

THE KARNATAKA APPELLATE TRIBUNAL ACT, 1976

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STATEMENTS OF OBJECTS AND REASONS

I

Act 10 of 1976.- Karnataka Sales Tax Appellate Tribunal, Karnataka Co-operative Appellate Tribunal and Karnataka Revenue Appellate Tribunal constituted under the respective Acts were functioning as separate Tribunals. These Tribunals were exercising appellate and revisional powers conferred on them by the respective enactments. Since these Tribunals were independent of each other and there was no common co-ordinating body, decisions of these Tribunals even on common questions of law and interpretation which often arose before them were not uniform, resulting in much confusion and avoidable litigations.

The question of setting up one Tribunal to deal with matters arising under the aforesaid enactments was under active consideration of Government for sometime. Such a common Tribunal, besides securing uniformity in decisions would also facilitate formulation of precedents so helpful for future cases. This will help expeditious disposal and correct decisions for the benefit of one and all. In addition, a common Tribunal results in economy in expenditure on the staff etc.

The Tukol Pay Commission which considered the question has also recommended for the creation of a common tribunal. It was therefore decided to constitute a common Appellate Tribunal with immediate effect.

To achieve the said objects an Ordinance was promulgated.

This Bill seeks to replace the said Ordinance.

(Published in the Karnataka Gazette Part IV-2A dated 22-1-1976 at page 34.)

II

Amending Act 59 of 76 .- Appeals pertaining to the Commercial Taxes and Co-operative departments were being heard by a Bench consisting of a District Judge member and an officer of the concerned department, co-opted for the occasion. Similarly in the case of commercial taxes appeals, a non-official, who is an accountant had to be co-opted by the Chairman.

The aforesaid system involved practical difficulties like, having a panel and securing co-opted members keeping such co-opted members without work on non-working days, etc.

It was felt that for the better discharge of the Tribunal's work instead of co-opted members permanent members drawn from the concerned departments were necessary.

Against the decision of the erstwhile Sales Tax Appellate Tribunal in commercial tax matters, a revision lay to the High Court. But this was done away with. It was however felt that as these matters involved large sums of State revenues a revision against the Tribunal's decision to the High Court was necessary.

It was also felt that the Tribunal should have certain powers of a civil court while trying a suit under the Code of Civil Procedure, 1908.

Amendments in terms of the aforesaid were necessary since numerous matters relating to Commercial Taxes were pending before the Tribunal. They were issued as an Ordinance.

This Bill seeks to replace the said Ordinance.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 8-11-1976 as No. 4418 at page 7.)

III

Amending Act 8 of 1979.- The Karnataka Appellate Tribunal shall, according to sub-section (2) of section 3 of the Karnataka Appellate Tribunal Act, 1976 consists of not less than 8 members including the Chairman. According to sub-section (3), the Chairman shall be an officer not below the rank of a Divisional Commissioner and of the remaining members at least two shall be District judges, one shall be a Commercial Taxes member and one shall be a Co-operative Member and the rest shall be officers not below the rank of the Deputy Commissioner of a District. It is proposed to amend the said section to provide for appointment of more than one Commercial Taxes Member and Co-operative Member.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 22-2-1979 as No. 110. at page 3.)

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KARNATAKA ACT NO. 10 OF 1976

(First published in the Karnataka Gazette Extraordinary on the Sixth day of March, 1976)

THE KARNATAKA APPELLATE TRIBUNAL ACT, 1976

(Received the assent of the Governor on the fourth day of March, 1976)

(As Amended by Acts 59 of 1976 and 8 of 1979)

An Act to provide for the constitution of a single Appellate Tribunal for the State of Karnataka.

WHEREAS separate Appellate Tribunals have been constituted under the Karnataka Sales Tax Act, 1957, the Karnataka Co-operative Societies Act, 1959 and the Karnataka Land Revenue Act, 1964 for exercising the powers and performing the functions specified in the said Acts ;

WHEREAS it is expedient to have a single Appellate Tribunal for the State of Karnataka and to define the powers and functions of the said Tribunal and to provide for matters incidental thereto or connected therewith ;

BE it enacted by the Karnataka State Legislature in the Twenty-Seventh Year of the Republic of India, as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Appellate Tribunal Act, 1976.

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

(3) It shall be deemed to have come into force on the first day of January, 1976.

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

(a) "member" means a member of the Tribunal;

(b) "Tribunal" means the Karnataka Appellate Tribunal constituted under section 3.

3. Constitution of the Tribunal.- (1) The State Government shall, by notification, constitute for the State of Karnataka an Appellate Tribunal called the Karnataka Appellate Tribunal.

(2) The Tribunal shall consist of not less than ¹[eight]¹ members including the Chairman, appointed by the State Government.

1. Substituted by Act 59 of 1976 w.e.f. 31.7.1976.

¹[(3) The Chairman shall be an officer not below the rank of a Divisional Commissioner and of the remaining members, at least two shall be District Judges, ²[at least one shall be]² an Officer of the Commercial Taxes Department not below the rank of a Deputy Commissioner of Commercial Taxes (hereinafter referred to as ²[a Commercial Taxes member]²), ²[at least one shall be]² an Officer of the Department of Co-operation not below the rank of a Joint Registrar of Co-operative Societies (hereinafter referred to as ²[a Co-operation member]²) and the rest shall be officers not below the rank of a Deputy Commissioner of a district, having administrative experience]¹.

1. Substituted by Act 59 of 1976 w.e.f. 31.7.1976.

2. Substituted by Act 8 of 1979 w.e.f. 22.02.1979.

(4) If, by reason of any decrease in the business of the Tribunal or otherwise, it appears to the State Government that the number of members of the Tribunal should for the time being be reduced, the State Government may, by notification reduce the number of members.

4. Principal seat of the Tribunal.- (1) The principal seat of the Tribunal shall be at Bangalore.

(2) Notwithstanding anything contained in sub-section (1), benches of the Tribunal may, from time to time and subject to such conditions as may be prescribed, have sittings at such other places as the State Government may by notification specify.

5. Powers of the Tribunal.- (1) The Tribunal shall have all the powers which the Karnataka Sales Tax Appellate Tribunal, the Karnataka Co-operative Appellate Tribunal and the Karnataka Revenue Appellate Tribunal had immediately before the commencement of this Act under the Karnataka Sales Tax Act, 1957, the Karnataka Co-operative Societies Act, 1959 and the Karnataka Land Revenue Act, 1964 or under any other law. Any reference in any law to the said Tribunals shall be construed as a reference to the Tribunal constituted under this Act.

(2) The State Government may, by notification, confer upon or entrust to the Tribunal any appellate or revisional powers or functions assigned to the Government or other authority or officer by or under any law for the time being in force and the Tribunal shall be competent to exercise the powers or discharge the functions so conferred or entrusted.

6. Conduct of business of the Tribunal .- (1) The powers of the Tribunal in all matters relating to appeals, revisions and other proceedings shall subject to the provisions of sub-sections (2) and (3) be exercised by a Bench of two members, of whom one shall be a District Judge, constituted by the Chairman.

(2) A single member of the Tribunal may, subject to any special or general orders made in this behalf by the Chairman, exercise the powers of the Tribunal in respect of,-

- (i) admission of an appeal or revision petition ;
- (ii) admission of an appeal or revision petition presented after the expiry of the period allowed by law ;
- (iii) stay orders pending disposal of an appeal, revision, reference or other proceedings ;
- (iv) any matter of an interlocutory character in appeals, revisions, references or other proceedings ;
- (v) such other matters and subject to such conditions as may be prescribed.

(3) The Bench hearing any matter relating to,-

(a) the Department of Co-operation, shall consist of,-

(i) a District Judge; and

¹[(ii) a Co-operation Member;]¹.

1. Substituted by Act 8 of 1979 w.e.f. 22.02.1979.

(b) the Department of Commercial Taxes, shall consist of,-

(i) a District Judge; and

¹[(ii) a Commercial Taxes Member;]¹.

1. Substituted by Act 8 of 1979 w.e.f. 22.02.1979.

¹[(4) x x x]¹

1. Omitted by Act 59 of 1976 w.e.f. 31.07.1976.

(5) Where an appeal, revision, reference or application is heard by a Bench, the appeal, revision, reference or application shall be decided in accordance with the opinion of the majority ;

¹[Provided that where the Bench hearing the appeal or application is composed of two members and those members differ in opinion, they shall place the papers of the case before the Chairman for the constitution of a full Bench under section 7]¹.

1. Substituted by Act 59 of 1976 w.e.f. 31.07.1976.

7. Reference to full Bench.- (1) Notwithstanding anything contained in section 4, the Chairman may, and if a Bench referred to in sub-section (1) or sub-section (3) of section 6 so thinks fit, shall, subject to such rules as may be prescribed, constitute a full Bench of such number of members as he may specify.

(2) The decision of the full Bench shall be in accordance with the opinion of the majority.

8. Power of review.- (1) The Tribunal may, either on its own motion or on the application of any party affected, review any order passed by itself and pass such orders in reference thereto as it deems necessary:

Provided that no such application shall be entertained unless the Tribunal is satisfied that there has been discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by him at the time or on account of some mistake or error apparent on the face of the record or that there has been any other sufficient reason:

Provided further that,-

(i) no order shall be varied or reversed unless notice has been given to the parties affected ; and

(ii) no order affecting any question of right between private persons shall be reviewed except on the application of the party affected.

(2) Every application under sub-section (1) for review of the order shall be made within a period of ninety days from the date of the order.

(3) The provisions of sections 4, 5 and 12 of the Limitation Act, 1963, shall apply to an application for review under this section.

¹[8A. Revision by the High Court in certain cases.- (1) Against an order of the Tribunal in any matter arising under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), either party may, within sixty days from the date of communication of the order, prefer a petition to the High Court on the ground that the Tribunal has failed to decide or decided erroneously any question of law:

Provided that the High Court may for sufficient cause shown, admit a petition after the said period of sixty days.

(2) The petition shall be in such form and verified in such manner as may be prescribed and shall, when it is preferred by any person other than the State Government or an officer empowered by it, be accompanied by a fee of one hundred rupees.

(3) If the High Court considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be so dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4) (a) If the High Court does not dismiss the petition summarily it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Tribunal with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Tribunal under clause (a) with its opinion on questions of law raised, the latter shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do, remit the petition to the Tribunal and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case:

Provided that if as a result of the petition, any change becomes necessary in such assessment, the High Court may authorise the assessing authority to amend the assessment and the said authority shall amend the assessment accordingly and thereupon the amount overpaid by the assessee shall be refunded to him without interest or the additional amount of tax due from him shall be collected in accordance with the provisions of the Karnataka Sales Tax Act, 1957.

(7) (a) The High Court may, on the application of either party to the petition, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be preferred within such time and in such manner as may be prescribed, and shall, where it is preferred by any person other than an officer empowered by the State Government, be accompanied by a fee of one hundred rupees.

(8) With a view to rectifying any mistake apparent from the record, the High Court may, at any time, within five years from the date of the order passed by it under sub-section (4) amend such order :

Provided that no order under this sub-section shall be made without giving both parties affected by the order a reasonable opportunity of being heard.

(9) In respect of every petition preferred under sub-section (1) or (7), the costs shall be in the discretion of the High Court.]¹

1. Section 8A inserted by Act 59 of 1976 w.e.f. 31.07.1976.

9. Finality of the orders of the Tribunal.- Notwithstanding anything contained in any law, but subject to the provisions of ¹[sections 8 and 8A]¹, every decision of the Tribunal shall be final and shall not be called in question in any court.

1. Substituted by Act 59 of 1976 w.e.f. 31.07.1976.

10. Powers of the Tribunal to call for return, etc.- The Tribunal may, in respect of matters subject to its appellate or revisional jurisdiction, do all or any of the following, namely:-

- (a) call for returns from the authorities subject to its jurisdiction ;
- (b) issue general directions and prescribe forms for regulating the practice and proceedings of such authorities :

Provided that such directions and forms shall not be inconsistent with the provisions of any law for the time being in force.

11. Proceedings of Tribunal to be judicial proceedings.- Any proceedings before the Tribunal shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the Tribunal shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

¹[**11A. Tribunal to have certain powers of a Civil Court.-** For the purpose of proceedings under this Act, the Tribunal shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing attendance of any person and examining him on oath ;
- (b) requiring the discovery and production of any document or any other material which is producible as evidence ;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) issuing commissions for the examination of witnesses or documents
- (e) such other matters as may be prescribed.]¹

1. Section 11A inserted by Act 59 of 1976 w.e.f. 31.07.1976.

12. State Representative.- (1) The State Government shall appoint as its representative before the Tribunal one or more officers with such designation as it may specify.

(2) Such officer or officers shall receive on behalf of the State Government notices issued by the Tribunal and have the right to appear, represent, act and plead on its behalf in such proceedings before the Tribunal, as the State Government may, by general or special order specify. They shall also perform such other duties and be subordinate to such officers as the State Government may direct.

13. Protection of action taken under this Act.- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule made thereunder.

14. Power to make rules.- (1) The State Government may, by notification, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may be made,-

- (a) prescribing the other matters and the conditions subject to which a single member may exercise the powers of the Tribunal ;

¹[(b) x x x]¹

1. Omitted by Act 59 of 1976 w.e.f. 31.07.1976

- (c) prescribing the conditions subject to which Benches of the Tribunal may have sittings at places other than its principal seat.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following, the session or successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under such rule.

15. Power to make regulations.- The Tribunal shall, with the previous sanction of the State Government, by notification, make regulations consistent with the provisions of this Act and the rules made thereunder for regulating generally the practice and procedure of the Tribunal and the disposal of its business including regulations as to the time within which, in the absence of any express provision in the relevant enactment, appeals or applications to the Tribunal may be filed and as to the costs of or incidental to any proceedings before the Tribunal.

16. Transfer of pending proceedings.- As from the date of commencement of this Act, the Karnataka Co-operative Appellate Tribunal, the Karnataka Sales Tax Appellate Tribunal and the Karnataka Revenue Appellate Tribunal shall cease to function and all proceedings pending before the said Tribunals shall on that day stand transferred to the Tribunal constituted under this Act and thereafter the provisions of this Act shall be applicable to such proceedings as if such proceedings had been commenced before the Tribunal constituted under this Act.

17. Repeal of the Karnataka Ordinances Nos 22 and 27 of 1975.- (1) The Karnataka Appellate Tribunal Ordinance, 1975 (Karnataka Ordinance No. 22 of 1975) and the Karnataka Appellate Tribunal (Amendment) Ordinance, 1975 (Karnataka Ordinance No. 27 of 1975) are hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinances shall be deemed to have been done or taken under the corresponding provisions of this Act.

The Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 10 of 1976) has been amended by the following Acts, namely.,

Amendments (chronological)

Sl. No.	Act No and Year	Sections Amended	Remarks
1	10 of 1976	-	w.e.f. 1.1.1976
2	59 of 1976	3(2), (3), 6(3) (4)(5), 8A, 9, 11A, 14(2)(b)	w.e.f. 31.7.1976
3	8 of 1979	3(3), 6(3)	w.e.f. 22.2.1979

Amendments (Section-wise)

Sections Amended	Act No. and Year	Remarks
3	(a) 59 of 1976 (b) 8 of 1979	w.e.f. 31.7.1976 w.e.f. 22.2.1979
6	a) 59 of 1976 b) 8 of 1979	w.e.f. 31.7.1976 w.e.f. 22.2.1979
8A	59 of 1976	w.e.f. 31.7.1976
9	59 of 1976	w.e.f. 31.7.1976
11A	59 of 1976	w.e.f. 31.7.1976
14	59 of 1976	w.e.f. 31.7.1976