



महाराष्ट्र शासन राजपत्र
असाधारण भाग पाच-अ

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असाधारण क्रमांक ३१

प्राधिकृत प्रकाशन

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके (इंग्रजी अनुवाद).

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the 9th April 2010 is published under Rule 117 of the Maharashtra Legislative Assembly Rules :—

L. A. BILL No. XLV OF 2010.

A BILL

*further to amend certain tax laws in operation in
the State of Maharashtra.*

WHEREAS it is expedient further to amend certain tax laws in operation in the State of Maharashtra, for the purposes hereinafter appearing ; it is hereby enacted in the Sixty-first Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Tax Laws (Levy and Amendment) Act, 2010. Short title
and
commence-
ment.

(2) (a) Sections 1 to 6 shall come into force on the date of publication of this Act in the *Official Gazette*.

(b) Save as otherwise provided in this Act, the remaining sections shall come into force with effect from the 1st May 2010.

CHAPTER II

AMENDMENTS TO THE BOMBAY MOTOR VEHICLES TAX ACT, 1958.

Amendment
of section 3
of Bom. LXV
of 1958.

2. In section 3 of the Bombay Motor Vehicles Tax Act, 1958 (hereinafter, in this Chapter, referred to as "the Motor Vehicles Tax Act"), after sub-section (IE), the following sub-section shall be inserted, namely :—

Bom.
LXV
of
1958.

"(IF) Subject to the provisions of this Act, there shall be levied and collected on all motor vehicles (including tricycles) plying for hire or reward, fitted with fare meters and used or kept for use in the State for the carriage of not more than six passengers, a one time tax for the life time of such vehicles,—

(i) if registered after the date of commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 2010 (hereinafter, in this sub-section, referred to as "the said date"), at the rates specified in Part I of the Second Schedule ;

Mah.
of
2010.

(ii) if already registered before the said date and on which tax is already paid under sub-section (I), at the rates specified in Part II of the Second Schedule ;

(iii) if first registered in any other State and thereafter on transfer thereof in the State of Maharashtra, a new registration mark is assigned to the same after the said date, then having regard to the month of the first registration in the other State, at the rates specified in Part II of the Second Schedule. "

Amendment
of section 4
of Bom.
LXV of
1958.

3. In section 4 of the Motor Vehicles Tax Act, in sub-section (2),—
(a) for the brackets, figures, letters and words " (IC), (ID) or (IE) " the brackets, figures, letters and words " (IC), (ID), (IE) or (IF) " shall be substituted ;

(b) in clauses (a), (b) and (c), for the brackets, figures, letters and words " (IC), (ID) and (IE) " the brackets, figures, letters and words " (IC), (ID), (IE) and (IF) " shall be substituted.

Amendment
of section 9
of Bom.
LXV of
1958.

4. In section 9 of the Motor Vehicles Tax Act,—

(a) in sub-section (6), for the brackets, figures, letters and words " (IC), (ID) or (IE) " the brackets, figures, letters and words " (IC), (ID), (IE) or (IF) " shall be substituted ;

(b) in sub-section (6A), for the brackets, figures, letters and words " (IC), (ID) or (IE) " the brackets, figures, letters and words " (IC), (ID), (IE) or (IF) " shall be substituted ;

(c) in sub-section (7),—

(i) for the brackets, figures, letters and words “ (IC), (ID) or, as the case may be, (IE) ” the brackets, figures, letters and words “ (IC), (ID), (IE) or, as the case may be, (IF) ” shall be substituted ;

(ii) in clause (a), in sub-clause (i), for the brackets, figures, letters and words “ (IC), (ID) or, as the case may be, (IE) ” the brackets, figures, letters and words “ (IC), (ID), (IE) or, as the case may be, (IF) ” shall be substituted.

5. In section 16 of the Motor Vehicles Tax Act, in sub-section (I), Amendment of section 16 of Bom. LXV of 1958. in clause (c), in sub-clause (iii), for the words, brackets, figures and letters “ sub-section (IC) or, sub-section (ID) or as the case may be, sub-section (IE) ” the following shall be substituted, namely :—

“ sub-section (IC), (ID), (IE) or, as the case may be, sub-section (IF) ”.

6. In the SECOND SCHEDULE appended to the Motor Vehicles Tax Act,— Amendment to SECOND SCHEDULE of Bom. LXV of 1958.

(a) in the heading, for brackets, figures, letters and words “ (IC) and (IE) ” the brackets, figures, letters and words “ (IC), (IE) and (IF) ” shall be substituted ;

(b) in PART I, after entry 2, the following entry shall be added, namely :—

“ 3. Motor vehicles (including tricycles) plying for hire or reward, fitted with fare meters and used for carriage of not more than six passengers.	11 times the annual rate of tax payable for the relevant class of the vehicles mentioned in sub-clause IV of clause A under the FIRST SCHEDULE. ” ;
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(c) in PART II, after the words “ goods or materials ” the words “ or for carriage of not more than six passengers for hire or reward and fitted with fare meter ” shall be inserted ;

(d) in PART III, after the words “ goods or materials ” the words “ or for carriage of not more than six passengers for hire or reward and fitted with fare meter ” shall be inserted.

CHAPTER III

AMENDMENT TO THE MAHARASHTRA STATE TAX ON PROFESSIONS,
TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975.

Insertion of section 7A in Mah. XVI of 1975. 7. After section 7 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the following section shall be inserted, namely :— Mah. XVI of 1975.

Application of provisions of section 22 of Maharashtra Value Added Tax Act, 2002 and certain Provisions of Rules made thereunder. "7A. Subject to the provisions of this Act and the rules made thereunder in this behalf, the provisions related to audit under section 22 of the Maharashtra Value Added Tax Act, 2002 and the provisions of the rules made thereunder, so far as they relate to the electronic filing of returns and electronic payment of tax, or any amount payable under this Act, shall *mutatis mutandis* apply for the purposes of this Act." Mah. IX of 2005.

CHAPTER IV

AMENDMENTS TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987.

Amendment of section 3 of Mah. XLI of 1987. 8. In section 3 of the Maharashtra Tax on Luxuries Act, 1987 (hereinafter, in this Chapter, referred to as "the Luxuries Tax Act"), in sub-section (2), for clauses (a) and (b), the following clauses shall be substituted, namely :— Mah. XLI of 1987.

"(a) Where the charge for luxury provided in a hotel is not exceeding rupees seven hundred and fifty per day, per residential accommodation. Nil

(b) Where the charge for luxury provided in a hotel exceeding rupees seven hundred and fifty but does not exceed rupees twelve hundred per day, per residential accommodation. 4 per centum of such turnover of receipts."

Insertion of section 12A in Mah. XLI of 1987. 9. After section 12 of the Luxuries Tax Act, the following section shall be inserted, namely :—

Application of certain provisions of rules made under Maharashtra Value Added Tax Act, 2002. "12A. Subject to the provisions of this Act and the rules made thereunder in this behalf, the provisions of the rules made under the provisions of the Maharashtra Value Added Tax Act, 2002, so far as they relate to the electronic filing of returns or electronic payment of tax or any amount payable under this Act shall *mutatis mutandis* apply for the purposes of this Act." Mah. IX of 2005.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Mah. IX of 2005. 10. In section 18 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), in sub-section (1), after clause (f), the following clauses shall be added, namely :—

Amendment of section 18 of Mah. IX of 2005.

- "(g) undertakes any change in the nature of business, or
(h) effects any changes in the Bank account,"

11. In section 20 of the Value Added Tax Act, in sub-section (4), in clause (b), for the word "after" the word "before" shall be substituted.

Amendment of section 20 of Mah. IX of 2005.

12. In section 23 of the Value Added Tax Act, in sub-section (5), —
(a) in clause (a), for the portion beginning with the words "During the course" and ending with the words "to be evaded" the following portion shall be substituted, namely :—

Amendment of section 23 of Mah. IX of 2005.

"During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess set-off has been claimed by any dealer or person";

(b) in clause (d), after the proviso, the following *Explanation* shall be added, namely :—

"*Explanation.*—For the purposes of this sub-section, "prescribed authority", "the said authority", "such authority" and "any authority" shall mean the Commissioner or, as the case may be, the authorities appointed under section 10 and other officers or persons to whom the Commissioner has delegated his powers in this behalf."

13. In section 29 of the Value Added Tax Act,—

Amendment of section 29 of Mah. IX of 2005.

(a) in sub-section (6), for the words "one hundred rupees" the words "one thousand rupees" shall be substituted ;

(b) in sub-section (7), for the words "one thousand rupees" the words "five thousand rupees" shall be substituted ;

(c) in sub-section (11), for the words "five years" the words "eight years" shall be substituted.

Amendment
of section
42 of Mah.
IX of 2005.

14. In section 42 of the Value Added Tax Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2010, namely :—

“(3A) The State Government may, by notification published in the *Official Gazette*,—

(a) provide a scheme of composition for the registered dealers who undertake the construction of flats, dwellings or buildings or premises and transfer them in pursuance of an agreement along with the land or interest underlying the land;

(b) prescribe the rate of tax by way of composition, in lieu of the amount of tax payable on the transfer of goods (whether as goods or in some other form), in the execution of such works contracts by such registered dealer under this Act.”

Amendment
of section
51 of Mah.
IX of 2005.

15. In section 51 of the Value Added Tax Act, to sub-section (1), the following proviso shall be added, namely :—

“Provided that, the Commissioner may, subject to such conditions and restrictions as may be prescribed, reduce the refund and grant only part of the refund claimed in such application.”

Amendment
of section
61 of Mah.
IX of 2005.

16. In section 61 of the Value Added Tax Act, in sub-section (1),—

(1) in clause (a), for the words “exceed or exceeds rupees forty lakh” the words “exceeds rupees sixty lakh” shall be substituted;

(2) after clause (b), the following clause shall be inserted, namely :—

“(c) if he holds an Entitlement Certificate in respect of any Package Scheme of incentives, granted under this Act or, as the case may be, under the Bombay Sales Tax Act, 1959,”

Bom.
LJ of
1959.

Amendment
of section 85
of Mah. IX
of 2005.

17. In section 85 of the Value Added Tax Act, in sub-section (2),—

(1) after clause (b-2), the following clauses shall be inserted, namely :—

“(b-3) an order passed under sub-section (2) or (4) of section 30 regarding the interest payable by the dealer under any provision of this Act, or

(b-4) an intimation issued under sub-section (7) of section 63, or”;

(2) after clause (d), the following clause shall be inserted, namely :—

“(d-1) the order passed under sub-sections (1) and (2) of section 35, or”.

18. In section 86 of the Value Added Tax Act, in sub-section (2), in clause (b), for the words "as well as the name and address of the purchasing dealer" the words "as well as the name, address and the registration certificate number of the purchasing dealer" shall be substituted.

Amendment of section 86 of Mah. IX of 2005.

19. In SCHEDULE A appended to the Value Added Tax Act,—

Amendment to SCHEDULE A of Mah. IX of 2005.

(1) in entry 4, in sub-entry (c), after the word "pulses," the words "sarki pend," shall be inserted;

(2) the existing entry 55 shall be re-numbered as sub-entry (a) thereof; and after sub-entry (a) as so re-numbered, the following sub-entries shall be added, namely:—

"(b) Camphor Nil %

(c) Dhoop including Loban Nil %";

(3) after entry 56, the following entries shall be added, namely:—

"57 Katha (catechu) Nil %

58 Handmade Laundry Soap manufactured Nil %".

by units certified by the Maharashtra State Khadi and Village Industries Board constituted under the Bombay Khadi and Village Industries Act, 1960, but excluding detergent.

Bom.
XIX of
1960.

20. In SCHEDULE B appended to the Value Added Tax Act, in entry 4, in column (2), for the words "Imitation Jewellery" the words "Hairpins, Imitation Jewellery" shall be substituted.

Amendment to SCHEDULE B of Mah. IX of 2005.

21. In SCHEDULE C appended to the Value Added Tax act,—

Amendment to SCHEDULE C of Mah. IX of 2005.

(1) in the heading, after the figure and sign "4%" the word, figure and sign "or 5%" shall be added;

(2) in entry 30, in column (2), for the words "oil cakes" the words "oil cakes excluding sarki pend" shall be substituted;

(3) in entry 44, in column (2), the words and brackets "katha (catechu)," shall be deleted;

(4) entry 51 shall be deleted;

(5) after entry 114, the following entry shall be added, namely:—

"115 Vehicles operated on Battery or Solar power. 5%".

STATEMENT OF OBJECTS AND REASONS

With a view to give effect to the proposals obtaining in the Budget Speech for the year 2010-2011, some of the important amendments which are proposed to be made in certain tax laws are explained broadly as follows :—

(a) The Bombay Motor Vehicles Tax Act, 1958 is being amended to provide for levy and collection of one time tax on all motor vehicles (including tricycles) plying for hire or reward and fitted with fare meters and used for carriage of not more than six passengers.

(b) The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 is being amended to make a provision of,—

(i) audit of the establishment of an employer on the lines of the provisions of section 22 of the Maharashtra Value Added Tax Act, 2002;

(ii) electronic filing of returns and electronic payment of tax or any amount payable under this Act on the lines of the provisions of the rules made under the Maharashtra Value Added Tax Act, 2002.

(c) The Maharashtra Tax on Luxuries Act, 1987 is being amended,—

(i) to provide for relief from payment of luxury tax to small hotels charging rent upto seven hundred and fifty rupees;

(ii) to provide for electronic filing of returns and electronic payment of tax or any amount payable on the lines of the provisions of the rules made under the provisions of the Maharashtra Value Added Tax Act, 2002.

(d) The Maharashtra Value Added Tax Act, 2002 is being amended,—

(i) to expand the provisions relating to the transactionwise assessment;

(ii) to enhance the amount of penalty for non-issuance of Sales Bill and on account of failure to comply with the notices;

(iii) to provide for a simplified composition scheme to certain classes of registered dealers who are engaged in the construction of flats, dwellings or buildings or premises and transfer them in pursuance of an agreement;

(iv) to provide that every selling dealer shall state in the Tax Invoice, the registration certificate number of the purchasing dealer;

(v) to provide for reduction in the amount of the refund under certain contingencies;

(vi) to enhance the turnover limit for audit under section 61 from rupees forty lakhs to rupees sixty lakhs;

(vii) to make provisions regarding certain orders to be non-appealable; and

(viii) exempt or reduce the tax on certain goods.

2. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 9th April 2010.

SUNIL TATKARE,
Minister for Finance.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 14.— Under this clause, which seeks to insert sub-section (3A) in section 42 of the Maharashtra Value Added Tax Act, 2002, under which the power is taken to the State Government by notification published in the *Official Gazette*, to provide a scheme of composition for the registered dealers who undertake the construction of flats, dwellings or buildings or premises and transfer them in pursuance of an agreement along with the land or interest underlying the land ; and to prescribe the rate of tax by way of composition, in lieu of the amount of tax payable on the transfer of goods (whether as goods or in some other form), in the execution of such works contracts by such registered dealer under the Act.

Clause 15.— Under this clause, which seeks add the proviso to section 51 of the Maharashtra Value Added Tax Act, 2002, under which the power is taken to the State Government to prescribe the conditions and restrictions under which the Commissioner may reduce the refund and grant only the part of the refund claimed in the application.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF
THE CONSTITUTION OF INDIA

(Copy of Government of Maharashtra Order, Law and
Judiciary Department)

In exercise of the power conferred upon him by clause (1) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the consideration of the Maharashtra Tax Laws (Levy and Amendment) Bill, 2010.

Vidhan Bhavan :
Mumbai,

Dated the 9th April 2010.

ANANT KALSE,
Principal Secretary,

Maharashtra Legislative Assembly.