

The Rajasthan Tax on Professions, Trades, Callings and Employments Act, 2000

(Act No. 12 of 2000)

[Received the assent of the Governor on the 9th day of May, 2000]

An
Act

to provide for the levy and collection of tax of Professions, Trades, Callings and Employments in the State of Rajasthan.

Be it enacted by the Rajasthan State Legislature in the Fifty-first Year of the Republic of India as follows:-

CHAPTER I

Preliminary

1. Short title, extent and commencement. - (1) This Act may be called the Rajasthan Tax on Professions, Trades, Callings and Employments Act, 2000.

(2) It extends to the whole of the State of Rajasthan.

(3) In pursuance of section 3 of the Rajasthan Provisional Collection of Taxes Act, 1958 (Act No. 23 of 1958), it is hereby declared that it is expedient in public interest that this Act shall have immediate effect under the said Act.

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

- (a) "Act" means the Rajasthan Tax on Professions, Trades, Callings and Employments Act, 2000;
- (b) "appellate authority" means a person not below the rank of Deputy Commissioner, Commercial Taxes, appointed as such by the State Government;
- (c) "calling" includes usual occupation, vocation, business or trade of a person;
- (d) "Commissioner" means the Commissioner of Commercial Taxes appointed by the State Government and includes an Additional Commissioner of Commercial Taxes;
- (e) "Company, Director and share - holder" shall have the meanings respectively assigned to them in the Companies Act, 1956 (Central Act No. 1 of 1956);
- (f) "Deputy Commissioner" means an officer appointed by the State Government to be the Deputy Commissioner of Commercial Taxes;
- (g) "employee" means a person employed on salary or wages, and includes -
 - (i) a Government servant receiving pay from the revenues of the Central Government or any State Government or the Railway Fund;

- (ii) a person in the service of a body, whether incorporated or not, which is owned or controlled by the Central Government or any State Government, where the body operates in any part of the State, even though its headquarters may be outside the State;
 - (iii) a Person engaged in any employment of an employer, not covered by items (i) and (ii) above;
- (h) "employer" in relation to an employee earning any salary or wages on regular basis under him means the person or the officer who is responsible for disbursement of such salary or wages and includes the head of the office of any establishment as well as the manager or agent of the employer;
- (i) "engaged" in relation to any profession, trade, calling or employment means occupied fully or otherwise in such profession, trade, calling or employment, whether any pecuniary benefit or benefit of any other nature whatsoever, actually accrues or not to such person;
- (j) "Government" or "the Government" shall include both the Central Government and any State Government.
- (k) "month" means a month reckoned according to the Gregorian Calendar;
- (l) "person" means any individual or association or body of individuals and includes a Hindu Undivided Family or Joint Family, a firm, a company whether incorporated or not, a co-operative society, a trust, a club, an institution, an agency, a corporation, a local authority and a Department of the Central or the State Governments, engaged actively or otherwise in any profession, trade, calling or employment in the State of Rajasthan, but does not include any person who earns wages on a casual basis;
- (m) "prescribed" means prescribed by the rules made under this Act;
- (n) "prescribed authority" means such authority as may be prescribed under the rules made under this Act;
- (o) "profession" means the occupation which one professes to be skilled in any by which a person mainly earns his livelihood;
- (p) "salary" or "wage" includes pay or, dearness allowance and all other remunerations received by any individual on regular basis, whether payable in cash or kind and also includes perquisites and profits and lieu of salary, as defined in section 17 of the Income Tax Act, 1961 (Central Act No. 43 of 1961), but does not include bonus in any form, and on any account or gratuity;
- (q) "tax" means the tax on professions, trade, calling and employments levied under this Act;
- (r) "Tax Board" or "Board" means the Tax Board constituted under section 90 of the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995), and to discharge the functions of the Board assigned by or under this Act;

(s) "trade" means any business carried on with a motive of earning profit, whether or not profit is accrued from such activities;

(t) "year" means the year commencing on 1st April and ending on 31st March.

CHAPTER II

Incidence and Levy of Tax

3. Levy of tax and its rate. - Subject to the provisions of Article 276 of Constitution of India and of this Act, there shall be levied and collected a tax on professions, trades, callings and employments at such rates not exceeding rupees two thousand five hundred per annum per individual person, as may be notified by the State Government in the official Gazette.

4. Exemption from tax. - Notwithstanding anything contained in this Act, where the State Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the official Gazette, exempt fully or partially, whether prospectively or retrospectively from tax any person or class of persons, without any condition or with such condition as may be specified in the notification.

5. Employer's liability to deduct and pay tax on behalf of employees. - The tax payable under this Act by any person earning a salary or wage, shall be deducted by his employer from the salary or wage payable to such person, before such salary or wage is paid to him, and such employer shall, irrespective of whether such deduction has been made or not, when the salary or wage is paid to such person, be liable to pay tax on behalf of all such persons :

Provided that, if the employer is an officer of Government, the State Government may, notwithstanding anything contained in this Act, prescribe by rules the manner in which such employer shall discharge the said liability;

Provided further that, where any person earning a salary or wage is simultaneously engaged in employment of more than one employer, and such person furnishes to his employer or employers a certificate in the prescribed form declaring, inter alia, that he shall get enrolled under sub - section (2) of section 6 and pay the tax himself, then the employer or employers of such person shall not deduct the tax from the salary or wage payable to such person and such employer or employers, as the case may be, shall not be liable to pay tax on behalf of such person.

CHAPTER III

Registration And Enrolment

6. Registration and enrolment. - (1) Every employer, not being an officer of Government, liable to pay tax under section 5, shall obtain a certificate of registration from the prescribed authority in the prescribed manner.

(2) Every person liable to pay tax under this Act, other than a person earning salary or wages, in respect of which the tax is payable by his employer shall obtain a certificate of enrolment from the prescribed authority in the prescribed manner.

(3) Notwithstanding anything contained in this Act, where a person is a citizen of India and is in employment of any diplomatic or consular office or trade commissioner of any foreign country situated in any part of the State, such person, if liable to pay tax, shall obtain a certificate of enrolment as provided in sub-section (2) and pay the tax himself.

(4) Every employer or person required to obtain a certificate of registration or enrolment shall, within thirty days from the date of first publication of this Act in the official Gazette, or, if he was not engaged in any profession, trade, calling or employment on that date, within thirty days of his becoming liable to pay tax, or, in respect of a person referred to in sub-section (2) or (3), within thirty days of his becoming liable to pay tax at a rate higher or lower than the one mentioned in his certificate of enrolment, apply for a certificate of registration or enrolment, or a revised certificate of enrolment, as the case may be, to the prescribed authority in the prescribed form, and the prescribed authority shall, after making such inquiry as may be necessary, within thirty days of the receipt of the application, which period in the first year from the commencement of this Act shall be extended to ninety days, if the application is in order, grant him such certificate:

Provided that, where on account of revision of rate of tax, the person liable to pay tax is required to pay tax at a rate higher or lower than the one mentioned in the certificate of enrolment, the rate of tax mentioned in such certificate shall be deemed to have been revised accordingly on the date of such revision of rate of tax as aforesaid; and pending such application the person applying for a revised certificate of enrolment shall, notwithstanding anything contained in this Act, be liable to pay tax at such revised rate.

(5) The prescribed authority shall mention in every certificate of enrolment the amount of tax payable by the holder in accordance with the notified rates, and the date by which it shall be paid, and such certificate shall, subject to the provisions of the proviso to sub-section (4), serve as a notice of demand for the purposes of recovery.

(6) Where an employer or a person liable to registration or enrolment has wilfully failed to apply for such certificate within the required time, the prescribed authority may, after giving

him a reasonable opportunity of being heard, impose penalty not exceeding rupees ten for each day of delay but not exceeding rupees two thousand in case of an employer and in case of others a penalty not exceeding rupees ten per day subject to a maximum of rupees one thousand.

(7) Where an employer or a person liable to registration or enrolment has deliberately given false information in any application submitted under this section, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose a penalty not exceeding rupees one thousand.

CHAPTER IV

Payment of Tax, Filing And Returns And Assessments

7. Payment of tax. - The tax payable under this Act shall be deposited in the prescribed manner at such intervals as the State Government may notify from time to time into a Government treasury or a Bank authorised to receive money on behalf of the State Government.

8. Filing of returns. - (1) Every employer registered under this Act shall furnish to the prescribed authority, a return in such form, for such periods and by such dates as may be prescribed, showing there in the salaries and wages paid by him and the amount of tax deducted by him in respect thereof.

(2) Every such return shall be accompanied by a treasury challan in proof of payment of full amount of tax due according to the return and a return without such proof of payment shall not be deemed to have been duly filed.

(3) Where an employer has, without reasonable cause, failed to file such return within the required time, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees ten for each day of delay but not exceeding in the aggregate twenty per cent of the tax liability.

9. Assessment of employers. - (1) If the prescribed authority is satisfied that the return duly filed by any employer is correct and complete, he shall accept the return.

(2) (a) If the prescribed authority is not satisfied that the return duly filed is correct and complete, he shall serve upon the employer, a notice requiring him, on a date specified in the notice, to attend in person, or through an authorised representative, and to produce accounts and papers in support of the return.

(b) The prescribed authority shall, on examination of accounts and papers, assess the amount of tax payable by the employer.

(c) If the employer fails to comply with the terms of the notice, or if in the opinion of the prescribed authority the accounts and papers are incorrect or incomplete or unreliable, the said authority shall, after such inquiry as he deems fit, or otherwise, assess the tax due to the best of his judgement.

(3) The amount of tax due from any employer shall be assessed separately for each year during which he was liable to pay tax:

Provided that, the prescribed authority may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any employer during any part of a year:

Provided further that, where a registered employer fails to furnish a return for any part of a year, the prescribed authority may, if it think fit, assess the tax due from such employer separately for different parts of such year.

(4) If an employer has failed to get himself registered or being registered has failed to file any return, the prescribed authority shall, after giving the employer a reasonable opportunity of being heard and after holding such inquiry as he deems fit, or otherwise, pass an order assessing the amount of tax due to the best of his judgement.

(5) The amount of tax so assessed shall be paid within fifteen days from the receipt of the notice of demand from the prescribed authority.

(6) No order under this section shall be passed after lapse of two years from the end of the year in respect of or part of which the assessment is made:

Provided that, in case of an order of stay on proceedings by appellate authority or the Tax Board or a competent court, such time limit of two years will extend for the said period of stay on proceedings:

Provided further that, where an assessment order is passed in consequence of or to give effect to any order of an appellate authority or the Tax Board or a competent court, it shall be completed within a year of the communication of such order to the prescribed authority:

Provided further that, the Commissioner may for reasons to be recorded in writing, extend in any particular case the said time limit of two years by a period not exceeding one year.

10. Self-assessment. - Notwithstanding anything in the Act certain categories of assesseees, as may be notified by the State Government may be permitted to file returns on the basis of self-assessment supported by an affidavit. However, upto 10% of such returns shall be checked on random basis by Commissioner or an officer not below the rank of Asstt. Commercial Taxes officer authorised by the Commissioner for the purpose.

11. Consequences of failure to deduct or to pay tax. - (1) If an employer, not being an officer of Government, fails to pay the tax as required by or under this Act, he shall, without

prejudice to any other consequences and liabilities which he may incur, be deemed to be an assessee-in default in respect of the tax.

(2) Without prejudice to the provisions of sub-section (1), an employer referred to in that sub-section shall be liable to pay simple interest at two per cent per month, of the amount of the tax payable for each month for the period for which the tax remains unpaid.

(3) Where the amount of tax as assessed under section 9 or as found payable in view of an order passed under sections 19, 20, 21 and 22 is more than the amount of tax paid by the employer, then such employer shall be liable to pay simple interest on the amount of difference of tax at the rate and in the manner laid down in sub-section (2).

(4) If an enrolled person fails to pay the tax as required to be paid by or under this Act, he shall be liable to pay simple interest at the rate and in the manner laid down in sub-section (2).

(5) The Commissioner may, subject to such conditions and limitations as may be prescribed and for reasons to be recorded in writing waive the whole or any part of the interest payable in respect of period under this section.

12. Penalty for non-payment. - If an enrolled person or a registered employer fails, without reasonable cause, to make payment of any amount of tax within the required time or date as specified in the notice of demand, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding fifty per cent, of the amount of tax due.

13. Special provision regarding liability to pay tax in certain cases. - (1) Notwithstanding anything contained in the Act or any law or contract to the contrary, the prescribed authority may, at any time or from time to time by notice in writing require, -

- (a) any person from whom any amount is due or may become due to such an employer or person who has failed to pay due tax or other sum on demand by the prescribed authority, or
- (b) any person who holds or may Subsequently hold any money for or on account of such person, to pay into the Government Treasury or the Bank authorised to receive money on behalf of the State Government, in the manner specified in the notice, not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due in respect of the demand of tax and other sum under this Act, or the whole of the money when it is equal to or less than that demand.

Explanation. - For the purpose of this sub - section, the amount due to a person or money held for or on behalf of such person by any person shall be computed after taking into account such claims, if any, as may have fallen legally due for payment by such an employer or person to such person.

(2) Where an employer liable to pay tax under section 4 of this Act dies then, his legal representative shall be liable to pay tax including any penalty and interest due from such employer under this Act, in the like manner and to the same extent as the deceased employer, whether such tax including any penalty and interest has been assessed before the death of the employer but has remained unpaid, or is assessed after the death of the employer.

Explanation. - In this sub-section, the expression "legal representative" has the same meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908.

(3) Where an employer liable to pay tax under section 5 of this Act, is a Hindu undivided family and the joint family property is partitioned amongst the various members or group of the members then, each member or group of members shall be jointly and severally liable to pay the tax including any penalty and interest due from the employer under this Act upto the time of partition, whether such tax including any penalty and interest has been assessed before the partition but has remained unpaid, or is assessed after partition.

(4) Where an employer liable to pay tax under this Act, is a firm, and the firm is dissolved then, every person who was a partner shall jointly and severally be liable to pay the tax including any penalty and interest due from the employer firm under this Act upto the time of dissolution, whether such tax including any penalty and interest has been assessed before such dissolution but has remained unpaid, or is assessed after such dissolution.

(5) Where an employer, liable to pay tax under this Act, transfers or otherwise disposes of his office or establishment or activity in whole or in part, or effects any change in employment in consequence of which he is succeeded in the office or establishment or activity or part thereof by any other person then, the employer and the person succeeding shall jointly and severally be liable to pay the tax including any penalty and interest due from the employer under this Act up to the time of such transfer, disposal or change, whether such tax including and penalty and interest has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(6) Where an employer liable to pay tax under this Act, is succeeded in the office or establishment or activity by any person in the manner described in sub-section (5) then, such person shall, -

(a) be liable to pay tax in respect of the period from the date of such succession, and

(b) within 30 days from the date of such succession, apply for certificate of registration, unless he already holds a certificate of registration.

14. Determination of the disputed question. - (1) If any question arises, otherwise than in proceedings before a court or before the prescribed authority has commenced assessment of an employer under section 9, about the interpretation or the scope of any provision of this Act, the Commissioner shall make an order determining such question.

Explanation. - For the purposes of this sub-section, the prescribed authority shall be deemed to have commenced assessment of an employer under section 9, when the employer is served with a notice under that section.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, in respect of the period prior to the determination.

(3) If any such question arises from any order already passed under this Act, no such question shall be entertained for determination under this section; but such question may be raised in appeal against, or by way of revision of, such order.

15. Transfer of cases. - The Commissioner may, after giving the parties a reasonable opportunity of being heard, wherever it is possible to do so, and after recording his reasons, for doing so, by order in writing transfer any proceedings or class of proceedings under any provision of this Act, from himself to any other officer, and he may likewise transfer any such proceedings, including a proceeding pending with any officer or already transferred under this section, from any officer to any other officer or to himself:

Provided that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any other officer and the offices of both are situated in the same city.

Explanation. - In this section, the word "proceedings" in relation to any assessee whose name is specified in any order issued thereunder means all proceedings under this Act in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year in relation to such cases.

CHAPTER V

Recovery of Tax

16. Recovery of tax, etc. - All arrears of tax, penalty, interest and fees under this Act shall be recoverable as an arrears of land revenue.

17. Special mode of recovery. - (1) Notwithstanding anything contained in any law, for the time being in force, or contract to the contrary, the prescribed authority may, at any time, or from time to time, by notice in writing, a copy of which shall be forwarded to the assessee at his last known address, require -

- (a) any person from whom any amount of money is due, or may become due, to an assessee on whom notice of demand has been served under this Act, or
- (b) any person who holds or may, Subsequently, hold money for or on account of such assessee,

to pay the prescribed authority, either forthwith upon the money becoming due or being held or at or within the time specified in the notice but not before the money becomes due or is held as aforesaid, so much of the money as is sufficient to pay the amount of arrears of tax, penalty and interest under this Act, or the whole of the money when it is equal to or less than the amount.

Explanation. - For the purposes of this section, the amount of money due to an assessee from, or money held for or on account of an assessee by, any person shall be calculated after deducting therefrom such claims, if any, lawfully Substitutedisting, as may have fallen due for payment by such person.

(2) The prescribed authority 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 under this section shall be deemed to have made the payment under the authority of the assessee, and the receipt of the prescribed authority shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the assessee after receipt of the notice referred to in this section, shall be personally liable to the prescribed authority to the extent of the liability discharged, or the extent of the liability of the assessee for tax, penalty and interest, whichever is less,

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the prescribed authority that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the prescribed authority.

(6) Any amount of money which a person is required to pay to the prescribed authority or for which he is personally liable to the prescribed authority under this section, shall, if it remains unpaid be recoverable as an arrears of land revenue.

18. Liability under this Act to be the first charge. - Notwithstanding anything to the contrary contained in any law for the time being in force, any amount of tax and any other sum payable by any person under this Act, shall be first charge on the property of such person.

19. Refund. - The prescribed authority shall refund to a person the amount of tax, penalty, interest and fees, if any, paid by such person in excess of the amount due from him, and the refund may be made either by cash payment or, at the option of the person, by deduction of such excess from the amount of tax penalty, interest and fee due in respect of any other period :

Provided that, the prescribed authority shall first apply such excess towards the recovery of any amount due in respect of which a notice under section 9 has been served, and shall then refund the balance, if any.

CHAPTER VI

Appeals and Revision

20. Appeal to the appellate authority. - (1) Subject to other provisions of this Act, an appeal against any order of the prescribed authority, shall lie to the appellate authority.

(2) No appeal shall be entertained after the expiry of sixty days from the date of receipt of demand notice or receipt of the order :

Provided that, the appellate authority may admit the appeal after the expiry' of the above period, if he is satisfied that there was sufficient cause for the delay.

(3) No appeal against an order of assessment with or without penalty or interest or against an order imposing penalty or interest shall be entertained by an appellate authority, unless such appeal is accompanied by satisfactory proof of the payment of forty per cent of tax with or without penalty or interest or as the case may be of the payment of penalty or interest in respect of which appeal has been preferred.

(4) The appellate authority in disposing of an appeal, may -

- (i) confirm, annul, reduce, enhance, or otherwise modify the assessment or penalty or interest, or
- (ii) set aside the assessment or penalty or interest and direct the authority which made the assessment or imposed the penalty or charged the interest to pass a fresh order after further inquiry on specified points.

(5) No order under this section shall be passed without giving the appellant or his representative, and, where the appellate authority is the Board, without giving the authority whose order or direction is the subject of the appeal or his representative, a reasonable opportunity of being heard.

21. Appeal to the Tax Board. - (1) An appeal shall lie to the Tax Board against, -

(a) an order passed by an appellate authority;

(b) an order passed by the Commissioner under the Act.

(2) Any person or authority under the Act being aggrieved by any order referred to in sub-section (1), may file an appeal before the Tax Board within one hundred eighty days from the date on which the order sought to be appealed against is communicated to him.

(3) The respondent may, on receipt of notice that an appeal against an order referred to in sub-section (1) has been preferred by the appellant, notwithstanding that he may not have appealed against such order, within one hundred and sixty days of receipt of the notice, file a memorandum of cross-objections against any part of the said referred order and such memorandum shall be disposed of by the Tax Board as if it were an appeal within the time.

(4) The Tax Board may admit an appeal or permit the filing of memorandum of cross-objections after the expiry of the limitation provided above, if it is satisfied that there was sufficient cause for not presenting the same within that limitation.

(5) An appeal to the Tax Board shall be made in the prescribed form and shall be verified in the prescribed manner.

(6) The Tax Board, during the pendency of an appeal before it, shall not stay any proceeding but it may, on an application in writing from the appellant, stay the recovery of the disputed amount of tax, fee, interest or penalty or any part thereof on the condition of furnishing adequate security to the satisfaction of the prescribed authority; and the amount found ultimately due shall be subject to interest from the date it became first due, in accordance with the provisions of this Act.

(7) Notwithstanding that an appeal against an order has been preferred to the Tax Board, the tax, fee, interest or penalty shall be paid in accordance with the order against which appeal has been preferred, unless recovery of such tax, fee, interest or penalty has been stayed by the Tax Board.

(8) The Tax Board shall, after giving both the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit and send a copy thereof to the appellant,

the prescribed authority, the authority whose order was appealed against and the Commissioner.

22. Revision to the High Court. - (1) Any person or authority under this Act, aggrieved by an order passed by the Tax Board, may, within ninety days from the date of service of such order, apply to the High Court for revision of such order on the ground that it involves a question of law.

(2) The application for revision under sub-section (1) shall state the question of law involved in the order sought to be revised, and the High Court may formulate the question of law in any form or allow any other question of law to be raised.

(3) The High Court shall after hearing the parties to the revision, decide the question of law stated to it or formulated by it, and shall thereupon pass such order as is necessary to dispose of the case.

(4) Any person aggrieved by an order passed under sub - section (3) may apply for a review of the order to the High Court and the High Court may make such order thereon as it thinks fit.

23. Revision by the Commissioner. - The Commissioner may call for and examine the record of any proceedings under this Act, and if he considers that any order passed therein by the prescribed authority or any authority under section 9 of the Act, is erroneous or prejudicial to the interest of State revenue, he may, after having made or after having caused to be made such inquiry as he considers necessary, and after having accorded an opportunity of hearing to such person, shall pass appropriate orders :

Provided that powers of revision under this section shall not be exercised by the Commissioner after the expiry of five years from the date of the order sought to be revised.

24. Rectification of a mistake and escapement of tax. - Any authority under this Act may, of his own motion or on application being made in this behalf, rectify any mistake apparent from the record:

Provided that, if an order under this section has an adverse effect on an employer or a person, no such order shall be passed unless a reasonable opportunity of being heard has been given to such employer or person :

Provided further that, no order under this section shall be passed after the expiry of four years from the date of passing of the assessment order.

Explanation. - I. A mistake apparent from the record shall include an order which was valid when it was made and is Subsequently rendered invalid by an amendment of the law having retrospective operation or by a judgement of the Supreme Court, the Rajasthan High Court of the Tax Board.

Explanation. - II. An assessment wherein tax has been wholly or in part un-assessed or under-assessed in any way or under any circumstances, shall be deemed an escaped assessment and the prescribed authority shall on the basis of the material on record or after making such enquiry as it may consider necessary, complete such assessment within five years from the end of the relevant assessment year but this limitation shall not be applicable to any assessment to be made in consequence of, or to give effect to any finding or direction contained in an order passed by an Appellate Authority or the Tax Board or a competent court. No notice shall be issued in respect of any escaped assessment for any year after the expiry of three years from the end of the relevant assessment year.

CHAPTER VII

Maintenance of Accounts

25. Maintenance of accounts by the employer or a person. - (1) If the Commissioner is satisfied that the books of accounts and other documents maintained by a particular class of employers in the normal course of their business are not adequate for verification of the returns filed by the employer under this Act, it shall be lawful for the Commissioner to direct the employer to maintain the books of accounts or other documents in such manner as he may in writing direct, and thereupon the employer shall maintain such books of accounts or other documents accordingly.

(2) Where an employer wilfully fails to maintain the books of accounts or other documents as directed under sub-section (1), the prescribed authority may, after giving him a reasonable opportunity of being heard, impose a penalty not exceeding rupees fifty for each day of such default subject to a maximum of rupees one thousand.

CHAPTER VIII

Offences and Penalties

26. offences and penalties. - Any person or employer who, without sufficient cause, falls to comply with any of the provisions of this Act or the rules made thereunder, the prescribed authority may direct that such person or employer shall pay by way of penalty a sum not exceeding rupees one thousand and when the offence is a continuing one with a penalty not exceeding rupees twenty five per day during the period of the continuance of the offence.

27. offences by the companies. - (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was

in charge of and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable for penalty as provided for in the Act :

Provided that, nothing contained in this sub-section shall render any such person liable to any penalty, if he proves that the offence was committed without his knowledge or that he has exercised all the due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1). where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be subjected to penalty as provided for in the Act.

Explanation. - For the purposes of this section "company" means any body corporate and includes a firm or other association of individuals; and "director" in relation to a firm means a partner in the firm.

28. Compounding of offences. - (1) Subject to such conditions as may be prescribed, the prescribed authority may, either before or after the commencement of proceedings for imposition of penalty under this Act, against a person may compound the offence with the prior written approval of the Deputy Commissioner and such composition amount shall be fifty percent of the maximum penalty provided under the Act.

(2) On composition of offence under sub-section (1), no further proceedings shall be taken against the person in respect of the same offence.

CHAPTER IX

Miscellaneous

29. Power to enforce attendance and evidence. - All authorities under this Act, shall, for the purposes of this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit, in respect of enforcing the attendance of and examining any person on oath or affirmation or for compelling the production of any document.

30. Bar to the proceedings except as provided in the Act. - (1) No suit shall lie in any Civil Court to set aside or modify any assessment made or order passed under this Act.

31. Indemnity. - No suit, prosecution, or other legal proceedings shall lie against any authority under this Act or against any employer for anything done or intended to be done in good faith under this Act or the rules framed thereunder.

32. Power to delegate. - The Commissioner may, subject to such condition and restrictions as the State Government may by general or special order impose, by order in writing delegate to the authorities subordinate to him, either generally or in respect of any particular matter or class of matters any of his powers under this Act.

33. Power to make rules. - (1) The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) All Rules made under this Act, shall be laid, as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule 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 thereunder.

Notifications

[Notification No. F.4(5)FD/Tax-Div./91-Part-113, dated January 14, 2004, Published in Rajasthan G. Gazette Extraordinary Part IV-C, dated 15-1-2004]

S.O. 319. - In exercise of the powers conferred by Sections 3,4 and 7 of the Rajasthan Tax on Professions, Trades, Callings and Employments Act, 2000, the State Government hereby rescinds this Department's following notifications, namely:-

1. Notification No. F.4(5)FD/Tax-Div./91-Part-143, dated 15 - 01-2003;
2. Notification No. F.4(I)FD/Tax-Div./2000-316, dated 30-3-2000; and
3. Notification No. F.4(5)FD/Tax-Div./91-Part-144, dated 15-01-2003. This notification shall have effect from 1st April, 2004.

[Notification No. F.4(5)FD/Tax-Div./91-Part-1, dated 1-6-2001, Published in R.G.Gazette Extraordinary, Part IV-C(II), dated 2-6-2001, p. 106']

S.O. 71. - In exercise of the powers conferred by Section 4 of the Rajasthan Tax on Professions, Trades, Callings and Employments Act, 2000 (Act No. 12 of 2000), the State Government, being of the opinion that it is expedient in the public interest so to do, hereby exempts following persons from levy of tax; -

1. Pensioners;
2. Chief Justice of Rajasthan High Court; and
3. Judges of Rajasthan High Court.