

THE JAMMU AND KASHMIR ENTERTAINMENT TAX
(CINEMATOGRAPH SHOWS) ACT, 1962

Act No. XXIII of 1962

An Act to provide for levying entertainment tax on Cinematograph Shows exhibited in public in the State.

Be it enacted by the Jammu and Kashmir State Legislature in the Thirteenth Year of the Republic of India as follows:

1. Short title, extent and commencement.-(1) This Act may be called the Jammu and Kashmir Entertainment Tax (Cinematograph Shows) Act, 1962.

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

(3) It shall come into force on such date as the Government may by notification in the Government Gazette appoint in this behalf.

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

2(a) Commissioner' means any person appointed by the Government to exercise the functions of the Commissioner under this Act;

(b) 'cinematograph' includes any apparatus for the representation of moving pictures or-series of pictures;'

(c) 'permanent cinema premises' includes a building or any other places permanently equipped for exhibition of cinematograph films;

(d) 'prescribed' means prescribed by rules made under this Act;

(e) 'proprietor' in relation to this Act includes any person responsible for the management of the premises where the show is held;

(f) 'show' means a cinematograph exhibition;

1. Act enforced with effect from 15th of August, 1962 vide Government Notification No. SRO-178 of 1962. (Government Gazette dated 14-8-1962).

2. Substituted for the following vide Act No. XII of 1966 published in the Government Gazette dated 24-5-1966:

"(a) 'Commissioner' means the Excise' Commissioner Jammu & Kashmir or any other officer empowered by the Government to exercise the powers of the Com-missioner under this Act."

(g) 'touring cinema' includes a cinema, which can be taken from place to place for the purpose of displaying cinematograph shows.

3. Levy of tax on public Cinema shows.- (1) Except as otherwise expressly provided in this Act, there shall be levied, charged and paid to the Government, on all public cinematograph exhibitions to which persons are admitted on payment, an entertainment tax not exceeding rupees 20 per show at such rate or rates as the Government may from time to time fix by notification in the Government Gazette.

(2) The powers conferred by sub-section (1) are subject to the condition that a draft of the proposed order fixing or varying the rates of cinematograph shows entertainment tax shall be published by notification for the information of all persons likely to be affected thereby; and it shall only take effect after the Government have considered all objections received within a period of thirty days from the date of its publication.

(3) Tax levied under sub-section (1) shall be recoverable from the proprietor.

4. Taxing authorities.- (1) For carrying out the purposes of this Act, the Commissioner may be assisted by such other person or persons as the Government may appoint in this behalf.

(2) The Commissioner or the persons appointed under subsection (1) shall exercise such powers and perform such duties as may be assigned to them under this Act or the rules made there under.

5. Deposit of security by the proprietor.- (1) The Commissioner may require the proprietor of any permanent cinema premises liable to tax under sub-section (1) of section 3 to deposit in a Government treasury an amount not exceeding five hundred rupees as security pledged with him.

(2) The Commissioner may forfeit the whole or part of this security if he is satisfied that sums payable under this Act due from the proprietor cannot be recovered otherwise.

(3) The Commissioner shall, if he is satisfied that the proprietor of any cinema premises who has furnished any security under sub-section (1) has ceased the business of exhibiting cinematograph films and that nothing is due from him under this Act or the rules, made there under, refund the security to the proprietor or his legal heirs.

6. Exemption.- (1) No tax shall be levied on a public cinematographs exhibition under this Act where the Commissioner is satisfied that the whole of the net proceeds of the show will be devoted to philanthropic, charitable, educational or scientific purposes.

(2) The Government may, by general or specific order, exempt any show or class of shows or any proprietor or class of proprietors from the operation of any or of all the provisions of this Act.

7. Payment of tax and returns.- (i) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Every person liable to pay tax under this Act shall furnish to the prescribed authority such returns as may be prescribed.

(3) A separate return shall be furnished every fortnight, one pertaining to the period from the first to the fourteenth of the month and the other for the period from the fifteenth day of the month to the end of the month.

(4) The return for each period shall be submitted within seven days of the close of the period to which it pertains:

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the time for furnishing the returns by a period not exceeding thirty days.

(5) Tax payable under this Act for fourteen days shall be paid in advance by the proprietor of a touring cinema into a Government Treasury at least forty-eight hours before the commencement of the first show on the first of the fourteen days for which the tax is due. The treasury receipt, showing the payment of tax shall be sent to the prescribed authority or such other officer as the prescribed authority may direct, so as to reach him before the commencement of the first show on the first of the fourteen days for which tax has been paid.

(6) Before the proprietor of any permanent cinema premises furnishes the returns required by sub-section (3) he shall, in the prescribed manner, pay into a Government Treasury the full amount of tax due from him under this Act according to such returns, and shall furnish along with the returns a receipt from such treasury showing the payment of such amount.

(7) If the person liable to pay the tax discovers any omission or other error in any return furnished by him he may at any time before the date prescribed for the furnishing of the next return by him submit a revised return and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment of the extra amount in the manner hereinbefore provided.

(8) Every proprietor of cinema premises shall maintain such account of shows held as may be prescribed.

8. Assessment of tax.- If no returns are furnished by the proprietor of a cinema premises in respect of any period within

the time allowed by sub-section (4) of section 7 or if the prescribed authority is not satisfied that the returns furnished are correct and complete, it shall, within twelve months after the expiry of such period, after giving the proprietor a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax due from any particular proprietor.

9. Refunds and remissions.- (1) The prescribed authority shall, in the prescribed manner, refund to a proprietor applying in this behalf, any amount of tax paid by such proprietor in excess of the amount due from him under this Act, either by a refund voucher, or at the option of the proprietor, by deduction of such excess from the amount of tax due in respect of any other period.

(2) The prescribed authority may remit the tax for any show which could not be completed for any reason provided he is satisfied that the ticket holders have been refunded the price of their tickets in full.

10. Notice of holding of cinematograph show.- The proprietor of a touring cinema intending to exhibit cinematograph films to which the public is to be admitted on payment shall deliver to the prescribed authority at least three days clear notice in writing of such intention.

11. Production and inspection of documents.- (1) The Government may, subject to such conditions as may be prescribed, require the proprietor of any cinema premises to produce before any officer of the Entertainment Tax Department not below the rank of Sub-Inspector as may be prescribed, any accounts or documents relevant to the shows as may be necessary for the purposes of this Act.

(2) If any officer of the Government mentioned in sub-section (1) has reason to suspect that the proprietor of any cinema premises is attempting to evade the payment of any tax due from due under this Act, he may for reasons to be recorded in writing, seize such accounts, registers or documents of the proprietor as may be necessary and shall grant a receipt for the same and shall retain the same for such period as may be found necessary, for examination thereof or for a prosecution.

12. Entry into and inspection of places where cinematograph shows are being held - (1) (a) Any officer as prescribed may enter into and inspect any cinema premises while the show is proceeding or any place ordinarily used as a place for exhibiting

1. Substituted for the following vide Act No. XII of 1966 Published in the Government Gazette dated 24-5-1966 (Extraordinary Part III), "Excise and Taxation Department",

cinematograph films at any reasonable time for the purpose of examining whether the provisions of this Act or any rule made there under are being complied with.

(b) Every officer so authorized shall be a public servant within the meaning of section 21 of Jammu and Kashmir State Ranbir Panel Code, Svt. 1989.

(2) The proprietor of cinema premises or the owner or person in charge of any place ordinarily used for exhibition of cinematograph films shall give every reasonable assistance to the inspecting officer in the performance of his duties under subsection (1).

(3) If any person prevents or obstructs 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 five hundred rupees.

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

(2) No officer or servant of the Government shall be liable in respect of any such Act in any civil or criminal proceedings 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.

(3) No suit shall be instituted against the Government and no suit, prosecution or other proceedings shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

14. Offences and penalties.- (1) If the proprietor of cinema premises-

(a) fails to pay the tax due from him within the time allowed under this Act, or (1-a) notwithstanding anything contained in this Act, if any amount due under this Act, is not paid by the proprietor within the time specified for the payment thereof or within a period of three months whichever is earlier the proprietor shall be liable to pay in addition to the amount due from him, a sum equal to 2% of such amount for each month or part thereafter, the date specified for its payment,

1. Vide Amending Act No. XIV of 1974 dated 30-9-1974.

- (b) fraudulently evades the payment of any tax due under this Act, or
- (c) fails to furnish the returns provided in section 7, or
- (d) fails to give notice as provided in section 10, or
- (e) contravenes any other provisions of this Act or the rules made there under, he shall be liable in respect of each separate offence to a fine which may extend to one thousand rupees and when the offence is continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.
- (2) No Court shall take cognizance of an offence under this Act or the rules except with the previous sanction of the Commissioner and no Court inferior to that of a "Judicial Magistrate" of the 1st class shall try such an offence.
15. Power to compound offences.-The Commissioner may at any time accept from any person, who has committed an offence punishable under this Act or the rules made there under by way of compensation of such offence, a sum of money not exceeding two hundred and fifty rupees or double the amount of tax involved, whichever is greater.
- (2) On payment of such sum of money as may be determined by the Commissioner under subsection (1), he shall, where necessary, report to the Court that the offence has been compounded and thereafter no further proceedings under this Act shall be taken against the offender in respect of the same offence and the said Court shall discharge or acquit the accused, as the case may be.
16. Revisions.-The Commissioner, may, of his own motion or an application made, call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order and may pass such order in reference thereto as he may deem fit.
17. Recoveries.-Any Sum due under this Act or the rules framed there under shall be recoverable as arrears of land revenue.
18. Delegation of powers.-Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by an order in writing, delegate all or any of his powers under this Act to any person appointed under section 4 to assist him.

1. Substituted for the word "Magistrate" vide Act No. XL of 1966 published in the Government Gazette dated 29-10-1966 (Extraordinary Part III).

19. Power to make rules.-(1) The Government may make rules for securing the payment of the tax and generally for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules for any or all of the following matters, namely:

(a) form of any notice, return, accounts or other documents which are required to be used or kept under or for the purposes of this Act;

(b) the mode of service of any notice or order required or authorized to be served;

(c) the procedure to be followed on and in connection with revision applications;

(d) the presentation and disposal of applications for exemption from payment of tax or for refunds of the tax or security;

(e) any matter which is required by this Act to be prescribed.