



GOVERNMENT OF KARNATAKA
(Department of Commercial Taxes)

No. JCCT/(LA)/SLP(C)/SC-SR-29/2010-11

Office of the
Commissioner of Commercial Taxes,
Gandhinagar, Bengaluru,
Dated 13-04-2022.

COMMISSIONER OF COMMERCIAL TAXES CIRCULAR NO.01/ 2022-23

Sub : Judgment of Hon'ble Supreme Court of India in Civil Appeal Nos. 10466- 10476 of 2011 in the case of State of Karnataka & Another Vs State of Meghalaya & Another upholding the validity of Karnataka Tax on Lotteries Act, 2004 (Karnataka Act No. 4 of 2004) – Instructions for implementation of the said Act with regard to Assessment / Reassessment / Recovery of taxes etc., – reg.

- Ref :**
1. Judgment dated: 23-03-2022 of the Hon'ble Supreme Court of India in Civil Appeal Nos: 10466-10476/2011 and other connected Civil Appeals.
 2. Judgment dated: 27-12-2010 of the Division Bench the Hon'ble High Court of Karnataka at Bengaluru, in the case between State of Meghalaya and others Vs State of Karnataka.
 3. Judgment dated: 05-10-2007 of the Hon'ble High Court of Karnataka at Bengaluru in Writ Petition No. 13463/2006 (GM-LOTTERY) in the case between M/s. Shamadhan Trading (P) Ltd. Bengaluru & others Vs State of Karnataka & others.
 4. The Karnataka Tax on Lotteries Act, 2004 (Karnataka Act No. 4 of 2004)

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The State of Karnataka enacted the Karnataka Tax on Lotteries Act, 2004 (Karnataka Act No. 4 of 2004), providing for levy and collection of tax under section 6 of the said Act, from the Promoters of lottery at the following rates namely:-

- a) one lakh and fifty thousand rupees for every Bumper draw; and
- b) one lakh rupees in respect of any other draw.

This Act shall be deemed to have come into force with effect from the 10th day of December 2003.

2. The 'Promotor' under the said Act means the Government of India or a Government of State or an Union Territory or any Country organizing, conducting or promoting a lottery and included any person appointed for selling lottery tickets in the State on its behalf by such Government or Country where such Government or Country is not directly selling lottery tickets in the State.

3. A batch of Writ Petitions were filed by Promoters before the Hon'ble High Court of Karnataka praying to declare the Karnataka Tax on Lotteries Act, 2004 as illegal and unconstitutional. The Hon'ble High Court of Karnataka in its judgment dated: 05-10-2007 dismissed the Writ Petition No. 13463/2006 & Others and held that the said Act is within the legislative competence of the State.

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4. Being aggrieved by the above judgment of the Learned Single Judge, the Promoters filed Appeals before the Hon'ble High Court of Karnataka in WA Nos. 2251/2007 and others. The Division Bench of the Hon'ble High Court of Karnataka, in its judgment dated: 27-12-2010 came to the conclusion that the State has no legislative competence to make the impugned State Act and hence, the order of the Learned Single Judge was struck down. Accordingly, the Writ Appeals were allowed with direction to the State to refund the amount deposited by the Promoters within four months from the date of receipt of this order.

5. The State of Karnataka preferred Appeal before the Hon'ble Supreme Court of India, being aggrieved by the judgment passed by the Division Bench of Hon'ble High Court of Karnataka. The Hon'ble Supreme Court of India, in its judgment dated: 23-03-2022, in Civil Appeal Nos. 10466-10476 of 2011 & Others held that the State of Karnataka has legislative competence to pass the Karnataka Tax on Lotteries Act, 2004 imposing Tax on the Lotteries conducted by other States in the State of Karnataka. In the result, the Appeal filed by the State of Karnataka came to be allowed setting aside the impugned judgment passed by the Division Bench of Hon'ble High Court of Karnataka.

6. In view of the aforesaid judgment of the Hon'ble Supreme Court of India, the following instruction are issued to the Assistant Commissioner of Commercial Taxes concerned who are the assessing authorities under the Act:

- a) To complete all the pending assessments of cases involving levy of tax on lotteries in respect of every Promotor under the provisions of the Karnataka Tax on Lotteries Act, 2004 (Karnataka Act No. 4 of 2004) which shall be deemed to have come into force with effect from 10th day of December, 2003.
- b) To rectify / reassess the cases where assessment orders have already been passed granting the benefit of exemption in terms of the judgment dated: 27-12-2010 of the Division Bench of the Hon'ble High Court of Karnataka, which had struck down the Act itself and had directed the State to refund the amount deposited by the Promoters within four months from the date of receipt of the said order.
- c) To recover the assessed tax, penalty or any other amount due in respect of cases where assessments have already been concluded.

All the Joint Commissioners of Commercial Taxes (Admn), DGSTO in the State are directed to personally monitor these cases and submit a report of compliance within 3 months from the date of issuance of this Circular, giving case wise and year wise details of tax assessed/ reassessed, amounts due and also ensure appropriate action is taken to recover the assessed taxes and other dues outstanding by the officers in their respective Divisions.

A copy of the Karnataka Tax on Lotteries Act, 2004 and also the list of Promoters, Assessing Authorities gathered from the connected case file available in this office are uploaded to the Departmental Website for ready reference. However, this information should not be construed as complete and exhaustive information of the entire State and the respective Divisional Officers shall take necessary action to identify all the cases connected with the Karnataka Tax on Lotteries Act, 2004.


(C. Shikha, IAS)

Commissioner of Commercial Taxes (Karnataka),
Bengaluru.

**Commissioner of Commercial Taxes
Karnataka, Bangalore.**

Copy to: All the ACCTs/ JCCTs of DGSTO / ADCOMs in the State.