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Part IV—Section 1

Tamil Nadu Bills

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**BILLS INTRODUCED IN THE LEGISLATIVE ASSEMBLY OF
THE STATE OF TAMIL NADU**

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 5th December, 2014 is published together with Statement of Objects and Reasons for general information:-

L.A. BILL NO. 26 OF 2014

A Bill to provide for an effective and efficient audit system to all local authorities and certain other authorities, bodies or institutions and Funds and for matters connected therewith and incidental thereto.

WHEREAS the Thirteenth Finance Commission in its report recommended that the State Government must put in place an audit system for all local bodies and also recommended that the Comptroller and Auditor General of India must give technical guidance and supervision over the audit of all the local bodies in the State at every tier/category;

AND WHEREAS the Second State Finance Commission *has also recommended* to enact an Act to provide for and to regulate the audit of the local funds and authorize the Director of Local Fund Audit to audit the accounts relating to the local authorities;

AND WHEREAS it has become imperative to ensure effective spending of the grants of the Government of India and the State Government by the local authorities and other authorities and to promote public confidence on how the public money is expended by the local authorities and other authorities established by the State Government

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-fifth Year of the Republic of India as follows:-

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Tamil Nadu Local Fund Audit Act, 2014.
- (2) It extends to the whole of the State of Tamil Nadu.
- (3) It shall come into force at once

Definitions.

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

(a) '**audit**' includes cent percent audit, post audit, test audit, special audit and such other examination of accounts as the Government may, from time to time, specify;

(b) '**cent per cent audit**' means a post audit of all the transactions of a particular account for the whole financial year or for such period as may be specified by the Director;

(c) '**concurrent audit**' means a continuous post audit of accounts of day-to-day transactions;

(d) '**Director**' means the Director of Local Fund Audit appointed under section 3 and includes any person authorised by the Government to perform the functions of the Director of Local Fund Audit;

(e) '**Executive authority**' means the Chief executive officer or any other officer of a local authority, vested with the power to administer the fund of that authority;

(f) '**Government**' means the State Government;

(g) '**local authority**' means,-

(i) any municipal corporation or municipal councilor panchayat union councilor village panchayat constituted under the relevant law for the time being in force; or

(ii) any other authority, body or institution established by or under any law or order of the Government and specified in the Schedule;

(h) '**local fund**' means the fund administered by a local authority and other fund specified in the Schedule;

(i) '**Local Library Authority**' means the Local Library Authority constituted under the Tamil Nadu Public Libraries Act, 1948;

Tamil Nadu
Act 35 of
1972.

Tamil Nadu
Act 27 of
1989.

(J) '**Local Planning Authority**' means the Local Planning Authority constituted under the Tamil Nadu Town and Country Planning Act, 1971;

(k) '**market committee**' means the market committee constituted under the Tamil Nadu Agricultural Produce Marketing (Regulation) Act, 1987;

(l) '**post audit**' means the detailed audit conducted after the completion of transactions;

(m) '**Schedule**' means the Schedule to this Act;

(n) '**special audit**' means an audit of accounts pertaining to a specified item or series of items requiring thorough examination, and includes re-audit of the accounts for a period already covered by audit;

(o) '**State**' means the State of Tamil Nadu;

(p) '**surchage**' means an amount for which the Director, makes a person liable for loss, waste, misapplication or misappropriation of any money or other property;

(q) '**University**' means the University established or incorporated by an Act of the State Legislature.

3. (1) The Government may, by notification, appoint a person, having such qualification as may be prescribed, as the Director of Local Fund Audit.

Appointment of
the Director.

(2) The Government may also appoint such other officers of the Local Fund Audit Department, as it may deem necessary, to carry out the purposes of this Act.

(3) All officers and staff of the Local Fund Audit Department shall be subordinate to the Director, who shall have general superintendence and control over them in the performance of their functions under this Act or the rule made thereunder.

(4) Notwithstanding anything contained in sub-section (1), the Director of Local Fund Audit functioning before the commencement of this Act, shall be deemed to be appointed as the Director under this Act.

Central Act 56
of 1971.

4. Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of the Comptroller and Auditor General (Duties, Powers and Conditions of Service) Act, 1971, the Director shall audit or cause to be audited by an officer of the Local Fund Audit Department authorised by him by general or special order in this behalf, the accounts of a local authority or local fund in the manner provided by or under this Act. The officer so authorised shall exercise such of the powers and perform such of the functions of the Director in regard to the conduct of audit under this Act.

Audit of
Accounts.

5. The Director may, with the previous sanction of the Government, and without prejudice to the provisions of section 4, audit the accounts of any authority, body, institution or fund not included in the Schedule subject to such terms and conditions as may be agreed upon between the Director and the person responsible for the administration of such authority, body, institution or fund.

Power to audit
accounts of
certain
authorities,
bodies,
institutions
or fund not
included in the
Schedule.

6. (1) The Director or the officer authorised by him under section 4, shall conduct the audit annually or at such intervals as he may deem fit. The Director may also conduct concurrent audit of such of those local authority or local fund as are found necessary under the provisions of any law governing them or as may be decided by the Director in consultation with the Government:

Manner in
which audit
is to be
conducted.

Provided that so far as village panchayats are concerned, the Director may conduct audit of twenty percent of such panchayats in a financial year, so that all such panchayats are audited within a span of five years:

Provided further that no audit shall be commenced unless notice in writing for a period of not less than fifteen days is given to the executive authority concerned:

Provided also that for reasons to be recorded in writing, notice for a lesser period may be given or the notice may be dispensed with.

(2) The Director may verify the cash balance of the local fund at the time of audit.

(3) An officer not below the rank of Deputy Director, appointed under sub-section (2) of section 3, may inspect the records relating to the accounts of a local authority or local fund.

Liability of the Executive authority to prepare and present accounts for audit.

7. (1) The accounts of a local authority or local fund relating to every financial year shall be prepared or caused to be prepared by the Executive authority, within three months from the end of the financial year, in such form and in such manner as may be prescribed, and presented for audit.

(2) Where an Executive authority makes default in the preparation and presentation of accounts for audit within the specified period, he shall be punishable with a fine of not less than one thousand rupees, which may extend to five thousand rupees and shall also be liable to departmental action:

Provided that no such fine shall be imposed by the Director unless an opportunity of not less than fifteen days is given to show cause as to why it may not be imposed.

(3) The Government may withhold release of funds to any authority which fails to furnish accounts for audit on expiry of three months from the specified period.

Power to require production of accounts and attendance of persons for audit.

8. (1) For the purpose of audit under this Act, the Director may,-

(a) require in writing, the production at the place of audit, such vouchers, statements, returns, correspondences, notes or any other documents including documents in electronic form, the perusal or examination of which are necessary for the elucidation of the accounts;

(b) require in writing, any employee of a local authority or an authority which administers a local fund accountable for or having the custody or control of such vouchers, statements, returns, correspondences, notes or other documents including documents in electronic form or any person having directly or indirectly, any share or interest in any contract with the local authority or the authority which administers the local fund to appear in person before him and answer any question and require any person so appearing to make and sign a declaration with respect to such document or to prepare and furnish any statement relating thereto; and

(c) in the event of an explanation being required from any officer or member of a local authority or an authority which administers a local fund, invite such person and shall in writing, specify the point on which his explanation is required.

(2) The Director may, in any requisition made under sub-section (1) specify a period of not less than three days within which the said requisition shall be complied with.

Penalty for disobeying requisition under section 8.

9. Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clause (a) or clause (b) of sub-section (1) of section 8 shall be punishable with a fine of not less than one thousand rupees, which may extend to five thousand rupees:

Provided that no such fine shall be imposed by the Director on any person until he has been given an opportunity of not less than fifteen days of showing cause against the fine:

Provided further that in the case of an employee of a local authority or an authority which administers a local fund, he shall also be liable to departmental action.

Completion of audit of accounts.

10. (1) The audit of the accounts prepared and of presented for audit under section 7 shall be completed by the Director within a period of not exceeding six months as may be prescribed.

(2) The Director at the time of completion of audit shall verify the correctness of the accounts, certify the annual accounts in such manner as may be prescribed and append the certified copy of the accounts with the audit report.

Audit report to be sent to Executive authority and certain officers and bodies.

11. As soon as practicable after the completion of the audit, but not later than three months thereafter, the Director shall send to the Executive authority concerned a report on the accounts audited by him and copies of the report to such officers and bodies or institutions, as the Government may direct or as may be specified under the law governing that local authority or local fund, as the case may be.

12. The Director shall include in the audit report,-

Contents of
audit report.

(a) any payment which appears to have been made contrary to any law or order of the Government;

(b) the amount of any deficiency or loss which appears to have been caused by the negligence or misconduct of any person in the performance of his duties;

(c) any case of misappropriation or Improper utilisation of the fund;

(d) the amount, if any, received which ought to have been brought into account but not brought into account; and

(e) any other material impropriety or irregularity observed in the audit.

13. (1) On receipt of the audit report sent under section 11, the Executive authority shall, within a period of two months, either remedy the defects or irregularities, if any, pointed out therein and place the audit report together with a statement of action taken or place the audit report together with a statement of action proposed to be taken thereon before a meeting of the governing body of the authority concerned. The Executive authority shall also, within a month from the date of the said meeting, send to the Director a report of having remedied the said defects or irregularities or submit any explanation in regard to such defects or irregularities.

Procedure to
be followed
on receipt of
audit report.

(2) On receipt of such report or explanation, the Director may,-

(a) accept the report of having remedied the defects or irregularities or the explanation in regard thereto and drop the objection; or

(b) hold that any or all of the defects or irregularities pointed out in the audit report have not been remedied.

(3) The Director shall, within two months from the date of receipt of the report or explanation, or if no such report or explanation is received, on expiry of the total period of three months referred to in sub-section (1), pass an order thereon. If the Director holds that any defect or irregularity pointed out in the audit report has not been remedied, he shall state in the order,-

(a) whether the defect or irregularity can be regularised and, if so, by what method; or

(b) if the defect or irregularity cannot be regularised, whether they can be condoned and, if so, by what authority; and

(c) whether the amount to which the defect or irregularity relate to, in his opinion, be charged and, if so, against whom.

(4) The local authority or the authority, body or institution which administers the local fund shall publish in its next Administrative report, extract of the defect or irregularity, if any pointed out in the audit report, the explanation, if any, given by the Executive authority under sub-section (1) and the order passed thereon by the Director under sub-section (3) and shall also keep the same open to inspection for the public at its office for a period of one month from the date of the receipt of the order of the Director.

(5) Nothing in this section or section 12 shall preclude the Director, at any time, from bringing to the notice of the Government for such action as may be necessary, any information which appears to the Director to support a presumption of criminal misappropriation or fraud or, which, in his opinion, deserves special attention or immediate investigation.

14. (1) The Director, may disallow any payment which appears to him to be contrary to any law or order of the Government, or the amount of any deficiency or loss caused by negligence or misconduct or any sum received, which ought to have been brought into account but not brought into account and surcharge the person or the person authorising the same and shall, in every such case, certify the amount due from such person:

Director to
surcharge
illegal
payments
and loss
caused by
negligence or
misconduct.

Provided that no such surcharge shall be imposed by the Director on any person until he has been given an opportunity of not less than fifteen days of showing cause against the surcharge.

(2) Any person aggrieved by the surcharge may, within one month from the date of receipt of the decision of the Director apply to the District Court, to set aside the surcharge and the Court, after taking such evidence as is necessary, may confirm, modify or remit the same.

(3) Every sum certified to be due from any person by the Director under this Act shall be paid by such person to the Executive authority within one month from the date of intimation to him of the decision of the Director unless, within that time, such person has filed an application before the District Court against the decision under sub-section (2) and such amount, if not so paid, or such amount as the District Court shall declare to be due, may be recovered as if it were an arrear of land revenue and for the purpose of such recovery the Director shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864.

Tamil Nadu
Act 11 of
1864.

Powers and
functions of
Director.

15. (1) The Director shall exercise general supervision and control over the officers and staff of the Local Fund Audit Department.

(2) The Director shall have the power to settle the audit objections included in the audit report.

(3) The Director may approach the Principal Accountant General of the State to provide necessary technical guidance and support on the audit and maintenance of accounts of a local authority or local fund.

(4) The Director may condone any payment made from a local fund, of a sum not exceeding rupees ten thousand only, as may be prescribed by the Government, which appears to him to be contrary to law, if in his opinion there was no negligence or misconduct on the part of the person making or authorising such payment.

(5) The Director shall also exercise such other powers and functions, as may be prescribed.

Delegation of
powers and
functions.

16. The Director may, by general or special order delegate all or any of the powers to be exercised or functions to be performed by him under this Act or the rules made thereunder except the power under sub-section (4) of section 15 to any other Officer of the Local Fund Audit Department, subject to such conditions if any, as may be specified in that order.

Payment of
cost of
audit.

17. (1) The cost of audit of accounts shall be paid by the authority concerned at such rates as may be fixed by the Government, from time to time.

(2) The Government may, by general or special order, exempt, either wholly or in part, any authority from the liability to pay the cost of audit under sub-section (1).

(3) If the cost of audit due under sub-section (1) is not paid within one year from the date of its becoming due, the Government may adjust the same against the grant or other sums, if any, payable to such authority:

Provided that if no grant or other sums is payable to such authority, the cost of audit shall be recovered by the Director in such manner as may be prescribed.

Power to
dispense
with
detailed
audit.

18. The Director may, when circumstances so warrant, dispense with detailed audit of any account or class of transactions and apply such limited check in relation to such accounts or transactions as he may deem fit.

Defalcation or
loss in
money or
stores to be
reported by
the Executive
authority.

19. (1) Whenever any defalcation or loss in money or stores of any local authority or authority, body or institution which administers a local fund caused due to misappropriation, theft or natural calamities is detected, the fact shall be promptly reported by the Executive authority to the Director giving in detail the circumstances which led to such defalcation or loss.

(2) On receipt of a report under sub-section (1), the Director shall immediately conduct or cause to be conducted a special audit of the accounts of that authority:

Provided that nothing in this section shall prevent the Executive authority from initiating criminal proceedings against any person suspected of, or involved in, any defalcation or loss of money or stores.

Central Act
XLV of 1860.

- 20.** The Director shall submit to the Government annually a consolidated report of the accounts audited by him containing such particulars which he intends to bring to their notice and the Government shall cause the consolidated report to be laid, as soon as may be, after it is received, along with the Report of the Comptroller and Auditor General, before the Legislative Assembly. Laying of audit report.
- 21.** Save as otherwise provided in sub-section (2) of section 14, no civil court shall have jurisdiction to entertain any suit or proceedings in respect of any action taken or to be taken by the Government or the Director or any officer in pursuance of any power conferred by or under this Act. Bar of jurisdiction of civil courts.
- 22.** All audit of accounts pending at the commencement of this Act in respect of any local authority or local fund shall, notwithstanding anything contained in this Act, be continued and completed by the Director, within such time as may be prescribed, as if this Act has not been promulgated. Special provision for pending audit.
- 23.** The provisions of this Act shall have effect *not* withstanding anything consistent therewith contained in any other law made by the Legislature of the contained in any other law made by the Legislature of the State for the time being in force. Act to override other enactments.
- 24.** No suit, prosecution or other legal proceedings shall against the Director or any officer for anything which is in good faith done or intended to be done under this Act or any rule or order made there under. Protection of action taken In good faith.
- 25.** The Director or other officers shall be deemed, when acting or purporting to act in pursuance of the provisions of this Act or any rule or order to be public servants within the meaning of section 21 of the Indian Penal Code. Director or other officers to be deemed to be servants.
- 26.** (1) The Government may, make rules for the purpose of carrying into effect the provisions of this Act. Power to make rules.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) The manner and the form in which the accounts of a local authority or local fund shall be kept and presented;
- (b) the procedure to be followed by the Director in the conduct of audit and the period within which such audit shall be conducted;
- (c) the manner in which the matters required to be published under this Act shall be published; and
- (d) any other matter which is required to be or may be prescribed under this Act.
- (3) Every rule made or notification or order issued under this Act, shall, as soon possible, after it is made or issued, be placed on the Table of the Legislative Assembly and if before the expiry of the session in which it is so placed or the next session, the Legislative Assembly makes any modification in any such rule, notification or order, or the Legislative Assembly decides that the rule, notification or order should not be made, the rule, notification or order 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 under that rule, notification or order.
- 27.** If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the *Tamil Nadu Government Gazette*, make such provisions, not inconsistent with the provisions of this Act as appears to them to be necessary or expedient for removing the difficulty: Power to remove difficulties.
- Provided that no such order shall be issued after the expiry of a period of two years from the dale of commencement of this Act.
- 28.** The Government may, by notification, include any body, authority or institution or fund established by or under any law or order of the Government in the Schedule to this Act: Power to amend Schedule.

Provided that no body, authority or institution or fund shall be omitted from the Schedule except by the authority of law made by the State Legislature.

Savings

29. The provisions of this Act shall not apply to any case, suit, appeal, revision petition or any other proceeding that may be pending at the commencement of this Act before the Director of Local Fund Audit, the Government or Civil Court and the law in force immediately before the commencement of this Act shall, notwithstanding anything contained in this Act, continue to apply to such cases, suits, appeals, revision petitions or other proceedings.

THE SCHEDULE

(See clauses (g) and (h) of section 2)

I. Local authorities.

1. All City Municipal Corporations.
2. All Municipalities.
3. All Town Panchayats.
4. All District Panchayats.
5. All Panchayat Unions.
6. All Village Panchayats.
7. All Universities.
8. All Local Library Authorities.
9. All Market Committees including the Tamil Nadu State Agricultural Marketing Board.
10. All Local Planning Authorities.
11. The Tamil Nadu State Council for Higher Education.
12. The Treasurer of Charitable Endowments
13. Arasar Chatram.
14. RajaVedapadasalai.

II. Local Funds.

1. The Tamil Nadu Municipal Employees Health Fund.
2. The Tamil Nadu Town Panchayat Employees Health Fund.
3. The Tamil Nadu Panchayat Union Employees Health Fund.
4. The Tamil Nadu Municipal Employees House Building Advance Family Benefit Fund.
5. The Tamil Nadu Municipal Corporation Employees House Building Advance Family Benefit Fund.
6. National Social Welfare Schemes.

STATEMENT OF OBJECTS AND REASONS

The audit of Urban and Rural Local Bodies, Universities, Agricultural Market Committees, Local Library Authorities and some other institutions in the State are undertaken by the Local Fund Audit Department under the provisions of the respective Acts governing these institutions. The Thirteenth Finance Commission In its report has recommended that the State Government must put in place an audit system for all local bodies (all categories of Urban Local Bodies and all tiers of Panchayat Raj Institutions) and also recommended that the Comptroller and Auditor General of India must give Technical Guidance and Supervision over the audit of all the local bodies in the State at every tier / category. The Second State Finance Commission has alsb recommended to enact an Act to provide for and to regulate the audit of the local funds and to authorize the Director of Local Fund Audit to audit the accounts relating to the local authorities.

2. The State Government also considers that the Director of Local Fund Audit may also be empowered to audit the accounts of other authorities, bodies or institutions and Funds established by any law or order of the State Government.

3. To give effect to the recommendations of the Thirteenth Finance Commission and the Second State Finance Commission and to ensure transparency in the functioning of the local authorities and other authorities, bodies or institutions and Funds established by the State Government, it has been decided to bring in legislation to provide for an effective and efficient audit system.

4. The Bill seeks to give effect to the above decision.

O. PANNEERSELVAM,
Chief Minister.

**MEMORANDUM REGARDING DELEGATED
LEGISLATION**

Clauses 3,4,7,10,11,15,16,17,22,26,27 and 28 of the Bill authorise the Government to issue notifications or orders or to make rules, as the case may be, for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

O. PANNEERSELVAM,
Chief Minister.

A.M.P. JAMALUDEEN,
Secretary.

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 5th December, 2014 is published together with Statement of Objects and Reasons for general information:-

L.A. BILL No. 27 OF 2014

A Bill to amend the Annamalai University Act, 2013.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-fifth Year of the Republic of India as follows:-

1. (1) This Act may be called the Annamalai University (Amendment) Act, 2014. Short title and commencement.
(2) It shall be deemed to have come into force on the 22nd day of September 2014.

Tamil Nadu
Act
20 of 2013.

2. In section 11 of the Annamalai University Act, 2013 (hereinafter referred to as the principal Act), in sub-section (1), for clause (a), the following clause shall be substituted, namely:- Amendment of section 11.

“(a) The holder of the post of Registrar shall be an academician not below the rank of a Professor of any University and shall possess the qualifications prescribed by the University Grants Commission;”

3. In section 55 of the principal Act, in sub-section (2), for the expression “one year”, the expression “two years’ shall be substituted. Amendment of section 55.

4. In section 56 of the principal Act, in sub-section (2), for the expression “one year”, the expression “two years” shall be substituted. Amendment of section 56.

Tamil Nadu
Ordinance
1 of 2014.

5. (1) The Annamalai University (Amendment) Ordinance, 2014 is hereby repealed. Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

An Administrator was appointed to the Annamalai University under sub-section (1) of section 55 of the Annamalai University Act, 2013 (Tamil Nadu Act 20 of 2013) to exercise the powers and discharge the functions of Vice-Chancellor for a period of one year from the 25th September 2013 or till the necessity ceases, whichever is earlier, since the Administrator can hold office for a period of one year only, as per the sub-section (2) of the said section 55. As it would take some more time to appoint the regular Vice – Chancellor, the Government decided to extend the period of office of the Administrator for a further period of one year or till the necessity ceases, whichever is earlier.

2. The Registrar of the Annamalai University was appointed under sub-section (1) of section 56 of the said Act to exercise the powers and discharge the functions of the Registrar for a period of one year from the 25th September 2013 or till the necessity ceases, whichever is earlier, since the Registrar can hold office for a period of one year only, as per sub-section (2) of the said section 56. As per clause (a) of sub-section (1) of section 11 of the said Act, the holder of the post of Registrar shall be an academician not below the rank of a Professor in the University. Now, it has been decided to fill up the post of Registrar by direct recruitment from among the qualified Professors of any University, possessing the qualifications prescribed by the University Grants Commission. As it would take some more time for appointment of the Registrar on regular basis, the Government decided to extend the period of office of the Registrar appointed under sub-section (1) of the said section 56 for a further period of one year or till the necessity ceases, whichever is earlier.

3. The Government decided to amend clause (a) of sub-section (1) of section 11, sub-section (2) of section 55 and sub-section (2) of section 56 of the said Tamil Nadu Act 20 of 2013. Accordingly, the Annamalai University (Amendment) Ordinance, 2014 (Tamil Nadu Ordinance 1 of 2014) was promulgated by the Governor on the 19th September 2014 and the same was published in the *Tamil Nadu Government Gazette* Extraordinary, dated the 22nd September 2014.

4. The Bill seeks to replace the said Ordinance.

P. PALANIAPPAN,
Minister For Higher Education.

A.M.P. JAMALUDEEN,
Secretary.

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 5th December, 2014 is published together with Statement of Objects and Reasons for general information:-

L.A. BILL No. 28 OF 2014

A Bill further to amend the Tamil Nadu Value Added Tax Act, 2006.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-fifth Year of the Republic of India as follows:-

1. (1) This Act may be called the Tamil Nadu Value Added Tax (Amendment) Act, 2014.

Short title and commencement.

(2) It shall be deemed to have come into force on the first day of November 2014.

Tamil Nadu
Act 32 of
2006.

2. In the First Schedule to the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the principal Act), in PART-B, after Serial Number (132) and the entries relating thereto, the following Serial Number and entries shall be inserted, namely:-

Amendment of First Schedule.

“(132-A) Sugar of all kinds, that is, cane sugar, beet sugar, chemically pure sucrose in solid form and imported sugar of all kinds.”.

3. In the Second Schedule to the principal Act,-

Amendment of Second Schedule.

(1) against Serial Number 2, for item (ii) and the entries relating thereto in columns (2), (3) and (4) thereof, the following item and entries shall, respectively, be substituted, namely:-

“(ii) Alcoholic liquors of all kinds for human consumption, other than Beer, Wine, Draught Beer and liquors falling against Serial Numbers 1 and 3.	At the second point of sale in the State.	220 per cent.”;
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(2) against Serial Number 11, in column (2), for the entry “Sugar and textile products not produced or manufactured in India”, the entry “Textile products not produced or manufactured in India” shall be substituted;

(3) Serial Number 12 and the entries relating thereto shall be omitted;

(4) against Serial Number 13, in column (4), for the expression “20 per cent”, the expression “30 per cent” shall be substituted;

(5) in Explanation I, clauses (c) and (d) shall be omitted.

4. In the Fourth Schedule to the principal Act, in PART-B,-

Amendment of Fourth Schedule.

(1) Serial Number 10 and the entries relating thereto shall be omitted;

(2) against Serial Number 14-A, in column (2), item (i) shall be omitted;

(3) against Serial Number 36 in column (1), for the entry in column (2), following entry shall be substituted, namely:-

“Goods covered by Public Distribution System (except kerosene and sugar).”;

(4) after Serial Number 76 and the entries relating thereto, the following Serial Number and entry shall be inserted, namely:-

“76-A. Sugarcane of all varieties.”.

STATEMENT OF OBJECTS AND REASONS.

The Government of India levied additional excise duty in lieu of sales tax on sugar. With effect from 1-4-2007, sugar was exempted from the liability of additional excise duty and the Government of India advised all the States to impose Value Added Tax on the sale of sugar as a prelude to Goods and Services Tax. However, the Government of Tamil Nadu did not levy Value Added Tax on sugar. Imported sugar alone was taxable at 5% at the point of first sale in the State and sugarcane was taxable at the rate of Rs.60/- per metric ton at the point of last purchase in the State under the Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006). With effect from the 1st November 2014, the Government of Tamil Nadu decided to levy tax at 5% on sugar of all kinds with provision to avail input tax credit on the purchases and to dispense with the levy of purchase tax on sugarcane.

2. The Government further decided to dispense with the graded rates of tax levied based on the basic price per case on alcoholic liquors of all kinds for human consumption, other than beer, wine and draught beer, at the second point of sale in the State, and to adopt a single rate of tax at 220% for the Indian Made Foreign Spirit on value addition at the second point of sale in the State under the said Act.

3. Taking into account the health hazards, the Government also decided to increase the rate of tax on tobacco and tobacco products from 20% to 30%.

4. The above decisions were given effect to from the 1st November 2014 by way of a notification issued under sub-section (1) of section 86 of the said Act to amend the relevant Schedules to that Act. Under sub-section (2) of section 86 of the said Act, a Bill to replace the above said notification has to be introduced in the Legislative Assembly.

5. The Bill seeks to give effect to the above decisions.

M.C. SAMPATH,
*Minister for Commercial Taxes and
Registration.*

A.M.P. JAMALUDEEN,
Secretary.

Under Rule 130 of the Tamil Nadu Legislative Assembly Rules, the following Bill which was introduced in the Legislative Assembly of the State of Tamil Nadu on 5th December, 2014 is published together with Statement of Objects and Reasons for general information:-

L.A. BILL NO. 29 OF 2014

A Bill to provide for the establishment of Ombudsman for conducting enquiry on the allegations against the elected members of the local bodies and the officers and employees working under the local bodies in the State of Tamil Nadu and for matters connected therewith and incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-fifth Year of the Republic of India as follows:-

1. (1) This Act may be called the Tamil Nadu Local Bodies Ombudsman Act, 2014.

Short title and commencement.

(2) It shall be deemed to have come into force on the 13th day of November 2014.

2. In this Act, unless the context otherwise requires,—

Definitions.

(1) “action” means action taken by way of decision, recommendation, resolution or finding or in execution thereof or in exercise of administrative or legal functions in any other manner and includes wilful failure in taking action or omission to act and all other expressions relating to such action shall be construed accordingly;

(2) “allegation”,—

(a) in relation to a public servant, means any affirmation that such public servant,—

(i) has abused his position as such for any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person;

(ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives;

(iii) is guilty of corruption, favouritism, nepotism or lack of integrity;

(iv) is guilty of any action as public servant which facilitates or causes to make any loss of the fund or other property of the local bodies; or

(v) has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public servants of the class to which he belongs;

(b) in relation to a local body, means and includes any affirmation that such local body has defaulted or acted in excess of its powers in the discharge of its functions imposed on it by law or in implementing the orders and directions of the Government;

(3) "complaint" means a statement of allegation that a public servant or a local body is guilty of corruption or maladministration and includes any reference to an allegation in respect of which *suo-motu* enquiry has been proposed or recommendation for enquiry has been made by the Government;

(4) "corruption" includes anything punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1988;

Central Act
XLV of 1860.
Central Act 49
of 1988.

(5) "Government" means the State Government;

(6) "incapacity" means physical or mental illness of a person or otherwise becoming unable to discharge his functions;

(7) "local body" means,—

(i) the Municipal Corporation of Chennai, Madurai, Coimbatore, Tiruchirappalli, Tirunelveli, Salem, Tiruppur, Erode, Vellore, Thoothukudi, Thanjavur, Dindigul or any other municipal corporation that may be constituted under any law for the time being in force; or

(ii) a Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920; or

Tamil Nadu Act
V of 1920.

(iii) a District Panchayat constituted under the Tamil Nadu Panchayats Act, 1994;

Tamil Nadu Act
21 of 1994.

(8) "maladministration" means an action taken or purported to have been taken in the exercise of administrative function in any case, —

(i) where such action, administrative procedure or practice governing such action is unreasonable, unjust, oppressive, discriminatory or nepotistic and will make illegitimate gain or loss or will deny deserving benefits; or

(ii) where there is wilful negligence or delay in taking such action, or the administrative procedure or method regulating such action will cause undue delay and includes the action leading to loss or waste or misuse of fund by malfeasance or misfeasance;

(9) "misbehaviour" means, if the Ombudsman is, or becomes, in any way concerned or interested in any contract or agreement, made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof, or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company;

(10) "Ombudsman" means an authority for making enquiries in respect of charges on any action involving corruption or maladministration or irregularities

in the discharge of administrative functions in accordance with the provisions of the relevant law, by the local bodies and public servants working under the local bodies and for the disposal of such complaint;

(11) "public servant" means an elected member of the local body including its Chairperson or Vice-Chairperson, Mayor or Deputy Mayor and includes the officers and employees working under the local body;

(12) "relevant law" means,—

Tamil Nadu Act
IV of 1919. (i) in the case of Chennai City Municipal Corporation, the Chennai City Municipal Corporation Act, 1919;

Tamil Nadu Act
15 of 1971. (ii) in the case of Madurai City Municipal Corporation, the Madurai City Municipal Corporation Act, 1971;

Tamil Nadu Act
25 of 1981. (iii) in the case of Coimbatore City Municipal Corporation, the Coimbatore City Municipal Corporation Act, 1981;

Tamil Nadu Act
27 of 1994. (iv) in the case of Tiruchirappalli City Municipal Corporation, the Tiruchirappalli City Municipal Corporation Act, 1994;

Tamil Nadu Act
28 of 1994. (v) in the case of Tirunelveli City Municipal Corporation, the Tirunelveli City Municipal Corporation Act, 1994;

Tamil Nadu Act
29 of 1994. (vi) in the case of Salem City Municipal Corporation, the Salem City Municipal Corporation Act, 1994;

Tamil Nadu Act
7 of 2008. (vii) in the case of Tiruppur City Municipal Corporation, the Tiruppur City Municipal Corporation Act, 2008;

Tamil Nadu Act
8 of 2008. (viii) in the case of Erode City Municipal Corporation, the Erode City Municipal Corporation Act, 2008;

Tamil Nadu Act
26 of 2008. (ix) in the case of Vellore City Municipal Corporation, the Vellore City Municipal Corporation Act, 2008;

Tamil Nadu Act
27 of 2008. (x) in the case of Thoothukudi City Municipal Corporation, the Thoothukudi City Municipal Corporation Act, 2008;

Tamil Nadu Act
24 of 2013. (xi) in the case of Thanjavur City Municipal Corporation, the Thanjavur City Municipal Corporation Act, 2013;

Tamil Nadu Act
25 of 2013. (xii) in the case of Dindigul City Municipal Corporation, the Dindigul City Municipal Corporation Act, 2013;

Tamil Nadu Act
V of 1920. (xiii) in the case of Municipalities and Town Panchayats, the Tamil Nadu District Municipalities Act, 1920; and

Tamil Nadu Act
21 of 1994. (xiv) in the case of District Panchayats, the Tamil Nadu Panchayats Act, 1994;

(13) "Secretary" means the Secretary referred to in section 6;

(14) "State" means the State of Tamil Nadu.

Appointment of
Ombudsman.

3. (1) There shall be an authority for the local bodies at State level to be known as "Ombudsman".

(2) The Governor shall, on the advice of the Chief Minister, appoint a person who has been an officer of the Government not below the rank of Principal Secretary to Government of Tamil Nadu as Ombudsman.

(3) A person appointed to be an Ombudsman shall, before entering upon his/her office, make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out in the Schedule.

Term of office
and conditions
of service of
Ombudsman.

4. (1) A person appointed as Ombudsman shall hold office for a term of three years from the date on which he/she enters upon his/her office:

Provided that,—

(a) the person appointed as Ombudsman may, at any time by writing under his/her hand addressed to the Governor, resign his/her office;

(b) the person appointed as Ombudsman may be removed from his/her office in the manner specified in section 5; and

(c) the person appointed as Ombudsman shall retire from office if, during the term of his/her office, he/she completes the age of seventy years.

(2) The Ombudsman shall be entitled for payment of salary and allowances as may be admissible to the Tamil Nadu State Election Commissioner.

Removal of
Ombudsman.

5. (1) The Ombudsman shall not be removed from his/her office, except by an order of the Governor, passed after a resolution of Legislative Assembly of the State, supported by a majority of the members of the Legislative Assembly present and voting, for such removal, on the ground of proved misbehaviour or incapacity.

(2) The procedure for the presentation of an address under sub-section (1) and for the investigation and proof of the misbehaviour or incapacity of the Ombudsman shall be in accordance with the provisions of the rules framed for the purpose by the Government.

(3) Notwithstanding anything contained in sub-section (1), the Ombudsman shall be removed from office by the Governor on the advice of the Chief Minister, if he/she,—

(a) is adjudicated as an insolvent; or

(b) engages during his/her term of office in any paid employment outside the duties of his/her office; or

(c) is convicted and sentenced to imprisonment for an offence which involves moral turpitude.

Officers and
employees of
Ombudsman.

6. (1) The Ombudsman shall have a Secretary, and such other officers and employees as the Government may determine in consultation with the Ombudsman to assist the Ombudsman in the exercise of his/her powers and discharge of his/her functions under this Act.

(2) The appointment and conditions of service of the Secretary, officers and other employees shall be such as may be prescribed.

(3) The officers and other employees referred to in sub-section (1) shall be under the superintendence and control of the Ombudsman.

(4) Without prejudice to the provisions of sub-section (1), the Ombudsman may, for the purpose of conducting enquiry under this Act, utilise the services of,—

- (a) any officer or investigating agency of the Government; or
- (b) any other State agency.

(5) The Ombudsman may requisition the services of any person who is having experience and expertise in any particular subject in deciding the questions before him.

7. The Ombudsman shall perform all or any of the following functions, namely:—

Functions of
Ombudsman.

(i) enquire into any written complaint from the Government or that has come to the notice of the Ombudsman in which corruption or maladministration of a public servant or a local body is alleged;

(ii) pass an order on the proved allegation in the following manner, namely:—

(a) where the irregularity involves a criminal offence committed by a public servant, the matter shall be referred to the appropriate investigating agency for necessary action;

(b) where the irregularity involves loss of the fund of the local body, order recovery of such loss from those who are responsible for such irregularity;

(c) where the irregularity is due to wilful negligence or dereliction of duty of any officer or employee of the local body, recommend for departmental action by the appropriate authority under the relevant rules.

8. (1) The Ombudsman shall, for the purpose of any enquiry, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 and, in particular, in respect of the following matters, namely:-

Powers of
Ombudsman.

(a) summoning and enforcing the attendance of complainant or witnesses and examining him/her on oath;

(b) requiring the discovery and production of any relevant and necessary document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record, or copy thereof from any court or office;

(e) issuing commission for the examination of witness and documents;

and

(f) any other matter which may be prescribed.

(2) Where the Ombudsman finds after enquiry that the allegation contained in a complaint is without any substance, he/she may, by an order, direct the complainant to pay to the opposite party an amount specified in the order by way of cost.

(3) Where the allegation contained in a written complaint is about the loss of the fund of the local body, the Ombudsman may, during enquiry, collect evidence, determine the loss and direct in his/her order, the amount to be realised from the person responsible.

(4) If the amount payable as per the order passed by the Ombudsman under sub-section (2) or sub-section (3) is not paid within the period specified by him/her, the same shall be recovered as if it were an arrear of land revenue under the Tamil Nadu Revenue Recovery Act, 1864.

Tamil Nadu
Act II of 1864.

Service of
Government
Department.

9. The Government may, at the request of the Ombudsman, make available the services of officers and employees of the Government including police personnel to assist the Ombudsman in the conduct of enquiry.

Enquiry.

10. (1) Notwithstanding anything contained in this Act, the Government may refer any allegation of corruption or maladministration against a local body or a public servant which is within their knowledge or brought to their notice, to the Ombudsman and the Ombudsman shall enquire into it as if it was a complaint filed under this Act.

(2) The Ombudsman may, on receipt of a complaint, examine the complaint and supporting documentary proof and where there is *prima facie* case, he/she may enquire into it.

(3) The Ombudsman shall not enquire into matters relating to,—

(a) any matter in respect of which a formal and public enquiry has been ordered by the Government;

(b) any matter in respect of which an enquiry has been ordered under the Commission of Inquiries Act, 1952 or any matter pending before a Court;

Central Act LX
of 1952.

(c) any complaint filed after the expiry of five years from the date on which the occurrence is said to have taken place.

(4) After an enquiry, if the Ombudsman is satisfied that,—

(a) the complaint is frivolous or vexatious or is not made in good faith; or

(b) there is no sufficient ground to continue proceedings; or

(c) other remedies are available to the complainant and it would be more beneficial for the complainant to avail of such remedies in view of the circumstances of the case,

he/she may reject the complaint after recording his/her findings stating the reason therefor, and communicate the same to the complainant.

(5) The Ombudsman shall, subject to the provisions of this Act and the rules made thereunder, have power to regulate its procedure by fixing the time and place of sitting.

Initiation of
prosecution.

11. (1) If, after an enquiry, the Ombudsman finds that there is a *prima facie* case against a public servant involving a criminal offence, the Ombudsman may refer the complaint and the findings with recommendation to the appropriate investigating agency.

(2) The appropriate investigating agency, on completion of investigation, shall initiate prosecution after obtaining sanction from the competent authority.

Disposal of
complaints.

12. (1) The Ombudsman may consider and dispose of complaints other than those involving criminal offences, in the following manner, namely:—

(a) order the recovery of loss caused to the local body from the person responsible;

Tamil Nadu
Act II of 1864.

(b) order the recovery of loss from the accused failing which order for recovery of the amount as if it were an arrear of land revenue under the Tamil Nadu Revenue Recovery Act, 1864;

(c) refer the complaint to the appropriate authority to take disciplinary action for willful negligence or dereliction of duty of any officer or employee of the local body;

(d) order other necessary remedial measures considering the facts and circumstances of the case;

(e) where the Ombudsman finds that the procedure or practice regarding the administration of local body gives room for complaint, he/she may give suggestions to the Government or local body relating to the measures for avoiding the recurrence of such complaint.

(2) The Ombudsman shall submit an annual report regarding the performance of his/her functions under this Act to the Government and the Government shall lay it before the Legislative Assembly with an explanatory memorandum.

13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Protection of
action taken in
good faith.

14. The Government may, from time to time, issue such directions, as it may deem fit, for giving effect to the provisions of this Act.

Power to give
direction.

15. If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing such difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

16. (1) The Government may make rules for carrying out the purposes of this Act.

Power to make
rules.

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

(a) the conditions of service of the Ombudsman's Secretary, officers and employees;

(b) the form and manner of filing complaints before the Ombudsman;

(c) procedure to be followed during the inquiry, which, as far as possible, be summary proceedings;

(d) the manner of implementing the order of the Ombudsman;

(e) any other matter which the Government may deem necessary to prescribe.

(3) All rules made and notification issued under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(4) Every rule, notification or order made or issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which

it is so placed or in the next session, the Legislative Assembly makes any modification in any such rule, notification or order or the Legislative Assembly decides that the rule, notification or order should not be made or issued, the rule, notification or order 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 under that rule, notification or order.

Saving.

17. Nothing contained in this Act shall affect the provisions of the relevant laws in so far as it relates to public servant.

Repeal and saving.

18. (1) The Tamil Nadu Local Bodies Ombudsman Ordinance, 2014 is hereby repealed.

Tamil Nadu
Ordinance
2 of 2014.

(2) Notwithstanding such repeal, anything done, any action taken or any direction given under the said Ordinance, shall be deemed to have been done, taken or given under this Act.

THE SCHEDULE.

[See Section 3].

I, having been appointed as the Ombudsman for local bodies, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.

STATEMENT OF OBJECTS AND REASONS

The Thirteenth Central Finance Commission has, among others, recommended that the State Government must put in place a system of independent local body Ombudsman to enquire into the complaints of corruption and maladministration against the functionaries of local bodies, elected members and officials and to recommend suitable action or pass appropriate orders. The Government have accepted the said recommendation and decided to undertake a legislation for setting up of a system of independent Ombudsman for the local bodies. Accordingly, the Tamil Nadu Local Bodies Ombudsman Ordinance, 2014 (Tamil Nadu Ordinance 2 of 2014) was promulgated by the Governor on the 12th November 2014 and the same was published in the *Tamil Nadu Government Gazette* Extraordinary, dated the 13th November 2014.

2. The Bill seeks to replace the said Ordinance.

S.P. VELUMANI,
*Minister for Municipal Administration,
Rural Development, Law, Courts and Prisons.*

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clauses 5 (2), 6 (2), 8 (1) (f), 14, 15 and 16 of the Bill authorise the Government to make rules or issue directions or orders, as the case may be, for the purposes specified therein.

2. The powers delegated are normal and not of an exceptional character.

S.P. VELUMANI,

*Minister for Municipal Administration,
Rural Development, Law, Courts and Prisons.*

FINANCIAL MEMORANDUM.

The Bill provides for establishment of the independent Ombudsman for the local bodies. The Bill when enacted would involve expenditure from the Consolidated Fund of the State. It is, however, not possible at this stage to estimate with any degree of accuracy, the expenditure to be incurred as a result of the proposed legislation.

S.P. VELUMANI,
*Minister for Municipal Administration,
Rural Development, Law, Courts and Prisons.*

A.M.P. JAMALUDEEN,
Secretary.