemed to be a 'default, unless such appeal or other proceeding is allowed by such Authority

(3) Notwithstanding anything contained in sub-section (2), where the amount of interest does not exceed rupees five lakh, the Commissioner and in any other case, the State Government may subject to such conditions as may be prescribed remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(4) Any tax assessed, or any other amount due under this Act from a dealer may without prejudice to any other mode of collection be recovered,-

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

(b) by attachment and sale or by sale without attachment of any property of such dealer or any other person by the prescribed officer in accordance with such rules as may be prescribed;

(c) notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), on application to any Magistrate, by such Magistrate, as if it were a fine imposed by him:

Provided that where a dealer who has appealed or applied for revision of any order made under this Act and has complied with an order made by the appellate or the revising authority in regard to the payment of tax or other amount no proceedings for recovery under this sub-section shall be made or continued until the disposal of such appeal or application for revision.

XXXX

14. Appeal to the Appellate Tribunal.- (1) Any officer empowered by the State Government or the Commissioner in this behalf or any other person objecting to an order passed by the appellate authority under section 13 or an order passed by a revisional authority under sub-section (3) of section 15 may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him.

(2) The Appellate Tribunal may admit an appeal preferred after the period of sixty days referred to in sub-section (1) 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.

(2A) 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 Deputy Commissioner or 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 Deputy Commissioner or 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 proof of payment of one half of tax or other amount disputed and also a fee equal to two per cent of the amount of assessment objected to, provided that the sum payable in no case be less than two hundred rupees or more than one thousand rupees.

XXXXXX

17. Rectification of mistakes.- (1) With a view to rectifying any mistake apparent from the record, the assessing authority, appellate authority or revising authority may, at any time, within five years from the date of an order passed by it, amend such order :

Provided that an amendment which has the effect of enhancing an assessment or otherwise increasing the liability of the assessee shall not be made unless the assessing authority, appellate authority or revising authority, as the case may be, has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(2) Where an order has been considered and decided in any proceedings by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding anything contained in any law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

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

XXXXXX

20. Submission of certain records, by owners, etc., of vehicles and boats.- The owner or other person in charge of a goods vehicle or boat shall in respect of the goods transported by him in such vehicle or boat submit to the assessing authority having jurisdiction over the local area in which the goods are delivered, such particulars thereof and within such time and manner as may be prescribed.

XXXXXX

21. Offences and penalties.- (1) Any person who-

(a) being a person obliged to get himself registered under this Act does not get himself so registered; or

(b) being a dealer in goods fails to submit a return as required by the provisions of this Act or the rules made thereunder; or

(c) fails to comply with a notice issued under section 6; or

(d) fails to submit a statement as required by section 7; or

(e) fails to pay within the time allowed any tax assessed on him or any penalty levied on him under this Act; or [1979: KAR. ACT 27 Tax on Entry of Goods 775

(f) being a sugar factory including a khandasari sugar factory fails to collect tax as required by sub-section (1) or having collected the tax fails to pay the tax so collected as required by sub-section (2) of section 9-A.

(g) fails to issue a sale bill or cash memorandum in accordance with the provisions of sub-sections (2) and (3) of section 17-A; or

(h) fails to keep true and complete accounts,

shall, on conviction by a Magistrate, be liable to a fine which shall not be less than five hundred rupees]3 but which may extend to two thousand rupees.

(2) Any person who,-

(a) wilfully submits an untrue return, or not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act or the rules made thereunder, or ;

(b) wilfully submits an untrue statement under section 7 ;

(c) fraudulently evades the payments of any tax assessed on him, or other amount due from him under this Act, or

(d) wilfully acts in contravention of any of the provisions of this Act or the rules made thereunder,

shall on conviction in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to twelve months or with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees or with both and when the offence is a continuing one, with a daily fine not exceeding two hundred rupees during the period of the continuance of the offence.

XXXX

32. 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 appear to it to be necessary or expedient for removing the difficulty.

XXXXX