TAMIL NADU LEGISLATIVE ASSEMBLY

COMMITTEE ON DELEGATED LEGISLATION

(2007-2008)

(THIRTEENTH ASSEMBLY)

FOURTH REPORT

(Presented to the Assembly on 17 APR 2008)

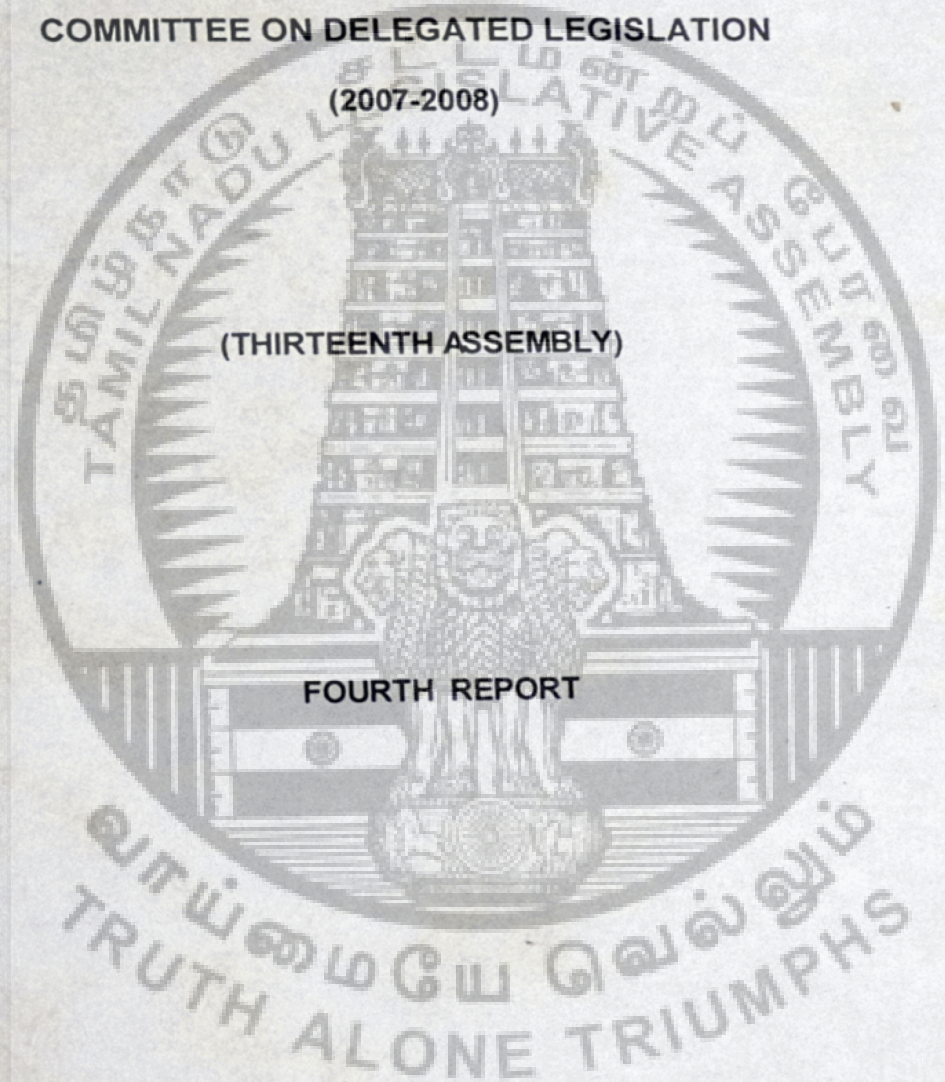
Legislative Assembly Secretariat,
Chennai- 600 009.

TAMIL NADU LEGISLATIVE ASSEMBLY
TRUTH ALONE TRIUMPHS

TAMIL NADU LEGISLATIVE ASSEMBLY

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TAMIL NADU LEGISLATIVE ASSEMBLY

COMMITTEE ON DELEGATED LEGISLATION

(CONSTITUTED ON 15 TH MAY 2007)

CHAIRMAN

1. Thiru Durai Chandrasekaran

MEMBERS

2. Thiru O. Subramaniam
3. Thiru M. Anbazhagan
4. Thiru P.N. Periyannan
5. Dr.M. Tambidurai
6. Thiru G. Senthamizhan
7. Thiru R. Nedunchezhian
8. Thiru P. Veldurai
9. Thiru R.M. Palanisamy
10. Thiru T.A. Meganathan
11. Thiru D. Moorthy
12. Thiru G. John Joseph

SECRETARIAT

Thiru M. Selvaraj - Secretary

Thiru A.M.P. Jamaludeen - Deputy Secretary

Thiru P.S.K. Singaravelu - Under Secretary

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION

PART-I

INTRODUCTION

I, the Chairman of the Committee on Delegated Legislation having been authorised by the Committee present this Fourth Report on its behalf.

This Report includes some of the observations and decisions of the Committee for the year 2003-2004, 2004-2005 and 2005-2006 based on the consideration of the Memoranda that were placed before it. The present Committee for 2007-08 after having carefully perused the Memoranda and the proceedings thereon, endorses those observations and decisions without any modifications.

SITTINGS OF THE COMMITTEE

The Committee for 2003-06 which was constituted on 21.05.2003, met for 20 days. It also undertook a Study Tour in the States of New Delhi, Utharanchal and Uttarpradesh from 6.8.2005 to 13.8.2005.

ITEMS CONSIDERED BY THE COMMITTEE

The Committee considered 105 Memoranda and 9 Notes for Committee covering rules, amendments to rules, notifications etc., laid on the Table of the House besides the seventh report (XII Assembly) on Tamil Nadu Prohibition Act, 1937 and Eleventh Report (XII Assembly) on Tamil Nadu Panchayat Act, 1994 and statement of action taken and further action taken on the recommendations of the Committee Contained in the Twenty Fifth Report (XI Assembly), Twelfth Report (XI Assembly), Thirteenth Report (XI Assembly) , Eighth Report (XII Assembly) Fourteenth Report (XI Assembly) First Report (XII Assembly), Eleventh Report (X Assembly) and Sixth Report (XII Assembly).

This Report exclusively deals with notifications and amendments to the rules under the Tamil Nadu General Sales Tax Act, 1959. Extract of the proceedings of the meetings of the Committee are appended to this Report.

The Committee approved this Report at its Meeting held on 3rd April, 2008.

PART - II

NOTIFICATIONS ISSUED UNDER TAMIL NADU GENERAL SALES TAX ACT, 1959

1. G.O.Ms.No.378, Commercial Taxes Department, Dated 08-09-2004

In exercise of the powers conferred under Section 17 (4) Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) read with Section 3 (2) and 3A (2) of the Tamil Nadu Sales Tax (Surcharge) Act, 1971 (Tamil Nadu Act 24 of 1971) and class B of Section 2(1) of Tamil Nadu Additional Sales Tax Act, 1970 (Tamil Nadu Act 14 of 1970) , the Government issued orders remitting the sales tax, surcharge, additional surcharge, additional sales tax and penalty amounting to Rs.3,83,458/- payable on the sale of paper bags manufactured by Small Scale Industrial Units in respect of the period from 10-01-1996 to 30-01-1996 under the said *Acts*.

The Committee observed that since the GO. Ms. No. 13 issued on 10th January, 1996 was notified in the Tamil Nadu Government Gazette on 31.1.1996 and there was a delay of 20 days as a result, waiver had to be made.

The Committee decided to hear the Secretary to Government, Commercial Taxes Department.

2. G.O.Ms.No.199, Commercial Taxes Department, Dated 29.12.2004

In exercise of the powers conferred under Section 17(1) of the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959), the Government issued Notifications reducing the tax payable by oil companies on the sale of High Speed Diesel Oil, Light Diesel Oil and Furnace Oil to foreign bound vessels for use in such vessels. However, the previous rate of tax was not indicated in the Notification.

The Committee observed that the percentage of previous rate of tax and the existing as well as reduced percentage of tax should be mentioned in the Notification itself.

After some discussion, the Committee decided to recommend accordingly.

3. G.O.Ms.No.5,Commercial Taxes(B2) Department, Dated 19.1.2005
G.O.Ms.No.11,Commercial Taxes (B2)Department, Dated 7-2-2005

In exercise of the powers conferred under Section 17(1) of the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959), the Government issued Notifications exempting the tax payable by various institutions in respect of the periods indicated therein.

The Committee observed that the exemption of tax penalty notified in G.O. Ms. No. 11 CT Department dated 7.2.2005, had been extended to the districts specified therein and also on the condition of filing of a declaration in the format appended to the notification by the district Collector concerned. It might, therefore, be appropriate to invoke sub-section (2) of Section 17 of the Act and also in addition to sub section (1) for issue of this Notification and also observed that non mentioning of section in the Act would not vitiate the Notification.

The Committee was of the view that it would be better to specify the relevant section in the Notification. The Committee decided to recommend accordingly.

4. G.O. Ms. No. 5, Commercial Taxes (D2) Department, dated 7.1.2005.

In exercise of the powers conferred under Section 17(4) of the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act I of 1959), the Government issued Notification remitting the difference of tax between 4% and 11% and penalty amounting to Rs.10,28,377/- in respect of the period 1999-2000 payable by Thiruvalargal Tamil Nadu Handicrafts Development Corporation Limited, Chennai on the sale of Brass Iron Boxes to the Government Department.

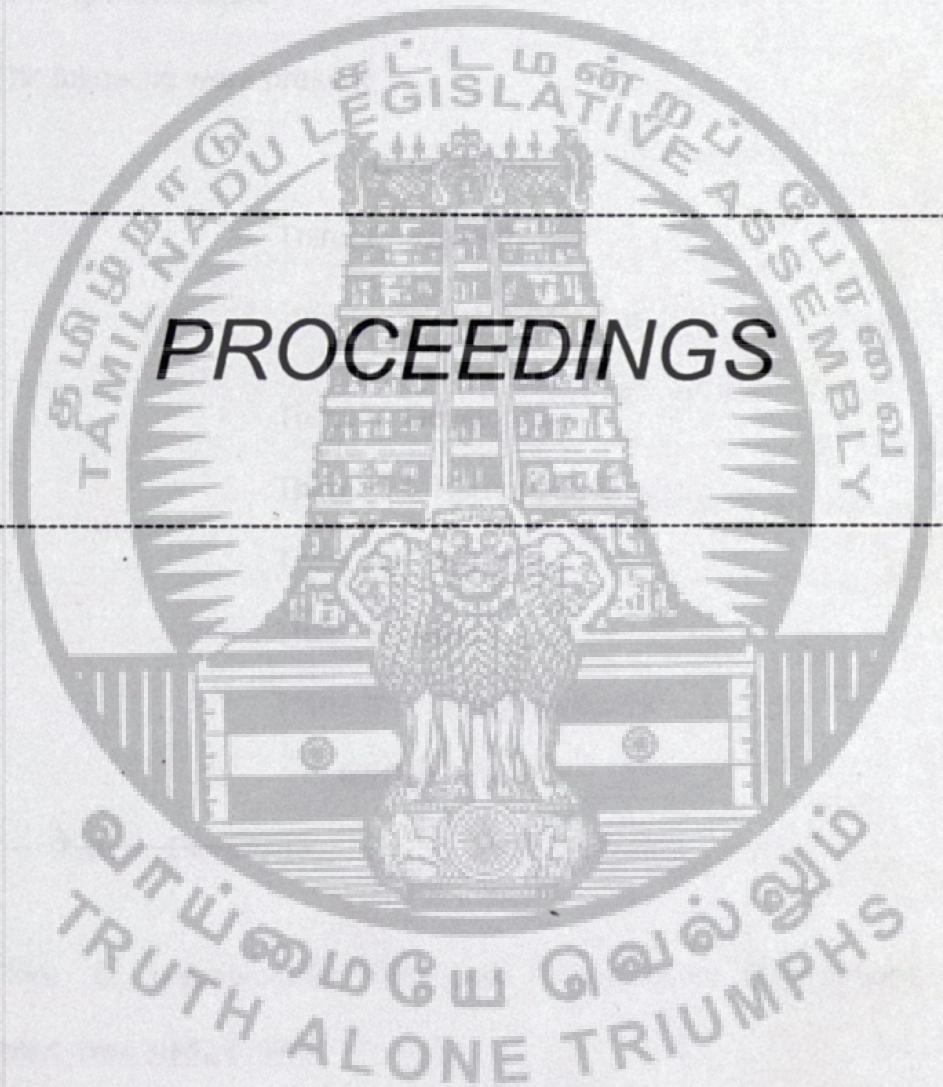
The Committee observed that it would be better to specify the dates for which the remission of penalty allowed. Further, in the Notification, it was mentioned as "Government Departments". Whereas, the sale was actually made to Adi Dravidar and Most Backward Classes Departments.

The Committee recommended that in future, the body of the Notification should be more specific and the period of exemption allowed should also be mentioned in the Notification.

Chennai - 600 009
3rd April, 2008
Panguni,21
Thiruvalluvar Aandu,2039.

DURAI CHANDRA SEKARAN
CHAIRMAN

TAMIL NADU LEGISLATIVE ASSEMBLY
TRUTH ALONE TRIUMPHS



PROCEEDINGS


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

TAMIL NADU LEGISLATIVE ASSEMBLY

PROCEEDINGS OF THE MEETING OF THE COMMITTEE ON DELEGATED LEGISLATION

THURSDAY, THE 26TH JUNE 2003

The Committee on Delegated Legislation met at 9.30 a.m. on Thursday, the 26th June, 2003 in the chambers of Chairman at Tamizhagam, State Guest House, Udhagamandalam.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. K.C. Karuppannan

Thiru. A.K. Selvaraj

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru G. Devarajan .. Under Secretary

Thiru. L. Jayasankaran, Additional Secretary to Government, Law Department, was also present.

The Under Secretary (Assembly) welcomed the Chairman and Members on behalf of the Secretariat.

The Committee took up for consideration the following Note for Committee and Memoranda.

NOTE FOR COMMITTEE NO. 3 / 2003 - 2004

(MEMORANDUM NO. 10/2001-2002)

Sub : Notification under Tamil Nadu General Sales Tax Act, 1959

G.O. Ms. No. 270, Commercial Taxes, dated 14.9.1998
G.O. Ms. No. 323, Commercial Taxes, dated 1.12.1998
G.O. Ms. No. 15, Commercial Taxes, dated 4.12.1999
U.O. Note No. 19276/B2/2000-21, dt.20.02.2003 from Commercial Taxes Department

The Committee furnished the clarifications relating to the purpose for which the said Notification was issued.

The Committee observed that while issuing the notifications many of the Departments were not mentioning the objects or the purposes for which the notifications are issued.

The Committee also decided to recommend that in future, an explanatory note should also be furnished along with the notifications by all Departments detailing the purpose for which the notification is issued.

MEMORANDUM NO. 11/2003-2004

Sub : Notification under Tamil Nadu General Sales Tax, 1959

(G.O. Ms. No. 298, Commercial Taxes, dated 28.10.1998)

No modification was recommended.

MEMORANDUM NO. 13/2003-2004

Sub : Notification under Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990

G.O. Ms. No. 69, Commercial Taxes, dated 18.8.2001
G.O. Ms. No. 40, Commercial Taxes, dated 3.4.2002

No modification was recommended.

MEMORANDUM NO. 15/2003-2004

Sub : Notification under Tamil Nadu Taxation Special Tribunal Act, 1992 (Tamil Nadu Act 42 of 1992)

G.O. Ms. No. 58, Commercial Taxes, dated 16.6.2002

No modification was recommended.

THURSDAY, THE 18TH AUGUST 2003

The Committee on Delegated Legislation met at 3.30 p.m. on Thursday, the 18th August, 2003 in the Committee Room (erstwhile Legislative Council Chamber), Secretariat, Chennai - 600 009.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. J. Hemachandran

Thiru. K.C. Karupannan

Dr. D. Kumaradas

Thiru. A.K. Selvaraj

Thiru. A. Sivaperumal

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru K. Sampathrajan .. Deputy Secretary

Thiru. K. Krishnan .. Under Secretary

Thiru.C.B. Manoharan, Deputy Secretary to Government, Law Department, was also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 17 / 2003-2004

Sub : Notification under Tamil Nadu Additional Sales Tax (Amendment) Act, 2001

G.O. Ms. No.98, Commercial Taxes, dated 1.11.2001

No modification was recommended.

FRIDAY, THE 19TH AUGUST 2003

The Committee on Delegated Legislation met at 10.30 a.m. on Friday, the 19th August, 2003 in the Committee Room (erstwhile Legislative Council Chamber), Secretariat, Chennai - 600 009.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. J. Hemachandran

Thiru. K.C. Karupannan

Thiru. A.K. Selvaraj

Thiru. A. Sivaperumal

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru K. Sampathrajan .. Deputy Secretary

Thiru. K. Krishnan .. Under Secretary

Thiru.C.B. Manoharan, Deputy Secretary to Government, Law Department, was also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 23 / 2003-2004

Sub : Notification under Tamil Nadu General Sales Tax, 1959

G.O. Ms. No.82, Commercial Taxes, dated 24.9.2001
G.O. Ms. No.126, Commercial Taxes, dated 31,12,2001
G.O. Ms. No.81, Commercial Taxes, dated 24.9.2001
G.O. Ms. No.31, Commercial Taxes, dated 27.3.2002
G.O. Ms. No.33, Commercial Taxes, dated 27.3.2002
G.O. Ms. No.38, Commercial Taxes, dated 31.3.2002
G.O. Ms. No.39, Commercial Taxes, dated 1.4.2002

No modifications were recommended.

Notifications I and II :

G.O. Ms. No.50, Commercial Taxes, dated 13.5.2002
G.O. Ms. No.79, Commercial Taxes, dated 27.6.2002
G.O. Ms. No.82, Commercial Taxes, dated 1.7.2002
G.O. Ms. No.105, Commercial Taxes, dated 11.9.2002
G.O. Ms. No.48, Commercial Taxes, dated 26.4.2002
G.O. Ms. No.110, Commercial Taxes, dated 30.11.2001
G.O. Ms. No.32, Commercial Taxes, dated 27.3.2002
G.O. Ms. No.34, Commercial Taxes, dated 27.3.2002
G.O. Ms. No.36, Commercial Taxes, dated 28.3.2002
G.O. Ms. No.78, Commercial Taxes, dated 27.6.2002

G.O. Ms. No.91, Commercial Taxes, dated 16.7.2002
G.O. Ms. No.102, Commercial Taxes, dated 2.9.2002
G.O. Ms. No.19, Commercial Taxes, dated 6.3.2002
No modifications were recommended.

MEMORANDUM NO. 24 / 2003-2004

Sub : Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 - Exemption of tax and inclusion of additional goods in Schedule.

G.O. Ms. No.27, Commercial Taxes, dated 21.3.2003

Notification I :
No modification was recommended.

Notification II :
No modification was recommended.

MONDAY, THE 8TH DECEMBER 2003

The Committee on Delegated Legislation met at 3.00 P.M. on Monday, the 8th December, 2003 in the Committee Room (erstwhile Legislative Council Chamber), Secretariat, Chennai - 600 009.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. J. Hemachandran

Thiru. K.C. Karupannan

Thiru. S. Natarajan

Thiru. A.K. Selvaraj

Thiru. A. Sivaperumal

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru K. Sampathrajan .. Deputy Secretary

Thiru. K. Krishnan .. Under Secretary

Thiru.C.B. Manoharan, Deputy Secretary to Government, Law Department, was also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 31 / 2003-2004

Sub : Notification under Tamil Nadu General Sales Tax, 1959
G.O.Ms.No.144, Commercial Taxes, dated 24-12-2002
G.O.Ms.No.32, Commercial Taxes, dated 25-3-2003
G.O.Ms.No.31, Commercial Taxes, dated 24-3-2003
G.O.Ms.No.26, Commercial Taxes, dated 21-3-2003

Deputy Secretary stated that the above Notifications were of routine nature and that the Legislative Assembly Secretariat had no observation to make in respect of these Notifications.

Thiru. S.G.Vinayagamurthi asked whether there was any necessity for the Committee to peruse the above notifications when the same were of the nature of mere reporting. He also stated the notification issued under G.O.Ms.No.26, Commercial Taxes Department, dated 21.3.2003 was based only on the announcements made in the Budget speech for the year 2003-2004 and that this was also stated in the Explanatory Notes to the above notification.

Under Secretary stated that even though the above notifications were of routine nature, all the notifications had to be placed before the House and it was for the Committee to point out whether there were any discrepancy in the notifications so laid before the House.

Thiru. S.G.Vinayagamurthy pointed out that only according to the rules, the Hon. Finance Minister announces certain concessions in the House and once the Budget was passed it might to construed that it was approved by the House.

Deputy Secretary, Law Department stated that the Government had issued the above notifications only according to the rules, i.e., under Section 17(1) of the Tamil Nadu General Sales Tax Act, 1959.

Deputy Secretary stated that certain powers had been delegated to the Government under the Act and it was the duty of the Committee to find out whether the powers so delegated were used properly or not and that whether the rules framed under the Act conform the provisions of the said Act, because at times the department might have exceeded the powers delegated by the Legislature. He further stated that the above notifications were in order and that the Assembly Secretariat has no observations on the same.

Thiru. J.Hemachandran pointed out that in the Explanatory Note to the notification issued under G.O.Ms.No.26, Commercial Taxes Department, dated 21.3.2003, it was mentioned as this does not form part of the Notification, but it intended to indicate its general purport and opined that the above notifications were of routine nature and asked why should notifications like there were placed before the Committee for its perusal.

Deputy Secretary explained that the above notifications were placed before the Committee only for information and record purpose.

Thiru. S.G.Vinayagamurthi stated that in para 2 of the notification issued under G.O.Ms.No.32 dated 25.3.2003, it has been mentioned as "..... upto and

inclusive of 31st March 2003" and asked whether there was any exemption of tax beyond that date.

Deputy Secretary opined that the concerned society had sort for tax exemption for that period from 1.4.2001 to 31.3.2003 and that the Government under Section 17(1) of the said Act had decided to extend the Sales Tax concession for that specific period as per the request of the Society.

Thiru. J. Hemachandran stated that the above notification was issued on 25.3.2003 and only for six days the tax concession was granted to the society but it was mentioned in the notification issued under G.O.Ms.No.32, dated 25th March 2003 that "this notification shall be deemed to have come into force on and from the 1st April 2001 and remain in force upto and inclusive of the 31st March 2003".

Thiru. S.G.Vinayagamurthi stated that the department should furnish all the details regarding the issue of this notification and further asked whether the concession granted was only for the purchase made during the last six days i.e., upto 31.3.2003. He also opined that if the tax had already been collected from the Society from the year 2001 then there was a compulsion for the Government to repay the amount of tax in view of the tax concession ranted under the above notification and asked what prompted or motivated the Government to issue a G.O. like this.

Deputy Secretary replied that the Legislative Assembly Secretariat would only receive the Notification issued by the Government from time to time for placing the same on the Table of the House and the inner details of the Notification are not made known to the Legislative Assembly Secretariat.

The Committee observed that

(1) whether the actual intention of the Government was really reflected in the above notification granting tax concession at the fag end of the year

(2) when there was a provision to grant tax exemption for the first time, then what was the necessity for the Committee to reconsider this matter when the same was extended for a further period. Deputy Secretary stated that Section 17(1) of the T.N.G.S.T. Act empowered the Government to issue notification with prospective or retrospective exemption from payment of tax or reduce the rate of tax under the said Act on the sale or purchase of any specified class of goods at all points or at a specified point or points in the series of sales.

(3) whether the real benefit goes to the Society in view of the tax exemption granted

(4) whether the direct benefit occurring due to granting of this tax exemption went to the purchaser or to the merchant because it was a benefit given to the purchaser.

The Committee decided to seek clarifications from the Government in CT department regarding the above notifications.

MEMORANDUM NO. 32 / 2003-2004

Sub : Notification under Tamil Nadu General Sales Tax, 1959

G.O. (2D) No.2, Commercial Taxes, dated 3.1.2001
No modification was recommended.

G.O. Ms. No.103, Commercial Taxes, dated 9.11.2001
No modification was recommended.

G.O. (3D) No.33, Commercial Taxes, dated 30.8.2001
No modification was recommended.

G.O. Ms No.30, Commercial Taxes, dated 27.3.2002
No modification was recommended.

G.O. Ms No.99, Commercial Taxes, dated 21.8.2002
No modification was recommended.

G.O. Ms No.4, Commercial Taxes, dated 8.2.2002
No modification was recommended.

G.O. Ms No.16, Commercial Taxes, dated 1.3.2002
No modification was recommended.

G.O. Ms No.25, Commercial Taxes, dated 27.3.2002
No modification was recommended.

G.O. Ms No.83, Commercial Taxes, dated 1.7.2002
No modification was recommended.

THURSDAY, THE 9TH SEPTEMBER 2004

The Committee on Delegated Legislation met at 10.00 a.m. on Thursday, the 9th September, 2004 in the Conference Hall, P.W.D. Water Resources Consolidation Project House, Kodaikanal.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. K.C. Karupannan

Dr. D. Kumaradas

Thiru. S. Ramaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru R. Muruganandam .. Joint Secretary

Thiru.T. Subbiah, Joint Secretary to Government, Law Department, was also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 41 / 2003-2004

Sub : Notification under Tamil Nadu General Sales Tax, 1959

G.O. Ms. No.124, Commercial Taxes, dated 28.10.2002
No modification was recommended.

G.O. Ms. No.130, Commercial Taxes, dated 12.11.2002
No modification was recommended.

MEMORANDUM NO. 42 / 2003-2004

Sub : Notification under Tamil Nadu Sales Tax (Settlement of Disputes) Rules, 2002

G.O. Ms. No.75, Commercial Taxes, dated 27.6.2002
G.O. Ms. No.74, Commercial Taxes, dated 27.6.2002
G.O. Ms. No.119, Commercial Taxes, dated 30.9.2002
G.O. Ms. No.112, Commercial Taxes, dated 23.9.2002
No modifications were recommended.

MEMORANDUM NO. 54 / 2003-2004

G.O. Ms.No.131, Commercial Taxes Dept., dated 15.11.2002

The Joint Secretary (Assembly) pointed out that an omission was noticed in rule 9 (i) in the notification that was placed on the Table of the House. However, when the department was asked to state whether was any omission in the notification the department merely furnished a gazette copy of

the notification and stated that there was no omission. When the gazette was compared with the notification it was pointed out that the words "the expression" "Every dealer in bullion" had been omitted in Rule 9 (i) in the copy of the notification placed on the Table of the House.

The Committee decided to seek clarification from the Commercial Taxes Department regarding the omission.

WEDNESDAY, THE 16TH FEBRUARY 2005

The Committee on Delegated Legislation met at 3.30 P.M. on Wednesday, the 16th February, 2005 in the Committee Room, Legislators Residential Quarters, Chennai - 600 002.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. J. Hemachandran

Thiru. K.C. Karupannan

Thiru. A.K. Selvaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru. G. Gnanaprakasam	..	Joint Secretary
Thiru. A.M.P. Jamaludeen	..	Deputy Secretary
Thiru. K.S. Chandrasekar	..	Under Secretary

Thiru.C.B. Manoharan, Deputy Secretary to Government, Law Department, was also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 65 / 2003-2005

Sub : Notification under Tamil Nadu General Sales Tax, 1959

G.O. Ms. No.48, Commercial Taxes (B2), dated 29.5.2003
G.O. Ms. No.142, Commercial Taxes (B1), dated 1.10.2003
G.O. Ms. No.59, Commercial Taxes (B2), dated 12.6.2003
G.O. Ms. No.140, Commercial Taxes (D2), dated 24.9.2003

No modifications were recommended.

MEMORANDUM NO. 66 / 2003-2005

Sub : Notification under Tamil Nadu General Sales Tax, 1959

G.O. Ms. No.71, Commercial Taxes, dated 18.6.2003

No modification was recommended.

MEMORANDUM NO. 69 / 2003-2005

Sub : Notification under Tamil Nadu Tax on Luxuries Act, 1981 T.N. Act 6 of 1981)
G.O. Ms. No.138, Commercial Taxes, dated 22.9.2003

No modification was recommended.

WEDNESDAY, THE 22ND JUNE 2005

The Committee on Delegated Legislation met at 12.00 P.M. on Wednesday, the 22nd June, 2005 in the Meeting Hall, Tamizhagam Government Guest House at Udhagamandalam.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. J. Hemachandran

Thiru. K.C. Karuppannan

Thiru. A.K. Selvaraj

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru. A.M.P. Jamaludeen .. Deputy Secretary

Thiru.Vijaya Rajkumar, I.A.S., Collector, The Nilgiris District and Thiru. R. Veeramani, Deputy Secretary to Government, Law Department, were also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 73 / 2003-2005

Sub : Notification under Tamil Nadu General Sales Tax, 1959

G.O. Ms. No.51, Commercial Taxes, dated 27.2.2004

G.O. Ms. No.45, Commercial Taxes, dated 12.2.2004
G.O. Ms. No.81, Commercial Taxes, dated 25.3.2004
G.O. Ms. No.95, Commercial Taxes, dated 19.5.2004

No modifications were recommended.

MEMORANDUM NO. 75 / 2003-2005

Sub : Notification under Tamil Nadu General Sales Tax, 1959

(Tamil Nadu Act X of 1937)

G.O. Ms. No.204, Commercial Taxes (D2), dated 19.4.2004

No modification was recommended.

G.O. Ms. No.87, Commercial Taxes (D2), dated 22.4.2004

No modification was recommended.

G.O. Ms. No.68, Commercial Taxes (E2), dated 9.6.2004

No modification was recommended.

MEMORANDUM NO. 77 / 2003-2005

Sub : Notification under Tamil Nadu General Sales Tax, 1959

G.O. Ms. No.134, Commercial Taxes, dated 19.11.2002

Deputy Secretary stated that as per the notification the officers of the Commercial Taxes Department mentioned therein had been empowered to exercise the powers of assessment as indicated therein. Item (d) had been substituted, empowering the Assistant Commercial Tax Officer or the Additional Assistant Commercial Tax Officer to assess the dealers whose total turnover did not exceed rupees twenty lakhs subject to a total tax effect not exceeding Rs.30,000/-.

Thiru. J. Hemachandran wanted to know whether there was any specific notification to the effect that the privilege given to the Assistant Commercial Tax Officer could be extended to the Additional Assistant Commercial Tax Officer.

Thiru. S. Subbarayan, Under Secretary to Government clarified that according to Section 2(c) of the Act, "assessing authority" meant any person authorised by the Government or by any authority empowered by them, to make any assessment under the Act. In the instant case, under Section 2 (c), the Additional Assistant Commercial Tax Officer had been authorised to make assessment in respect of those dealers whose turnover did not exceed Rs.20,00,000/-

The Deputy Commissioner (Commercial Taxes) Special Cell clarified that though they were two different posts, the duties and responsibilities were one and the same.

No modification was recommended.

MEMORANDUM NO. 86 / 2003-2005

Sub : Notification under Tamil Nadu General Sales Tax, 1959
G.O. Ms. No.139, Commercial Taxes, dated 18.8.2004

Deputy Secretary pointed out that in exercise of the powers conferred by Sub-section (3) of Section 17 of the Tamil Nadu General Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959), the Government exempted tax payable under the said Act on the sale of one number of Ethylene Oxide Sterlizer by Tvl. Associated Surgicals (India), Chennai 600 002 made to the Institute of Cardiology, Madras Medical College and Research

Institute, Chennai restricting the concession granted to the Institution for a single purchase made on 23.12.2000 canceling the earlier notification dated 19.5.2004.

Thiru. J. Hemachandran wanted to know the grounds on which the earlier notification was cancelled and a fresh notification issued.

Thiru. S. Subbarayan, Under Secretary to Government clarified that Ethylene Oxide Sterilizer was purchased by the Madras Medical College from a private company, Tvl. Associated Surgicals (India) Chennai - 2, for Rs.16,00,000/- on 23.12.2000. Notification for tax exemption in respect of the above purchase was issued on 7th March 2001. However, the assessing authority opined that tax exemption could not be allowed unless the notification was issued with retrospective effect. Hence, the earlier notification was cancelled and a fresh notification was issued granting exemption with effect from the date of purchase.

The Committee observed that the above fact should have been included in the explanatory note.

No modification was recommended.

MEMORANDUM NO. 90 / 2003-2005

Sub : Notification under Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001

G.O. Ms. No.144, Commercial Taxes, dated 8.9.2004

No modification was recommended.

WEDNESDAY, THE 21ST DECEMBER 2005

The Committee on Delegated Legislation met at 11.00 A.M. on Wednesday, the 21st June, 2005 in the Committee Room, Legislators Residential Quarters, Chennai - 600 002.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. J. Hemachandran

Thiru. K.C. Karuppannan

Dr. D. Kumaradas

Thiru. S. Ramaraj

Thiru. A.K. Selvaraj

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru. G. Anees Ahmed	..	Joint Secretary
Thiru. A.M.P. Jamaludeen	..	Deputy Secretary
Thiru. A. Nawab John	..	Under Secretary

Thiru.C.B. Manoharan, Deputy Secretary to Government, Law Department, were also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM No.92/2003-2006

Sub: Notifications under Tamil Nadu General Sales Tax Act, 1959.

(G.O. Ms. No. 378, Commercial Taxes Department, dated 8.9.2004)

Deputy Secretary (Assembly) stated that in exercise of the powers conferred under the section 3(2) and 3A(2) of the Tamil Nadu Sales Tax (Surcharge) Act, 1971 (Tamil Nadu Act 24 of 1971) and Clause (b) of Section 2(1) of the Tamil Nadu Additional Sales Tax Act, 1970 (Tamil Nadu Act 14 of 1970), the Government have issued orders remitting sales tax, surcharge,

additional surcharge, additional sales tax and penalty amounting to Rs.3,83,458/- payable on the sale of paper bags manufactured by Small Scale Industrial Units in respect of the period from 10-1-1996 to 30-1-1996 under the said Acts.

He also stated that in the explanatory note it was stated that since the G.O. Ms.No.13 issued on 10th January, 1996 was notified in the Tamil Nadu Government gazette on 31st January 1996 and there was a delay of 20 days as a result waiver had to be made.

Thiru J. Hemachandran wanted to know the reason for not issuing the notification immediately and also the reason for remitting the amount of Rs.3,83,458/- in that notification.

Thiru S.G. Vinayagamurthy pointed out under what circumstances the Government had to remit the amount. He also wanted to know who was responsible for the delay in publishing the notification in the Tamil Nadu Government Gazette.

Deputy Secretary, Commercial Taxes Department explained the reason for the delay on the lines given in the explanatory note in the notification and assured that in future it would be published on the same day of the issue of the notification.

Deputy Secretary (Assembly) pointed out that in Assembly we publish urgent notifications in the extraordinary gazettes even in the late night considering importance of its publication. The notification in question was a time bound matter aught to have been notified on the date of issue itself and the Department would have realised its importance. He also pointed out the Members' observation and asked was there any action taken for this delay?

Deputy Secretary, Commercial Taxes Department replied that as there was financial implication, it would have been issued on the same day. However the Department would be careful in future.

After some discussion, the Committee decided to hear the Secretary to Government, Commercial Taxes Department at the next meeting.

MEMORANDUM NO. 93 / 2003-2006

Sub : Notification under Tamil Nadu Tax on Luxuries Act, 1981. (Tamil Nadu Act 6 of 1981)

G.O. Ms. No.201, Commercial Taxes, dated 29.12.2004

No modification was recommended.

MEMORANDUM NO. 94 / 2003-2006

Sub : Notification under Central Sales Tax Act, 1956
G.O. Ms. No.202, Commercial Taxes, dated 29.12.2004

No modification was recommended.

MEMORANDUM No.95/2003-2006

Sub: Notification under Tamil Nadu General Sales Tax Act, 1959.

(G.O.Ms.No.199, Commercial Taxes (B2) Department, dated 29.12.2004.)

Deputy Secretary (Assembly) stated that under Section 17(1) the Tamil Nadu General Sales Tax Act 1959, the Government have issued orders reducing the tax to 4% in respect of tax payable by oil companies on the sale of High Speed Diesel Oil, Light Diesel Oil and Furnace Oil to foreign bound vessels for use in such vessels. However, the previous rate of tax was not indicated in the notification.

The Chairman stated that the percentage of previous rate aught to have been mentioned in the notification so that the Members might aware of it.

Deputy Secretary, Commercial Taxes Department replied that as it was mentioned in the Act book, we did not repeat in the notification.

Deputy Secretary (Assembly) stated that in some of the notifications of the Commercial Taxes Department the existing percentage of tax as well as the percentage of reduction were mentioned.

Chairman concluded that in case of reduction tax the existing as well as the reduced percentage of tax should be mentioned in the notification itself.

After some discussion, the Committee decided to recommend accordingly.

(G.O.Ms.No.200, Commercial Taxes (B1) Department, dated 29.12.2004.)

Deputy Secretary (Assembly) stated that based on the Cabinet decision, the Government issued notifications under sub-section (1) of section 17 of the above Act, exempting the Additional Sales Tax payable on the sale of Motor Cycles manufactured by Tvl. T.V.S. Motor Company Limited, Chennai, Tractors manufactured by Tvl. Tractors and Farm Equipments Limited, Chennai and Bicycles manufactured by Tvl. Tube Investments of India Limited, Chennai.

Thiru S.G. Vinayagamurthy wanted to know why exemption was given only to these three companies and was there any increase in sale because of these exemption.

Deputy Secretary, Commercial Taxes Department stated that they would give review the matter and give a note regarding the point clarified by the Member.

The Committee decided that the clarification might be obtained from the Commercial Taxes and Religious Endowments Department.

MEMORANDUM No.97/2003-2006

Sub: Notifications under Tamil Nadu General Sales Tax Act, 1959.

(G.O.Ms.No.5, Commercial Taxes (B2) Department, dated 19.1.2005).

Deputy Secretary (Assembly) stated that Government issued orders exempting tax payable on the sale of goods produced during training by Tvl. Kshema Rehabilitation Training Centre, Chettupattu, Thiruvannamalai District during 1.7.2003 to 31.3.2006.

The Committee decided not to recommend any modification.

(G.O.Ms.No.11, Commercial Taxes (B2) Department, dated 7.2.2005.)

Deputy Secretary (Assembly) stated that exemption in respect of tax payable had been ordered on the sale of cement by Tvl. Tamil Nadu Cement Corporation Limited for relief works to Tsunami affected victims in thirteen districts subject to filing of a declaration in the format appended to the notification.

The Committee observed that the exemption of tax penalty notified in the G.O.Ms.No.11, Commercial Taxes Department dated 7.2.2005 had been extended to the districts specified therein and also on the condition of filing of a declaration in the format appended to the notification by the District Collector concerned. It might therefore be appropriate to invoke sub section (2) of Section 17 of the Act also in addition to sub section (1) for issue of this notification.

Deputy Secretary (Law) stated that non-mentioning of section in the Act would not vitiate the notification.

The Committee was of the view that it would be better to specify the relevant section though the notification would not lose its validity. After some discussion the Committee decided to recommend accordingly.

MEMORANDUM No.98/2003-2006

Sub: Notification under Tamil Nadu General Sales Tax Act, 1959.

(G.O.Ms.No.5, Commercial Taxes (D2) Department, dated 7.1.2005)

Deputy Secretary (Assembly) stated that in exercise of the powers Government issued notification remitting the difference of tax between 4% and 11% and penalty amounted to Rs.10,28,377/- during 1999-2000 by Tvl. Tamil Nadu Handicrafts Development Corporation Limited, Chennai on the sale of Brass Iron Boxes to Government Department. He also pointed out that the Department mentioned the period as 1999-2000. It would be better to specify

the dates. Further in the notification it was mentioned as "Government Departments" whereas the sale was actually made to Adi Dravidar and Most Backward Classes Departments.

Deputy Secretary, Commercial Taxes Department stated that it was mentioned in the Abstract of the G.O. but not in the Notification.

Thiru S.G. Vinayagamurthy asked whether the remission of tax made would be applicable for sale to all Government Departments?

Deputy Secretary (Assembly) stated that the body of the notification would be the speaking order. Therefore, it must be more specific. It seemed not enough to indicate it in the subject abstract. He also clarified from the Commercial Taxes Department whether any amendment would be required to be issued?

Deputy Secretary, Commercial Taxes Department stated that the Tamil Nadu Handicrafts Department is an assessee. They quantify the tax for the assessment year generally. It was allowed because this was already discussed.

Deputy Secretary (Assembly) stated that as such notifications were sent for scrutiny of the Law Department they might have pointed out this omission.

After some discussion the Committee recommended that in future body of the notification should be more specific and the period of exemption allowed should also be mentioned in the notification.

MEMORANDUM NO. 103 / 2003-2006

Sub : Notification under Tamil Nadu Taxation Special Tribunal (Repeal) Act, 2004

G.O. Ms. No.82, Commercial Taxes (C2), dated 13.7.2005

No modification was recommended.

MEMORANDUM NO. 104 / 2003-2006

Sub : Notification under Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act, 1990

G.O. Ms. No.55, Commercial Taxes (C2), dated 6.5.2005

No modification was recommended.

MEMORANDUM NO. 105 / 2003-2006

Sub : Notification under Tamil Nadu General Sales Tax Act, 1959
G.O. Ms. No.64, Commercial Taxes (B2), dated 30.5.2005

No modification was recommended.

M. SELVARAJ,
SECRETARY.

TAMILNADU LEGISLATIVE ASSEMBLY
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