

amount equal to the amount of tax which is assessed on the amount of payment for admission escaped.

(2) Where an observation has been made by the Comptroller and Auditor-General of India, in respect of an assessment or re-assessment made, and the prescribed authority is satisfied with the said observation, he shall proceed to re-assess the assessee with respect to whose assessment or re-assessment, as the case may be, the said observations has been made.

Provided that no order under this section shall be passed without giving the assessee an opportunity of being heard.

15. Special mode of recovery.-(1) Notwithstanding anything contained in section 12 or any law or contract to the contrary, the prescribed authority may, at any time to time, by notice in writing (a copy of which shall be forwarded to the proprietor at his last address known to the prescribed Authority require.-

(a) any person from whom any money is due or may become due to a proprietor who has failed to pay by the due date, in accordance with a notice of demand served upon him the fixed sum permitted to be paid under sub-section (2) of section 3, or the amount of entertainment tax or penalty or both payable by him under the provisions of the Act or rules made thereunder, or

(b) any person who holds or may subsequently hold any money for or on account of such proprietor,

to pay into the Government treasury in the manner specified in the notice issued under this sub-section either forthwith or upon the money becoming due or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the fixed sum permitted to be paid under sub-section (4) of Section 3; or the amount of entertainment tax due from the proprietor or penalty or the whole of the money when it is equal to or less than that amount.

(2) The authority issuing a notice under sub-section (1) may at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the proprietor and the receipt from the Government treasury shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the proprietor after service on him of the notice issued under sub-section (1) shall be personally liable to the State Government to the extent of the liability discharged

or to the extent of the proprietor for the fixed sum permitted to be paid under sub-section (2) of Section 3, or entertainments tax or penalty or both, whichever is less,

(5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the authority who issued the notice that the money demanded or any part thereof was not due to the proprietor or that he did not hold any money for or on account of the proprietor at the time the notice was served on him, nor is the money demanded or any part thereof likely to become due to the proprietor or be held for or on account of the proprietor, nothing contained in this section shall be deemed to require such person to pay into the Government treasury any such money or part thereof as the case may be.

(6) Any amount of money which a person is required to pay under sub-section (1) or for which he is personally liable to the State Government under sub-section (4) shall, if it remains unpaid, be recoverable as an arrear of land revenue.

(7) No action shall be taken under this section in respect of any amount of entertainment tax or penalty or both, the realisation of which has been stayed by an appellate authority under the proviso to sub-section (8) of Section 12, on an appeal by a proprietor under section 7.

16. Applicability of the provisions of the Jharkhand Value Added Tax Act, 2005 (Act 05 of 2006) and Rules made thereunder: - Subject to other provisions of this Act and Rules framed thereunder the authority empowered to assess, reassess, collect and enforce payment of tax, interest and penalty payable by a dealer under the Jharkhand Value Added Tax Act, 2005 (Act 05 of 2006) shall assess, reassess, collect and enforce payment of tax, interest and penalty payable under this Act and for this purpose they may exercise all or any of the powers assigned to them under the said Act and Rules made thereunder for the time being in force including the provisions relating to returns, assessment, escaped assessment, limitation, recovery of tax, grant of installment for the payment of the dues taxes and penalties thereof in respect to the repealed Act, interest and penalty, special mode of recovery, maintenance of accounts, inspection, search and seizure, liability in representative character, refund, appeal, revision and reviews, compounding offences and other miscellaneous matters and the provisions of the said Act shall *mutatis mutandis* apply accordingly.

17. Refund in certain cases- Where the State Government is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic, religious or charitable purposes, and that in calculating

the net proceed, not more than twenty per centum of the gross proceeds have been deducted on account of the expenses of the entertainment, the amount of the entertainments tax paid in respect of such entertainment shall be refunded to the assessee / proprietor in the prescribed manner.

18. Entry into and inspection of places of entertainments.-(1) (a)

Any officer authorized by the State Government in this behalf may enter into, inspect and search any place of entertainment while the entertainment is proceeding, or any place ordinarily used as a place of entertainment at any reasonable time, for the purpose of seeing whether the provisions of this Act or any rules made thereunder are being complied with.

(b) Every officer so authorized shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

(c) Every officer so authorized may also enter any place where the tickets for admission to an entertainment or counterfoils thereof are kept or any accounts, registers or other documents relating to an entertainment are kept or maintained and may search at any reasonable time any such place or office or any box or receptacle in which any such tickets, counterfoils, accounts, registers or other documents are kept and may inspect such tickets, counterfoils, accounts, register or other documents, if he has reason to suspect that attempt is being or has been made to evade payment of any tax, and may, for reason to be recorded in writing, seize such tickets, counterfoils, accounts, registers and other documents. and shall grant a receipt for same and such seized tickets, counterfoils, accounts, registers, or the other documents shall be retained so long as may be necessary for the examination thereof or for a prosecution and shall thereafter be returned to the assessee / proprietor.

(d) The officers so authorized shall have power to break open any box or receptacle in which any tickets, counterfoils, accounts, registers or other documents relating to any entertainment may be contained or to break open the door of any premises where any such tickets, counterfoils, registers accounts or other documents may be kept if the assessee / proprietor or any other person in occupation of the said premises fails or refuses to open the door or the box or receptacle on being called upon to do so.

(2) The assessee / proprietor of every entertainment or the owner or person in charge of any place ordinarily used as a place of entertainment shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) If any person prevents or obstruct the entry of the inspecting officer, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be punished with fine which may extend to two thousand rupee.

19. Production and inspection of accounts and documents (1)

Subject to such rules as may be prescribed, the prescribed authority may, either before or after assessment, require any assessee / proprietor to produce before it any accounts, registers or documents to furnish any information relating to financial transactions of the assessee / proprietor in respect of his entertainments including transactions with the producer or distributor of films, printing of tickets including complimentary tickets, sales of tickets including complimentary tickets and realisation of payment for admission or entertainments tax, the profit derived from the entertainments as may be necessary for the purpose of this Act and assessee / proprietor shall comply with such requirements.

(2) All accounts, registers, documents and tickets mentioned in sub-section (1) shall, at all reasonable times, be open to inspection by the prescribed authority, which may take or cause to be taken such copies of or extracts from the accounts, register or documents as it may consider necessary.

20. Restriction on collection of tax.-(1) No assessee / proprietor, who does not hold certificate of registration granted under sub-section (3) of section 6 shall collect from any person any amount, by whatever name or description it may be called, towards or purporting to be taxed on admission to an entertainment.

(2) No registered assessee / proprietor shall collect from any person any such amount except in a case in which and to the extent to which such assessee / proprietor is liable to pay tax under sub-section (1) of Section 3.

(3) If any person or registered assessee / proprietor contravenes the provisions of sub-section (1) or sub-section (2) the prescribed authority shall, after giving an opportunity of being heard by an order in writing direct that such person or registered assessee / proprietor shall pay by way of penalty, a sum equal to twice the amount collected in contravention of the provisions of the said sub-sections (1) and (2).

21. Bar of jurisdiction.-Save as provided in Section 22 no order passed under this Act shall be called in question in any court.

22. Statement of cases to High Court.-(1) Within ninety days from passing by the Tribunal of any order under appeal, the assessee in respect of whom the order has been passed or the Commissioner, may by application in writing together with a fee of one thousand rupees, where such application is made by the assessee, require the Tribunal to refer to the High Court any question of law arising out of such order.

(2) If, for reasons to be recorded in writing the Tribunal refuses to make such reference, the applicant may, within forty five days of such order, either-

(a) withdraw his application (and if the applicant who does so, is an assessee the fee paid by him shall be refunded); or (b) apply to the High Court against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2) the High Court is not satisfied that such refusal was justified it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the court may direct in that behalf.

(5) The High Court upon hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the court and the signature of the Registrar, and Tribunal shall where necessary, amend its order in conformity with such judgment.

(6) Where a reference is made to the High Court under this section the costs including the disposal of the fee referred to in sub-section (1) shall be in discretion of the court.

(7) The payment of the amount of tax including penalty, if any, due in accordance with the order of the Tribunal in respect of which an application has been made under this section shall not be stayed pending the disposal of such application or any reference made in the consequence thereof.

(8) The Tribunal or the High Court may admit an application under this section after the expiry of the period of limitation provided in this section, if it is satisfied that the applicant had sufficient cause for not presenting application within the period.

23. Prohibition against re-sale of tickets or complimentary tickets for profits-Notwithstanding anything contained in section 56 of the Indian Easements Act, 1882 a ticket or a complimentary ticket shall not be re-sold by any person.

24. Offences and penalties.- (1) If any assessee / proprietor of an entertainment-

(a) admits any person for payment to any place of entertainment in contravention of the provision of Section 8; or

(b) fails to pay the tax due from him within time prescribed; or

(c) fraudulently evades the payment of any tax due under this Act;

(d) obstructs any officer making an inspection, a search or seizure under section 18 or 19; or

(e) contravenes any other provision of this Act or the rules made thereunder or any order or direction made under any such provisions or rules, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to six months, and with fine up to one thousand rupees:

Provided that notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act II of 1974) all offences as described in clauses (a), (b) and (e) of this sub-section shall be cognizable and all offences as described in clauses (c) and (d) of this sub-section shall be cognizable and non-bailable.

(2) If any person, other than the assessee / proprietor of an entertainment, contravenes the provision of section 23, he shall be punishable with a fine which may extend to one thousand rupees.

(3) No Court shall take cognizance of an offence under this Act or under the rules made thereunder except with the previous sanction of the prescribed authority and no Court inferior to that of a Magistrate of the first class shall try any such offence.

25. Power to compound offences. - (1) The prescribed authority may either before or after the institution of proceeding under section 24 accept from any person who has committed or is reasonably suspected of having committed an offence under sub-section (1) or sub-section (2) of the said section, by way of composition of such offence-

(a) where the offence consists of the failure to pay, or the evasion of any tax payable under this Act, a sum of money not exceeding double the amount of the tax so payable; and

(b) in other cases, a sum of money not exceeding two thousand rupees.

(2) On payment of such sum of money as may be determined by the prescribed authority under sub-section (1), the prescribed authority shall, where necessary, report to the Court that the offence has been compounded and thereafter no further proceeding under section 12 shall be taken against the offender in respect of the same offence.

26. Bar of certain proceedings.-(1) No prosecution shall lie against any officer or servant of Government for any act done or purporting to be done under this Act, without the previous sanction of the State Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

27. Powers to make rules - (1) The Government may, by notification, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the fees payable in respect of any applications to be made, forms to be supplied, certificates to be granted and appeals and applications for revision to be made under this Act and and grant of installment for the payment of the due taxes and penalties under the provisions of the repealed Act, and also any applications for certified copies of documents filed and orders made under this Act.

(3) Every rules made under this Act shall within six months after it is made, be laid before the Legislative Assembly of the State if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, 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.

28 Repeal and saving.-(1) The Bihar Entertainments Tax Act, 1948, Rules made thereunder and Notification issued thereunder and as adopted in the State of Jharkhand is hereby repealed from the date of commencement of this Act.

Provided that nothing in this repeal shall effect any liability to any entertainments tax incurred before the date of such repeal and proceedings pending on the said date before any competent authority and also all proceedings instituted after the commencement of this Act but relating to any such liability as aforesaid shall be continued and disposed of or instituted and disposed of, as the case may be, as if this Act had not been passed.

Provided further that all rules made, notifications published, powers conferred and other things done under the said Act and in force on the commencement of this Act shall; so far as they are not inconsistent with this Act, be deemed to have been respectively made, published, conferred or done under this Act, as if this Act, were in operation from the date when the repealed Act were enacted.

(2) All rules, schemes, orders and appointments made, notifications, certificates, form issued or actions taken and things done or purported to have been made, issued, taken or done for achievement of objects under the Act shall be deemed to have been made, issued taken or done under this Act, as if this Act were in force on the relevant dates.

29. Validation and Exemption: - (1) An assessee who would have continued to be so liable to pay tax under the repealed Act, had this Act not come into force, shall be deemed to be liable to pay tax under this Act as per the schedule appended to this Act.

(2) Notwithstanding anything contained elsewhere in this Act -

(a) Any assessee liable to furnish return under the repealed Acts immediately before the appointed day shall notwithstanding that a period, in respect of which he is so liable to, furnish return, commences on and day before such appointment day and ends on any day after such appointed day, furnish such return in respect of tax payable under this Act made up to the day immediately before such appointed day and pay tax in accordance with the provisions of repealed Act and shall furnish a separate return in respect of the remaining part of the period.

(b) Any assessee, who is no longer liable to pay tax under the repealed Acts and whose account, registers or documents has been seized under the repealed Acts, shall continue to be retained in accordance with provision of the repealed Acts on or after appointed day;

(c) All prescribed forms under the repealed Acts or the rules made there under and continuing in the force on the day immediately before the appointed day shall, with effect from such appointed day, continue in force and shall be used mutates mutandis for the purpose for which they were being used before such appointed day until the

State Government directs, by notification, the discontinuance of the use of such forms till such time as the State Government may, by notification, specify in this behalf;

(d) Any prescribed form obtained or obtainable by the assessee from any prescribed authority or any declaration furnished or to be furnished by or to the assessee under the repealed Acts or the rules made thereunder in respect of tax payable under the repealed Acts, before the appointed day shall be valid where such prescribed form is obtained or such prescribed form is furnished on or after such appointed day;

(e) Any application for revision, review or reference arising from any order passed before the appointed day or any Appeal arising from any assessment of tax made before such appointed day or any application for refund, or for prescribed form, in respect of any period before such appointed day, under the repealed Acts if made before such appointed day and pending on such appointed day or if made on or such appointed day, shall be disposed of in accordance with the provisions of the repealed Acts;

(f) The specified authority under the repealed Acts or any other authority to whom power in this behalf has been delegated by the said specified authority under the repealed Acts may on its or his own motion, review or revise any order passed before the appointed day in accordance with the provision of the repealed Acts;

(g) Any tax assessed or penalty imposed under the repealed Acts in respect of the tax payable under the repealed Acts, before the appointed day, shall be payable or recoverable in accordance with the provisions of the repealed Acts.

30. Power to remove difficulties - If any difficulty arises in giving effect to the provisions of this Act, the Government may by notification or otherwise, make such provisions, not inconsistent with this Act, as appears to them to be necessary or expedient for removing the difficulty.

31. Repeal and saving. (1) The Jharkhand Entertainment Tax Ordinance, 2012 (Jharkhand Ordinance No. 02, 2012) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said ordinance shall be deemed to have been done or taken on exercise of the powers conferred by or under this Act as of this Act were in force on the date on which such thing was done or action taken.

SCHEDULE

(See Sub-Section (2) of Section 3)

Sl. No.	Descriptions of the Entertainments	Rate of entertainment tax		
1.	For cinematograph exhibition read with the population of respective Municipal Corporation, Municipality, Notified Area Committee, Cantonment Board, Town Board, Mines Board, Municipal Board, Urban Area and Gram Panchayat or any other such areas as constituted -			
	Population of:-	Category		
		No. of weekly shows not exceeding		
	5 lacs and above	A	18	16% of gross collection capacity
	Exceeding 2.5 lacs and upto 5 lacs	B	16	11% of gross collection capacity
	Exceeding 1 lac and upto 2.5 lacs	C	12	8% of gross collection capacity
	Less than 1 lac	D	10	6% of gross collection capacity
2.	Class & Description of the entertainment falling under video exhibition -			
	(a) Where total number of seats is up to 50.			Rs. 2000.00 Per month
	(b) Where total number of seats is more than 50			Rs. 4000.00 Per month
	(c) Where total number of seats is more than 100			Rs. 7000.00 Per month
3.	Class & Description of the entertainment falling under Multiplex Cinema Complex -			
	Where total number of seats not exceeding 750.,			Rs. 40,000.00 Per week