

FINANCE DEPARTMENT

NOTIFICATION.

The 16th August 1990

S. R. O. No. 790/90—In exercise of the powers conferred by section 7 of the Orissa Sales Tax Act, 1947 (Orissa Act 4 of 1947), the State Government do hereby direct that the following classes of registered dealers as specified in column (2) of the Schedule hereto annexed, who are certified by the Director of Industries, Orissa as medium or large scale industrial units set up in the State of Orissa on or after the date mentioned in column (3) thereof, shall be allowed—

- (a) to defer payment of sales tax admitted as payable on the sale of finished products manufactured by the said industrial units from the date of commencement of commercial production as certified by the said authority, or the date specified in the schedule as the case may be for the period indicated against each in column (4) of the said Schedule; or
- (b) to be exempted from payment of sales tax admitted as payable on the sale of finished products produced by such industrial unit for such period as may remain after reducing the period specified against each in column (4) of the said Schedule by two years, if any such dealer exercises option in writing to that effect to the concerned Sales Tax Officer within one month from the date of publication of this notification in the *Orissa Gazette* or within one month from the date of commencement of commercial production, whichever is later, subject to the conditions and exceptions governing such deferment or, as the case may be, exemption, as hereinafter provided.

2. This notification shall be deemed to have come into force with effect from the 1st December, 1989 and shall remain in force for a period of five years from the said date.

SCHEDULE

Sl. No.	Class of Industrial Units (Dealer)	Effective date	Period of deferment
(1)	(2)	(3)	(4)
1	New medium/large industrial units.	Where fixed capital investment has been made only on or after the 1st December 1989.	9 years for the units set up in the districts of Phulbani, Balangir and Kalahandi and 7 years for the units set up in all other districts and 2 years more for all pioneer units.

1	2	3	4
2 Continuing medium/large industrial units set up more after the 1st April 1986.	Where fixed capital investment commenced on or after the 1st April 1986 but before the 1st December 1989 and the unit had gone into Commercial production after the 1st April 1986.	9 years for the units set up in the districts of Phulbani, Balangir and Kalahandi and 7 years for units set up in all other districts and 2 yrs more for all pioneer units.	
3 Continuing medium/large industrial units set up on or after the 1st August 1980.	Where fixed capital investments commenced on or after the 1st August, 1980 and prior to the 1st April 1986 and the units had gone into commercial production after the 1st April 1986.	9 years for units set up in the districts of Phulbani, Balangir and Kalahandi and 7 years for units set up in all other districts and 2 years more for all pioneer units from the 1st December 1989:	Provided that Sales tax loan, if any, availed of under the Orissa Sales Tax Loan Scheme/Rules, 1980 is surrendered within the time limit prescribed in the operational guidelines instructions.
4 Medium large industrial units set up on or after the 1st December, 1989 and undergone expansion/modernisation/diversification on the basis of project report as praised by financial institutions.	Where fixed capital investment has been made on or after the 1st December, 1989.	9 years for industrial units in the districts of Phulbani Kalahandi and Balangir and 7 years in all other districts of the State and 2 years more in case of all pioneer units to the extent of increased commercial production over and above the original installed capacity, which shall be allowed once within the entire effective period.	
5 Existing medium/ large industrial unit which has undertaken expansion/modernisation/diversification on or after 1st April 1986 but before 1st December 1989 and has gone into commercial pro-	Where fixed capital investment commenced on or after the 1st April, 1986 but before the 1st December 1989 and has gone into commercial production after 1st April, 1986.	9 years for industrial units the districts of Phulbani, Kalahandi and Balangir and 7 years in all other district of the State and 2 years more in case of all pioneer units to the	

1	2	3	4
	duction after 1st April 1986 on the basis of project report appraised by financial institution.		extent of increased commercial production over and above the original installed capacity which shall be allowed once within the entire effective period,
6	Existing medium/large industrial unit which has undertaken expansion/modernisation/diversification between 1st August 1980 and 31st March 1986 has gone into commercial production after 1st April 1986 on the basis of project report appraised by financial institutions.	Where fixed capital investment commenced on or after 1st August, 1980 but before 1st April, 1986 and has gone into commercial production after 1st April, 1986.	9 years for units set up in the districts of Phulbani, Balangir and Kalahandi and 7 years for unit set up in all other districts of the State and 2 years more in case of all pioneer units to the extent of increased commercial production over and above the original installed capacity which shall be allowed once within the entire effective period:
	"Explanation-Fixed capital investment" means investment on land, building, plant and machineries and other equipment of permanent nature.		Provided that sales tax loan, if any, availed of under the Orissa Sales Tax Loan Scheme/Rules, 1980 is surrendered within the time limit prescribed in the operational guidelines/instructions.
			"Explanation Pioneer unit" means the first two new industrial units with fixed capital investment of more than Rs. 5 crores first going into commercial production in a Panchayat Samiti. But these two units are not established in a growth centre and no other medium or large industrial unit has gone into commercial production in the concerned Panchayat Samiti prior to the said units.

Conditions and exceptions governing deferment of payment of Sales Tax

The deferment of Sales Tax shall be subject to the following conditions and exceptions, namely,

- (i) The dealer must not have opted for the benefit of Sales Tax exemption.
 - (ii) The dealer shall make an application in writing for availing the benefit of deferment in payment of sales tax which shall be submitted to the Sales Tax Officer, who granted the Registration Certificate, within one month from the date of publication of this notification or within one month from the date of commencement of commercial production, whichever is later, in Form-A annexed hereto.
 - (iii) The dealer applying for deferment in payment of sales tax, shall submit an agreement in Form-B annexed hereto to the concerned Sales Tax Officer, failing which the benefit will not be available. The agreement will be executed by the dealer and the Industrial Promotion and Investment Corporation of Orissa Limited.
 - (iv) The deferred amount of tax in respect of each year shall be paid in full in the month following the month of commercial production: every year in one annual instalment, commencing immediately after the expiry of the period of deferment.
 - (v) In the event of closure of the industrial units before or after expiry of the period of deferment or in the event of any of the happenings agreed upon in the agreement or in the event of misrepresentation of facts or furnishing of incorrect or false information, which later on comes to the notice of the Sales Tax Officer concerned, the benefit of deferment allowed shall be revoked from the date it was allowed, after giving an opportunity of being heard to the dealer and the entire amount not paid by way of deferment shall be paid at once in one instalment.
 - (vi) The deferment of payment of sales tax shall be available in respect of the sales of goods which the dealer is licensed to manufacture.
 - (vii) A breach of the conditions of this notification or any of the provisions of the Orissa Sales Tax Act, 1947 and Rules made thereunder shall render the benefit of deferment of tax to be cancelled with the approval of the Assistant Commissioner of Sales Tax in-charge of the concerned Range and such cancellation, in appropriate cases, may be given retrospective effect:
- Provided that no such cancellation shall be made without giving the dealer an opportunity of being heard.
- (viii) The Sales Tax Officer concerned, if satisfied that the applicant had sufficient cause for not submitting the application or agreement within the stipulated period may accept the application to agreement thereafter, recording reasons therefor.
 - (ix) The deferment of sales tax under Section 7 of the Orissa Sales Tax Act, 1947 shall include the additional sales tax payable under the Orissa Additional Sales Tax Act, 1975 on the turn over of sales in respect of which the payment of sale tax has been allowed to be deferred.

(x) The benefit of deferment in payment of sales tax shall not be available to the following categories of industrial units, namely

1. Rice Hullers and Rice Mills
2. Flour Mills
3. Pulse Mills
4. Photographic Studios and Laboratories
5. Manufacture of Ice Candy and Ice Fruits
6. Laundry/Dry Cleaning
7. Tailoring (other than readymade garments manufacturing units)
8. Saw Mill/Sawing of timber
9. Production of firewood and charcoal
10. Coal/Cake briquetting
11. Oil Mill/Expelling Plant of less than 10 MT input capacity (excluding extraction of oil through solvent extraction process and or refining)
12. Bread-making (excluding mechanised bakery).
13. Carpentry and Furniture-making.
14. Joinery
15. Book-binding
16. Rubber Stamp-making
17. Note-book and Exercise Note-Books
18. Envelopes making
19. Confectionery (other than 100 per cent export oriented units)
20. Preparation of sweets and namkeens etc.,
21. Making of spices, pampod, dal etc.
22. Photo copying
23. Clinical/Pathological Laboratories
24. Beauty Parlours
25. Drilling Rigs, Bore-Wells and Tube-Wells

26. Production of seeds
27. Guest Houses and Restaurants
28. Goods and passenger carriers
29. Video Parlours
30. Black and White and Colour T. V. sets other than those manufactured through Rural Co-operative Societies
31. Such other industries as may be notified by Government from time to time

(x) The Certificate allowing deferment in payment of sales tax shall be granted in Form-C.

Conditions and exceptions governing exemption from payment of Sales Tax in lieu of deferment thereof:—

- (i) The option shall be exercised in Form-D annexed hereto
- (ii) The exemption from payment of Orissa Sales Tax shall be available only in respect of sales of goods which the dealer is licensed to manufacture and which are manufactured by him.
- (iii) A breach of any of the conditions of this notification or any of the provisions of the Orissa Sales Tax Act, 1947 and the Rules made thereunder or misrepresentation of facts or furnishing incorrect or false information, which later on comes to the notice of the Sales Tax Office concerned, shall render the benefit of exemption from payment of Orissa Sales Tax to be withdrawn after giving opportunity of being heard to the dealer, with the approval of the Assistant Commissioner of Sales Tax in-charge of the concerned Range and, in appropriate case may be given retrospective effect.
- (iv) The Sales Tax Officer concerned, if he is satisfied that the applicant had sufficient cause for non-submitting the application within the stipulated period may accept the same thereafter, after recording reasons therefor.
- (v) Sales Tax, if any, collected by the dealer shall be deposited into Government account forth with under the appropriate Head of Account.
- (vi) The benefit of exemption from payment of Orissa Sales Tax shall not be available in the case of following industrial units, namely:—

1. Rice Hullers and Rice Mills
2. Flour Mills
3. Pulse Mills
4. Photographic Studios and Laboratories
5. Manufacture of Ice Candy and Ice Fruits
6. Laundry/Dry Cleaning

7. Tailoring (other than readymade garment manufacturing units)
8. Saw Mills/Sawing of timber
9. Production of Firewood and Charcoal
10. Coal/Cake briquetting
11. Oil Mill/Expelling plant of less than 10 MT. input capacity (excluding extraction of oil through solvent extraction process and/or refining).
12. Bread-making (excluding mechanised bakery)
13. Carpentry and Furniture making
14. Joinery
15. Book-binding
16. Rubber Stamp-making
17. Note Books and Exercise Note Books
18. Envelopes making
19. Confectionery other than 100 per cent export oriented units
20. Preparation of sweets and numkeens, etc.
21. Making of Spices, Pampad, Dal, etc.
22. Photo copying
23. Clinical/Pathological Laboratories
24. Beauty Parlours
25. Drilling Rig, Bore-wells and Tube-wells
26. Production of seeds
27. Guest Houses and Restaurants
28. Goods and passenger carriers
29. Video Parlours
30. Black and White and Colour T.V. sets other than manufactured through Rural Co-operative Societies.
31. Such other industries as may be notified by Government from time to time

FORM-A

APPLICATION FOR DEFERMENT IN PAYMENT OF SALES TAX UNDER SECTION 7 OF THE ORISSA SALES TAX ACT, 1947

To

The Sales Tax Officer,.....Circle

- 1. Name of the Industrial Unit:
- 2. Status of the Industrial Unit:
- 3. Name, father's name and address of the Proprietor/ Partners/ Directors (in case of association of persons or body corporate, Xerox copies, attested by a Gazetted Officer of documents in support thereof to be attached)
- 4. Registration No. and date of the certificate issued by the Director of Industries, Orissa (Xerox copy, attested by a Gazetted Officer of the certificate to be attached)
- 5. Registration number under the Orissa Sales Tax Act with date
- 6. Date of starting commercial production, as certified by the Director of Industries, Orissa (Xerox copy attested by a Gazetted Officer enclosed), date of expansion/modernisation/diversification on the basis of project report appraised by financial institutions.
- 7. Amount of Sales Tax collected on or after 1-4-1986 to.....

O. S. T.
 O. A. S. T.
 Total

- 8. Amount of Sales Tax paid from 1-4-1986 to.....
 (Please furnish challanwise details)

O. S. T.
 O. A. S. T.
 Total

9. Certificate regarding gross value of fixed assets (to be attached in original) obtained from the Director of Industries.

10. Detailed particulars of:—

- (i) immovables :—
- (ii) movables :—

11. I do hereby apply for allowing the benefit of deferment of payment of Orissa Sales Tax and Orissa Additional Sales Tax for a period of.....years covering the period from..... to..... I have gone through the notification of the Government of Orissa in the Finance Department No...../F. dated the.....19.....and undertake to abide by the terms, conditions and restrictions contained therein. This Industrial unit has been set up in the districts of.....on or after the 1st August 1980 being a medium/large Industrial unit and has started commercial production on.....

12. I do hereby declare that the facts stated above are true to the best of my knowledge

Place

Date

Signature of the applicant
(With designation and seal)

FORM-B

AGREEMENT

THIS AGREEMENT is made this..... day of..... one thousand nine hundred..... BETWEEN..... a Private/Public limited Company incorporated under the Companies Act, 1956/a Co-operative Society registered under the Orissa Co-operative Societies Act, 1962 and having its registered office at in the district of represented by Shri duly authorised by the Board of Directors in their meeting held on..... or carrying on business as sole Proprietor/partners in the firm under the name and style of M/s..... duly registered under the Indian Partnership Act, 1932 and having its registered office at in the district represented by Shri..... Proprietor/ Partner duly authorised in that behalf) which expression shall, unless it be repugnant to the context or meaning thereof be deemed to include its successor or successors and assignees/the partners for the time being of the said firm and their assigns, heirs, executors (hereinafter referred to as the said industrial unit) of the first part, AND Industrial promotion and Investment Corporation of Orissa Limited (hereinafter referred to as "IPICOL") which expression shall unless it be repugnant to the context of meaning thereof be deemed to include its successor or successors and assigns of the second part.

Whereas the State Government by notification in the Finance Department No...../F, dated the 19..... issued under section 7 of the Orissa Sales Tax Act, 1947, have decided to allow subject to the conditions and exceptions specified in the said notification the registered dealers under the said Act who are certified by the Director of Industries, Orissa as medium/large industrial units to defer payment of Orissa Sales Tax for a period of..... years on sale of finished products manufactured by such Industrial units from the date of commercial production as may be certified by the Director of Industries, Orissa;

And whereas the said Industrial unit who is a registered dealer under the Orissa Sales Tax Act, 1947 (Registration Certificate bearing No..... dated granted by the Sales Tax Officer, Circle), certified by the Director of Industries, Orissa as a medium/large industrial unit by his / their application dated the intends/ intend to apply to the Sales Tax Officer Circle for allowing deferment in payment of Orissa Sales Tax equal to the extent admitted in the returns submitted in Form IV prescribed under the Orissa Sales Tax Rules, 1947 for the period from..... to.....;

Now it is hereby agreed by and between the parties as follows:—

- (a) The industrial unit shall duly observe and perform the provisions//conventions and conditions under the Orissa Sales Tax Act, 1947 and the Rules, framed and notifications and orders issued pursuant thereto.
- (b) The unit shall not without taking prior approval of the IPICOL change the location of or any part of the Industrial unit or effect any substantial change in the said unit.
- (c) The Industrial unit shall furnish to the State Government or its authorised officers and IPICOL all the informations that may be required to study the functioning of the unit in such form and by such date may be specified from time to time.

(d) The Industrial unit hereby acknowledges the benefit of deferment that may be conferred on it (by the State Government) and hereby covenants to pay IPICOL the aforesaid sales tax dues allowed to be deferred for payment in instalments as detailed in the Schedule hereunder.

SCHEDULE

Instalments	The year for which Sales Tax is allowed to be deferred	Payable by
(1)	(2)	(3)
1st instalment	for the year 19.....19	By
2nd instalment	for the year 19.....19	By
3rd instalment	for the year 19.....19	By
4th instalment	for the year 19.....19	By
5th instalment	for the year 19.....19	By
6th instalment	for the year 19.....19	By
7th instalment	for the year 19.....19	By
8th instalment	for the year 19.....19	By
9th instalment	for the year 19.....19	By
10th instalment	for the year 19.....19	By
11th instalment	for the year 19.....19	By

(e) The said Orissa Sales Tax Payment of which shall be allowed to be deferred, shall become forthwith payable by the industrial unit to IPICOL on the happenings of all or any of the following events, namely:—

- (i) if the industrial unit goes out of production before the payment of the deferred sales tax dues ;
- (ii) if the industrial unit changes the location of whole or any part of the industrial unit or effects any substantial alteration or disposes of any substantial part of the total capital investment before payment of the Sales Tax as deferred ;
- (iii) if any information furnished by the industrial unit in the application for determination in payment of sales tax contains statements which are either false or incorrect ;
- (iv) if any distress or execution proceedings is initiated upon any property of the industrial unit or any part of its assets or a receiver thereof be appointed ;
- (v) if the industrial unit commits breach of any of the covenants or provisions herein contained which are to be observed and performed by it ;

- (vi) if the industrial unit is closed for a period exceeding six months at a time for reasons other than labour trouble or want of electric power or raw materials, or ceases to carry on business for any reason whatsoever;
- (vii) if the industrial unit or any of the partners thereof files a petition for being adjudicated as insolvent or is adjudicated as insolvent;
- (viii) if any petition for winding up of the industrial unit passed by any competent court of the industrial unit passes a resolution for being wound up.
- (f) The industrial unit shall permit the person or persons authorised by the State Government or IPICOL in that behalf at any time and from time to time, during the usual hours of business to inspect the said unit or to examine records, etc. as may be relevant for the purpose and shall render him / them such assistance as may be required for the purpose aforesaid. The industrial unit shall furnish to the State Government, IPICOL or such person or persons, as aforesaid as the case may be, all such information relating to the said unit as may be required by such person or persons.
- (g) The industrial unit shall observe and perform all instructions and directions that may be issued from time to time by the IPICOL in relation to utilisation of the said sum (deferred amount of sales tax) and shall hereafter submit to the IPICOL such informations / documents on the working of the said unit at such time and in such Form as may be directed by the IPICOL.
- (h) In the event of any dispute or difference arising between the parties hereto in respect of or in relation to this agreement or any provision herein contained either during the subsistence of this agreement or thereafter the same shall be referred to the arbitration in accordance with the provisions of the Arbitration Act, 1940.
- (i) The Industrial unit shall bear and pay all the costs, charges and expenses incidental to the preparation and execution of the Agreement.

IN WITNESS WHEREOF the said Industrial Unit, as the first part and IPICOL, as the second part, have put their hands and seals on the day and year first above written.

For and on behalf of the Company / Co-operative Society / Firm / Dealer.

SIGNED

In the presence of

Witnesses

1.

2.

Signature of Officer acting in the premises for and on behalf of IPICOL in the presence of witnesses.

1.

2.

FORM C

To

M/s

(Registration Number)

Your application, dated in Form A for deferment in payment of Sales Tax under Section 7 of the Orissa Sales Tax Act, 1947 has been allowed subject to the conditions and restrictions contained in the notification of the Government of Orissa in the Finance Department No....., dated....., 19.... and those contained in the Agreement executed by you in Form B. The period of deferment for... years commences on and expires on.....

Non-observance of any condition, etc. mentioned in the said notification No....., dated shall render this order of deferment of Sale Tax cancelled and you will be required to pay the tax in the usual manner as if the benefit of deferment is not applicable to you.

SALES TAX OFFICER

.....CIRCLE/ASSESSMENT UNIT

FORM D

APPLICATION FOR EXERCISING OPTION FOR EXEMPTION FROM PAYMENT OF SALES TAX UNDER SECTION 7 OF THE ORISSA SALES TAX ACT, 1947 IN LIEU OF DEFERMENT IN PAYMENT OF SUCH TAX

To

The Sales Tax Officer,Circle

I/we Son of Proprietor/Partners/Directors of M/s..... of..... P.O..... P.S..... District..... a registered dealer (Registration No..... dated.....) have set up a medium/large Industrial unit, which has been certified by the Director of Industries, Orissa in Registration Certificate No....., date..... (Attested Xerox copy enclosed). The Industrial unit has commenced commercial production on..... (Attested Xerox copy of the Certificate in support thereof enclosed, as a medium/large industrial unit and is/are entitled to the deferment in payment of Sales Tax under section 7 of the Orissa Sales Tax Act, 1947 read with the notification of the Government of Orissa in the Finance Department No...../F., dated.....

I/We do hereby exercise my/our option to avail exemption from payment of Orissa Sales Tax foryears covering the period from the date of commencement of commercial production as certified by the Director of Industries, Orissa toin accordance with the provisions of Section 7 of the Orissa Sales Tax Act, 1947 and the notification of the Government of Orissa in the Finance Department No....., dated the19.....subject of the condition and exceptions imposed under the said notification. A Xerox copy of the Resolution of the Board of Directors (in the case of a Company or Corporation) in this regard is enclosed. This option now exercised is final and is not liable for any change.

I/We do hereby declare that the facts stated above are true to the best of my/our knowledge and belief:

Place.....

Signature of the dealer with designation and seal

Dated.....

Registration No.....

O.S.T.No.....,date.....

O.S.T.No.....,date.....

[No. 27665—CTA.-56/90-F.]

By order of the Governor

B.B. MISRA

Joint Secretary to Government