



The Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2006

Act 32 of 2006

Keyword(s):

Tax, Tribunal, Trades, Tax Officer

Amendments appended: 17 of 2009, 12 of 2010, 15 of 2011, 8 of 2012, 27 of 2014, 17 of 2015, 31 of 2017

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महाराष्ट्र शासन राजपत्र

असाधारण
प्राधिकृत प्रकाशन

शनिवार, ऑगस्ट ५, २००६/श्रावण १४, शके १९२८

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2006 (Mah. Act No. XXXII of 2006), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

A. M. SHINDEKAR,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No XXXII OF 2006.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 5th August 2006)

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

WHEREAS both Houses of the State Legislature were not in session ;

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend certain tax laws in operation in the State of Maharashtra, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Tax Laws (Levy, Amendment and Validation) Ordinance, 2006 on the 20th June 2006 ;

Mah.
Ord. VI
of 2006.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

- Short title and commencement. 1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2006.
- (2) It shall be deemed to have come into force on the 20th June 2006.

CHAPTER II

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

- Amendment of section 2 of Mah. XVI of 1975. 2. In section 2 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (hereinafter, in this Chapter, referred to as "the Profession Tax Act"), for clause (j), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

Mah.
XVI
of
1975.

"(j) "Tribunal" means the Maharashtra Sales Tax Tribunal constituted under section 11 of the Maharashtra Value Added Tax Act, 2002 and discharging the functions of the Tribunal assigned to it by or under this Act ;".

Mah.
IX
of
2005.

- Amendment of section 3 of Mah. XVI of 1975. 3. In section 3 of the Profession Tax Act, in sub-section (2), in the second proviso, for the word and figures "entry 23" the word and figures "entry 21" shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2006.

- Amendment of section 6 of Mah. XVI of 1975. 4. In section 6 of the Profession Tax Act, in sub-section (1), the following proviso shall be added, namely :—

"Provided that, the Commissioner may, subject to such terms and conditions, as may be prescribed, permit any employer to file separate returns,—

(a) for all or any of the places of business of the employer, whether or not situated within the jurisdiction of the same registering authority, or

(b) for different constituents of his business,

to such authority as he may direct."

- Amendment of section 8 of Mah. XVI of 1975. 5. In section 8 of the Profession Tax Act, after sub-section (3), the following sub-section shall be added, namely :—

"(4)(a) A registered employer furnishing returns as required by sub-section (1) of section 6 shall first pay into the Government Treasury, the amount of tax due from him for the period covered by a return alongwith the amount of interest payable by him under section 9 of the Act in such manner and at such intervals as may be prescribed.

(b) The amount of tax assessed under section 7 or found due under section 14 or 15 in respect of any period less any sum already paid by the employer or person in respect of such period shall be paid by the employer or person liable therefor into the Government Treasury within fifteen days from the date of service of notice of demand issued by the Commissioner in respect thereof :

Provided that, the Commissioner may, in respect of any particular employer or person and for reasons to be recorded in writing, allow him to pay tax, penalty or interest, if any, by installment, but such grant of installments to pay tax shall be without prejudice to levy of penalty or interest or both."

6. In section 11A of the Profession Tax Act, in sub-section (1),—

Amendment of section 11A of Mah. XVI of 1975.

(a) in clause (iii), for the words " the Deputy Commissioner " the words " the Joint Commissioner " shall be substituted ;

(b) in clause (iv), for the words " the Assistant Commissioner " the words " the Deputy Commissioner " shall be substituted ;

(c) in clause (v), for the words " the Profession Tax Officer " the words " the Assistant Commissioner of Profession Tax and the Profession Tax Officer " shall be substituted.

7. In section 12 of the Profession Tax Act,—

Amendment of section 12 of Mah. XVI of 1975.

(a) in sub-section (1),—

(i) in clause (a), for sub-clause (iii), the following sub-clause shall be substituted, namely :—

" (iii) such number of Joint Commissioners of Profession Tax, Deputy Commissioners of Profession Tax, Assistant Commissioners of Profession Tax, Profession Tax Officers and other officers and persons (with such designation) as the State Government thinks necessary. " ;

(ii) for clause (b), the following clause shall be substituted, namely :—

" (b) Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Profession Tax Officers shall within the limit of such area as the Commissioner may specify by notification in the *Official Gazette*, to be within their jurisdiction, exercise such powers and perform such duties of the Commissioner under this Act, as the Commissioner may, from time to time, by notification published in the *Official Gazette*, delegate to them either generally or as respects any particular matter or class of matters." ;

(b) in sub-section (2), for the words and figures " The Tribunal constituted under section 21 of the Bombay Sales Tax Act, 1959 " the words and figures " The Tribunal constituted under section 11 of the Maharashtra Value Added Tax Act, 2002 " shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005.

Bom. LI of 1959. Mah. IX of 2005.

Amendment
of section
13 of Mah.
XVI of
1975.

8. In section 13 of the Profession Tax Act, in sub-section (1),—

(a) in clause (a), for the words “the Assistant Commissioner” the words “the Deputy Commissioner” shall be substituted ;

(b) for clause (b), the following clause shall be substituted, namely :—

“(b) the Joint Commissioner, if the order is passed by the Deputy Commissioner ; and” ;

(c) in clause (c), for the words “Deputy Commissioner” the words “Joint Commissioner” shall be substituted.

Amendment
of section
14 of Mah.
XVI of
1975.

9. In section 14 of the Profession Tax Act,—

(a) in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely :—

“(a) the Joint Commissioner, if the order is passed by the Deputy Commissioner ;” ;

(ii) in clause (b), for the words “Deputy Commissioner” the words “Joint Commissioner” shall be substituted ;

(b) in sub-section (2), for the words “Deputy Commissioner” the words “Joint Commissioner” shall be substituted.

Amendment
of section
18 of Mah.
XVI of
1975.

10. In section 18 of the Profession Tax Act,—

(a) for the words “Any authority under this Act” the words “The Commissioner” shall be substituted ;

(b) in the proviso, for the words “the said authority” the words “the Commissioner” shall be substituted.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987.

Amendment
of section
2 of Mah.
XLI of
1987.

11. In section 2 of the Maharashtra Tax on Luxuries Act, 1987 (hereinafter, in this Chapter, referred to as “the Luxuries Tax Act”),—

Mah.
XLI of
1987.

(a) in clause (b), sub-clauses (iii), (iv) and (v) shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(b) in clause (k), sub-clauses (ii) and (iii) shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(c) for clause (l), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 20th January 2005, namely :—

“(l) “registered hotelier” means a hotelier registered under section 8 of this Act ;” ;

(d) clause (n-1) shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(e) in clause (o), the words “ and tax levied by way of cess on other facilities, services, enjoyments, utilities, consumption, etc. ” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(f) clauses (o-1A), (o-1B), (o-1) and (o-2) shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(g) in clause (p), sub-clauses (ii) and (iii) shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(h) in clause (q), in sub-clause (ii), the words “ the registered textile trader or, as the case may be, registered tobacconist ” ; and the words “ the textile trader or tobacconist ”, shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

12. In section 3 of the Luxuries Tax Act, in sub-section (6), for the words and figures “ Bombay Sales Tax Act, 1959 ” the words and figures “ Maharashtra Value Added Tax Act, 2002 ” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005.

Bom. LI of 1959. Mah. IX of 2005. Amendment of section 3 of Mah. XLI of 1987.

13. Sections 3A, 3B, 3C, 3D, 3E, 3F and 3G of the Luxuries Tax Act shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Deletion of sections 3A, 3B, 3C, 3D, 3E, 3F and 3G of Mah. XLI of 1987.

14. In section 4 of the Luxuries Tax Act,—

(a) in sub-section (1), the words “every textile trader and every tobacconist” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(b) in the marginal note, the words “ textile trader and tobacconist ” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Amendment of section 4 of Mah. XLI of 1987.

15. Sections 4A and 4B of the Luxuries Tax Act shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Deletion of sections 4A and 4B of Mah. XLI of 1987.

16. In section 5 of the Luxuries Tax Act, in the marginal note, the words “ textile trader and tobacconist ” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Amendment of section 5 of Mah. XLI of 1987.

Amendment
of section 7
of Mah.
XLI of 1987.

17. In section 7 of the Luxuries Tax Act, in sub-section (1), in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely :—

“(ii) such number of Joint Commissioners of Luxury Tax, Senior Deputy Commissioners of Luxury Tax, Deputy Commissioners of Luxury Tax, Assistant Commissioners of Luxury Tax and Luxury Tax Officers and other Officers and persons with such designation as it thinks necessary.”

Amendment
of section 8
of Mah.
XLI of 1987.

18. In section 8 of the Luxuries Tax Act,—

(a) in sub-section (1),—

(i) the words “or tobacconist” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(ii) in the proviso, the words “or, as the case may be, tobacconist” ; and the words “or the tobacconist” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(b) in sub-section (2), the words “and every tobacconist” ; and the words “or, as the case may be, tobacconist” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005 ;

(c) in sub-section (5), the words “or tobacconist” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005;

(d) in sub-section (6),—

(i) the words “or, as the case may be, registered tobacconist” ; and the words “or tobacconist” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005;

(ii) in the proviso, the words “or tobacconist”, in both the places where they occur, shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Insertion of
section 8A
in Mah. XLI
of 1987.

19. After section 8 of the Luxuries Tax Act, the following section shall be inserted, namely :—

Fresh
registration
certificate.

“8A. (1) Every registered hotelier who holds, on such date as the Commissioner may by notification in the *Official Gazette*, specify, a certificate of registration, which is valid on the said date (hereinafter, in this section, referred to as “the existing certificate of registration”), shall obtain, in lieu of the existing certificate of registration, a fresh certificate of registration as provided in this section.

(2) Every hotelier, who is required to obtain a fresh certificate under sub-section (1), shall apply in such form, manner and time and to such authority, as may be prescribed; and such application shall be accompanied by the existing certificate of registration together with all additional copies thereof, if any, issued to him.

(3) On receipt of such application, the prescribed authority shall, subject to the rules, issue a fresh certificate of registration, in the prescribed form to the applicant; and thereupon the fresh certificate of registration, so issued, shall, for all the purposes of the Act, be deemed to be a certificate of registration issued under section 8.

(4) Without prejudice to the other provisions of this Act, all the existing certificates of registration shall stand cancelled with effect from such date as the Commissioner may notify in the *Official Gazette*.

(5) The Commissioner may, by the notification issued under sub-section (1) or (4), also provide that such notification shall apply only to such class of registered dealers as are specified in the said notification and such notification may be issued by him, from time to time.

(6) The provisions of this section shall *mutatis mutandis* apply in respect of any other certificate issued by or under the provisions of this Act as they apply in respect of the certificate of registration.”

20. Section 15A of the Luxuries Tax Act shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Deletion of section 15A of Mah. XLI of 1987.

21. In section 20 of the Luxuries Tax Act, in sub-section (1),—

Amendment of section 20 of Mah. XLI of 1987.

(a) in clause (iii), for the words “the Deputy Commissioner of Luxury Tax” the words “the Joint Commissioner of Luxury Tax” shall be substituted;

(b) in clause (iv), for the words “the Assistant Commissioner of Luxury Tax” the words “the Deputy Commissioner of Luxury Tax” shall be substituted;

(c) in clause (v), for the words “Luxury Tax Officer” the words “Assistant Commissioner of Luxury Tax and Luxury Tax Officer” shall be substituted.

22. Section 23A of the Luxuries Tax Act shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Deletion of section 23A of Mah. XLI of 1987.

23. In section 24A of the Luxuries Tax Act,—

Amendment of section 24A of Mah. XLI of 1987.

(a) for the words “registered tobacconist, hotelier or, as the case may be, textile trader” the words “registered hotelier” shall be substituted and shall be deemed to have been substituted with effect from the 20th January 2005 ;

(b) for the words “tobacconist, hotelier or, as the case may be, the textile trader” the word “hotelier” shall be substituted and shall be deemed to have been substituted with effect from the 20th January 2005.

24. In section 31 of the Luxuries Tax Act, including in the marginal note, the words “and tobacconist” shall be deleted and shall be deemed to have been deleted with effect from the 20th January 2005.

Amendment of section 31 of Mah. XLI of 1987.

Amendment
of section
36 of Mah.
XLI of
1987.

25. In section 36 of the Luxuries Tax Act, in sub-section (1),—

(a) for clauses (a), (b) and (c), the following clauses shall be substituted, namely :—

“(a) if the order is made by the Assistant Commissioner of Luxury Tax, or Luxury Tax Officer, or any other officer subordinate to him, to the Deputy Commissioner ;

(b) if the order is made by the Deputy Commissioner, to the Joint Commissioner;

(c) if the order is made by the Joint Commissioner, to the Commissioner.”;

(b) in sub-section (2), for the words “ an Assistant Commissioner or by a Deputy Commissioner,” the words “ the Deputy Commissioner or by Joint Commissioner,” shall be substituted.

Amendment
of section
48 of Mah.
XLI of 1987.

26. In section 48 of the Luxuries Tax Act,—

(a) in sub-section (2), for the words “ Deputy Commissioner” the words “Joint Commissioner” shall be substituted ;

(b) in sub-section (5), for the words “Deputy Commissioner” the words “ Joint Commissioner” shall be substituted.

CHAPTER IV

AMENDMENTS TO THE MAHARASHTRA TAX ON ENTRY OF MOTOR VEHICLES INTO LOCAL AREAS ACT, 1987.

Amendment
of section 2
of Mah.
XLII of
1987.

27. In section 2 of the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 (hereinafter, in this Chapter, referred to as “ the Motor Vehicles Entry Tax Act ”),—

Mah.
XLII
of
1987.

(a) in sub-section (1),—

(i) in clause (c), for the words and figures “ section 21 of the Bombay Sales Tax Act ” the words and figures “ section 11 of the Maharashtra Value Added Tax Act ” shall be substituted ;

(ii) for clause (e), the following clause shall be substituted, namely :—

“(e) “ Maharashtra Value Added Tax Act ” means the Maharashtra Value Added Tax Act, 2002 ;”;

Mah.
IX of
2005.

(iii) in clause (i), for the words, brackets and figures “ clause (18) of section 2 of the Motor Vehicles Act, 1939 ” the words, brackets and figures “ clause (28) of section 2 of the Motor Vehicles Act, 1988 ” shall be substituted ;

4 of
1939.
59 of
1988.

(iv) in clause (l), for the words "insurance, excise duties, countervailing duties, transport fee, freight charges and all other charges incidentally levied on the purchase of a motor vehicle" the words "excise and countervailing duties" shall be substituted and shall be deemed to have been substituted with effect from the 1st January 2006;

(b) in sub-section (2), for the words "Bombay Sales Tax Act" the words "Maharashtra Value Added Tax Act" shall be substituted.

28. In section 3 of the Motor Vehicles Entry Tax Act, in sub-section (1),—

4 of
1939.
59 of
1988.

(a) for the words and figures "Motor Vehicles Act, 1939", in both the places where they occur, the words and figures "Motor Vehicles Act, 1988" shall be substituted;

Amendment
of section 3
of Mah. XLII
of 1987.

(b) for the words "Bombay Sales Tax Act" the words "Maharashtra Value Added Tax Act" shall be substituted.

29. In section 4 of the Motor Vehicles Entry Tax Act, sub-section (1) shall be deleted and shall be deemed to have been deleted with effect from the 1st April 2005.

Amendment
of section 4
of Mah. XLII
of 1987.

30. For section 5 of the Motor Vehicles Entry Tax Act, the following section shall be substituted and shall be deemed always to have been substituted, namely :—

Substitution
of section
5 of Mah.
XLII of
1987.

"5. (1) The officer appointed by the State Government to be the Commissioner of Sales Tax may, from time to time, by notification in the *Official Gazette*, appoint such officers to be the assessing officers, revising officers and appellate officers for the purposes of this Act and may assign to them jurisdiction over the whole of the State or such local area or areas as may be specified in the notification.

Assessing,
appellate
and
revising
authorities.

(2) No order passed by any of the aforesaid officers before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act 2006, shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that the said notification was issued after the passing of the said order."

Mah.
XXXII
of
2006.

31. Section 6 of the Motor Vehicles Entry Tax Act, shall be deleted and shall be deemed to have been deleted with effect from the 1st April 2006.

Deletion of
section 6 of
Mah. XLII
of 1987.

32. After section 9A of the Motor Vehicles Entry Tax Act the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2006, namely :—

Insertion of
section 9B
in Mah.
XLII of
1987.

"9B. The revising authority may either on the basis of information received or on its own motion call for and examine the record of any order passed including an order passed in appeal and pass such order thereon as it thinks just and proper within five years from the date of the order to be revised."

Examination
of records.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA TAX ON ENTRY OF GOODS
INTO LOCAL AREAS ACT, 2002.

Amendment
of section 2
of Mah. IV
of 2003.

33. In section 2 of the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 (hereinafter, in this Chapter, referred to as "the Entry Tax on Goods Act"),—

Mah.
IV of
2003.

(1) in sub-section (1),—

(a) in clause (a),—

(i) in sub-clause (i), for the words "the assessing authority under the Sales Tax Act;" the words "the registering authority under the Value Added Tax Act;" shall be substituted;

(ii) in sub-clause (ii), for the words "the assessing authority under the Sales Tax Act;" the words "the registering authority under the Value Added Tax Act;" shall be substituted;

(b) clause (j) shall be deleted;

(c) after clause (m), the following clause shall be inserted, namely :—

"(m-1) "Value Added Tax Act" means the Maharashtra Value Added Tax Act, 2002 and includes the Maharashtra Value Added Tax Rules, 2005 ;"

Mah.
IX of
2005.

(2) in sub-section (2), for the words and figures "Sales Tax Act or the Bombay Sales Tax Rules, 1959" the words and figures "the Value Added Tax Act or the Maharashtra Value Added Tax Rules, 2005" shall be substituted.

Amendment
of section 3
of Mah. IV
of 2003.

34. In section 3 of the Entry Tax on Goods Act,—

(a) in sub-section (1), in the first proviso, for the words and figures "Sales Tax Act, the Bombay Sales of Motor Spirit Taxation Act, 1958" the words "the Value Added Tax Act" shall be substituted;

Bom.
LXVI
of 1958.

(b) in sub-section (5), for the words "Sales Tax Act" the words "the Value Added Tax Act" shall be substituted.

Amendment
of section 6
of Mah. IV
of 2003.

35. In section 6 of the Entry Tax on Goods Act,—

(1) in sub-section (1),—

(a) for the word "re-assess," in both the places where it occurs, the word "review," shall be substituted;

(b) for the words "Sales Tax Act", in both the places where they occur, the words "Value Added Tax Act" shall be substituted;

(c) for the words "re-assessment, revisions," the word "review," shall be substituted;

(2) in sub-section (2),—

(a) for the word "re-assessment," in both the places where it occurs, the word "review," shall be substituted;

(b) for the words "Sales Tax Act" the words "Value Added Tax Act" shall be substituted.

36. For the Schedule appended to the Entry Tax on Goods Act, the following Schedule shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely:—

Substitution of Schedule of Mah. IV of 2003.

"SCHEDULE

[See section 2 (1) (h) and 3(1)]

Sr. No.	Description of goods	Rate of tax
(1)	(2)	(3)
1	High Speed Diesel Oil,— (a) imported into local area of the Municipal Corporations of the Brihan Mumbai, Thane and Navi Mumbai ; and (b) imported into local area other than mentioned in clause (a) above.	34% + one rupee per litre. 31% + one rupee per litre.
2	Aviation Turbine Fuel (Duty paid) (other than that covered by entry 3).	25%
3	Aviation Turbine Fuel (Bonded)	30%
4	Aviation Gasoline (Duty paid)	10%
5	Aviation Gasoline (Bonded)	24%
6	Any other kind of motor spirit,— (a) imported into local area of the Municipal Corporations of the Brihan Mumbai, Thane and Navi Mumbai ; and (b) imported into local area other than mentioned in clause (a) above.	30% + one rupee per litre. 29% + one rupee per litre.
7	Bitumen	12.5%
8	Light diesel oil	-- do --
9	Naphtha	-- do --
10	Low Sulpher Heavy stock	-- do --
11	Kerosene non-PDS	-- do --
12	Furnace Oil including heavy furnace oil and residual furnace oil.	-- do --

CHAPTER VI

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment
of section 2
of Mah. IX
of 2005.

37. In section 2 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"),— Mah.
IX of
2005.

(a) after clause (3), the following clause shall be inserted, namely :—

"(3-a) "brand name" when used in the Schedule means a brand name, (whether registered or not), that is to say, a name or a mark such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and some person using such name or mark with or without any indication of the identity of that person ;"

(b) in clause (20), after *Explanation III*, the following *Explanation* shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely :—

"*Explanation IV*.—The amount of valuable consideration paid or payable by a dealer for the purchase of drugs specified in entry 29 of Schedule C shall be the maximum retail price printed on the package containing the drugs ;"

(c) in clause (24), in the *Explanation*, in clause (b), in sub-clause (ii), for the words "works contract" the words "works contract namely, an agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any moveable or immoveable property" shall be substituted.

38. In section 3 of the Value Added Tax Act,—

(1) in sub-section (3), for the word, brackets and figure "sub-section (7)," the word "sub-section" shall be substituted ;

(2) in sub-section (4), for the word "turnover", wherever it occurs, the words "turnover of sales" shall be substituted ;

(3) in sub-section (5),—

(a) for clause (a), the following clause shall be substituted, namely,—

"(a) except as otherwise expressly provided, the turnover of all sales shall be taken, whether such sales are of taxable goods or not ;"

(b) for the word "turnover", wherever it occurs, the words "turnover of sales" shall be substituted ;

(4) sub-section (7) shall be deleted.

39. In section 8 of the Value Added Tax Act,—

Amendment
of section 8
of Mah. IX
of 2005.

(a) in sub-section (3), in the *Explanation*, after clause (d), the following clauses shall be added, namely :—

“(e) a developer of the Special Economic Zone means a developer,—

(i) undertaking development, repairs, maintenance and improvement of the Special Economic Zone, and

(ii) who has been certified by the Commissioner ;

(f) a unit includes an establishment situated within the Special Economic Zone. ” ;

(b) after sub-section (3), the following sub-sections shall be inserted, namely :—

“(3A) The State Government may, by general or special order, published in the *Official Gazette*, and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt from payment of tax any class or classes of sales of goods made by any registered dealer to any class of dealers specified in the Foreign Trade Policy notified from time to time, by the Government of India.

(3B) The State Government may, by general or special order, published in the *Official Gazette*, and subject to such conditions, exceptions and restrictions, as may be specified in the said order, exempt fully or partly, from payment of tax any class or classes of sales of goods made by,—

(a) any registered dealer to the Canteen Stores Department or the Indian Naval Canteen Services,

(b) the Canteen Stores Department or the Indian Naval Canteen Services to the unit run canteens or members of the armed forces,

(c) the unit run canteens to the members of the armed forces. ” ;

(c) after sub-section (4), the following sub-section shall be added, namely :—

“(5) The State Government may, by general or special order, published in the *Official Gazette*, and subject to such conditions and restrictions, if any, as may be specified in the said order, exempt fully or partly, from payment of tax, any sales or classes of sales of goods made by any registered dealer to,—

(a) the State Government,

(b) the Central Government,

(c) a generating company, as defined in the Electricity Act, 2003, for use in generation of electricity,

(d) a registered dealer, holding a licence for transmission under the Electricity Act, 2003, for use in transmission of electricity,

(e) a registered dealer, holding a licence for distribution of electricity under the Electricity Act, 2003, for use in distribution of electricity, 36 of 2003.

(f) the Mahanagar Telephone Nigam Limited,

(g) the Bharat Sanchar Nigam Limited,

(h) any telephone service provider, holding a licence granted under the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933, to establish, maintain and operate telephone services upto subscribers terminal connection." 13 of 1885. 17 of 1933.

Amendment
of section
16 of Mah.
IX of 2005.

40. In section 16 of the Value Added Tax Act, in sub-section (6),—

(a) the words " or the place of such business is changed to a different local area ", in both the places where they occur, shall be deleted;

(b) the *Explanation* shall be deleted.

Amendment
of section
20 of Mah.
IX of 2005.

41. In section 20 of the Value Added Tax Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) Notwithstanding anything contained in sub-section (1), the Commissioner may, subject to such terms and conditions, as may be prescribed, permit any dealer to file separate return,—

(a) for all or any of the places of business of the dealer, whether or not situated within the jurisdiction of the same registering authority, or

(b) for different constituents of his business to such authority as he may direct." ;

(b) in sub-section (4), for the words " expiry of a period of six months " the words " expiry of a period of eight months " shall be substituted ;

(c) after sub-section (4), the following sub-section shall be added, namely :—

"(5) Where a dealer is required to file a fresh return or, as the case may be, a revised return, he shall file such fresh or revised return with the authority prescribed and if any amount of tax is required to be paid in accordance with such fresh or revised return, then he shall pay such amount in the Government Treasury and attach a self attested true copy of the receipted challan with the fresh or revised return."

Amendment
of section
21 of Mah.
IX of 2005.

42. In section 21 of the Value Added Tax Act, in sub-section (3), for the words "four years" the words "six years" shall be substituted .

Amendment
of section
22 of Mah.
IX of 2005.

43. In section 22 of the Value Added Tax Act, in sub-section (3), for the words " On the appointed day or, as the case may be, at any time within the aforesaid period " the words " On or after the appointed day " shall be substituted.

44. In section 23 of the Value Added Tax Act, after sub-section (10), the following sub-sections shall be added, namely :—

Amendment
of section
23 of Mah.
IX of 2005.

“(11) Where a dealer has been assessed under sub-section (2), (3) or (4) and he makes an application in the prescribed form to the Commissioner within thirty days of the date of service of the assessment order, for cancellation of the assessment on the ground that he had not been able to attend or remain present before the Commissioner at the time of hearing when the assessment order had been passed, the Commissioner shall, after verifying that the contention of the applicant is correct and that the prescribed conditions have been fulfilled, cancel, by order in writing, the said assessment including any penalty or interest levied in relation to or in consequence of the said assessment and shall make a fresh assessment in accordance with the provisions of sub-section (2), (3) or (4), including levy of interest or penalty, as the case may be :

Provided that, only one application for cancellation shall be entertained under this sub-section in respect of any period of assessment.

(12) Notwithstanding anything contained in sub-section (2), (3) or (4), the fresh order of assessment as provided under sub-section (11) may be passed before the expiry of a period of eighteen months from the date of service of the cancellation order.”

45. In section 29 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be inserted, namely :—

Amendment
of section
29 of Mah.
IX of 2005.

“(5) Where a dealer has sold any goods and the sale is exempt, fully or partly, from payment of tax by virtue of any provision contained in sub-section (3), (3A), (3B) or (5) of section 8, and the purchaser fails to comply with the conditions or restrictions subject to which the exemption is granted, then the Commissioner may, after giving the said purchaser a reasonable opportunity of being heard, impose penalty on him equal to one and a half times the tax which would have become payable on the sale if the said exemption was not available on the said sale.”

46. In section 31 of the Value Added Tax Act,—

Amendment
of section
31 of Mah.
IX of 2005.

(a) in sub-section (1), in clause (b),—

(i) in sub-clause (i), for the brackets and the words “(excluding the amount of tax, if any, separately charged by the contractor)” the brackets and the words “(excluding the amount, if any, separately charged as tax or service tax levied by the Government of India, by the contractor)” shall be substituted;

(ii) for sub-clause (ii), the following shall be substituted, namely :—

“(ii) Where on an application being made by any contractor in this behalf, the Commissioner is satisfied that the contract under reference is not a works contract and therefore justifies no deduction at all, he shall grant him such certificate :

Provided that, the Commissioner may, after giving the contractor a reasonable opportunity of being heard, reject such application or cancel or modify such certificate :

Provided further that, nothing in the said certificate shall affect the tax liability of the contractor.”;

(b) sub-section (3) shall be deleted ;

(c) for sub-section (4), the following sub-section shall be substituted, and shall be deemed always to have been substituted, namely :—

“(4) Any amount or any sum deducted in accordance with the provisions of this section and paid to the State Government may be claimed as a payment of tax by the person making the said supply and credit for the payment may be claimed by the said person in the period in which the certificate for payment is furnished to him by the person deducting tax in accordance with the provisions of this section.”;

(d) sub-sections (8) and (10) shall be deleted.

Amendment
of section
41 of Mah.
IX of 2005.

47. In section 41 of the Value Added Tax Act, for sub-section (4), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

“(4) Subject to such conditions as it may impose, the State Government may, by notification in the *Official Gazette*, provide for exemption from the payment of full or part of the tax payable,—

(a) on the sales of motor spirits and petroleum products made by an oil company to another oil company;

(b) on sales at retail outlets of motor spirits, other than aviation turbine fuel and aviation gasoline.

Explanation.—For the purposes of this sub-section, motor spirits and petroleum products shall mean such products as the State Government may, notify from time to time, in the *Official Gazette*.”.

Amendment
of section
42 of Mah.
IX of 2005.

48. In section 42 of the Value Added Tax Act,—

(a) in sub-section (1),—

(i) in clause (b), for the words “ this section ” the words “ this sub-section ” shall be substituted;

(ii) in clause (c), after the words “ Country Liquor ” the words, brackets and figure “ except as provided in sub-section (2) ” shall be inserted ;

(b) in sub-section (2), after the words “ selling motor vehicles ”, the following shall be added, namely :—

“ or vendors selling Indian Made Foreign Liquor or Country Liquor at retail and holding licence in Form FL II appended to the Bombay Foreign Liquor Rules, 1953 or in Form CL III or in Form CL/FL/TOD/III appended to the Maharashtra Country Liquor Rules, 1973, framed under the Bombay Prohibition Act, 1949. ” ;

Bom.
XXV of
1949.

(c) for sub-section (3), the following sub-sections shall be substituted, namely :—

“ (3) Where a dealer is liable to pay tax on the sales effected by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, he may subject to such restrictions and conditions as may be prescribed, in lieu of the amount of tax payable by him under this Act, whether in respect of the entire turnover of sales effected by way of works contract or in respect of any portion of the turnover corresponding to individual works contract, pay lump-sum by way of composition,—

(a) equal to five per cent. of the total contract value of the works contract in the case of a construction contract, and

(b) eight per cent. of the total contract value of the works contract in any other case,

after deducting from the total contract value of the works contract, the amount payable towards sub-contract involving goods to a registered sub-contractor.

Explanation.—For the purposes of this sub-section,—

(i) " construction contract " shall mean construction contract as may be notified by the State Government in the *Official Gazette*, from time to time, and

(ii) " the amount payable towards sub-contract involving goods " means the aggregate value of the goods on which tax is paid and the quantum of said tax paid by the sub-contractor or the sub-contract value on which tax by way of composition is paid by the sub-contractor, as the case may be.

(4) Where a dealer is liable to pay tax on sales effected by way of the transfer of the right to use *mandap* or tarpaulin (whether or not for a specified period), then he may, subject to such conditions and restrictions, as may be prescribed, pay in lieu of the amount of tax payable by him a sum equal to one and half per cent. of the turnover of sales effected by him.

Explanation.—For the purposes of this sub-section, the transfer of the right to use *mandap* includes the transfer of the right to use *mandap*, *pandal*, *shamiana* or the decoration of such *mandap*, *pandal* or *shamiana* and the transfer of the right to use furniture, fixtures, lights and light fittings, floor coverings, utensils and other articles ordinarily used alongwith a *mandap*, *pandal* or *shamiana*.”

49. In section 50 of the Value Added Tax Act,—

(a) in sub-section (1), for the words “ the Commissioner shall refund ” the words “ the Commissioner shall, by order refund ” shall be substituted ;

(b) for sub-section (2), the following shall be substituted, namely :—

“ (2) If a registered dealer has filed any returns, fresh returns or revised returns in respect of any period contained in any year and any amount is refundable to the said dealer according to the return,

Amendment
of section
50 of Mah.
IX of 2005.

fresh return or revised return, then subject to rules, the dealer may adjust such refund against the amount due as per any return, fresh return or revised return for any subsequent period contained in the said year, filed under this Act or the Central Sales Tax Act, 1956 or the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002.”

74 of
1956.
Mah. IV
of 2003.

Substitution
of section 51
of Mah. IX of
2005.

Grant of
refunds.

50. For section 51 of the Value Added Tax Act, the following shall be substituted, namely :—

“51. (1) Where a registered dealer has in any return, fresh return or revised return shown any amount to be refundable and has not undertaken to adjust such amount against the amount due as per any subsequent return in accordance with section 50, the Commissioner shall, on an application made by the dealer and subject to rules, and the other provisions of this Act, grant refund of such amount to the said dealer.

(2) (a) The Commissioner shall, grant the dealer refund of the amount claimed refundable as aforesaid within six months of the end of the year to which the return, fresh return or revised return relates and the refund relating to all the periods contained in one year may be granted by a single order :

Provided that, where the return, fresh return or, as the case may be, revised return is filed after the date prescribed for filing the last return of the said year, then the period of six months shall be counted from the date of filing of the said return, fresh return or revised return.

(b) Notwithstanding anything contained in clause (a), where a dealer has obtained a registration certificate as provided under this Act, then the refund in respect of the returns, fresh returns or revised returns in respect of the year containing the date of effect of registration shall be granted within six months of the end of the year succeeding the said year :

Provided that, the said dealer may apply in the prescribed form to the Commissioner at any time after the end of the year to which the refund relates for grant of the said refund and the Commissioner may subject to rules including rules relating to bank guarantees grant such refund:

Provided further that, where the return, fresh return or, as the case may be, revised return is filed at any time after the date prescribed for filing the last return of the said year, then the refund shall be granted within eighteen months of the date of filing of the return, fresh return or revised return.

(3) (a) Notwithstanding anything contained in sub-section (2), if a dealer is,—

(i) an exporter within the meaning of sub-section (1) or sub-section (3) of section 5 of the Central Sales Tax Act, 1956 ; or

(ii) a unit specified in the *Explanation* to sub-section (3) of section 8 ; or

74 of
1956.

(iii) a holder of a Certificate of Entitlement under any Package Scheme of Incentives except the New Package Scheme of Incentives for Tourism Projects, 1999,

then he may apply in the prescribed form to the Commissioner after filing the return for grant of refund relating to the period covered by a return, fresh return or revised return.

(b) The Commissioner, within one month of the receipt of the said application,—

(i) may require the dealer to furnish such bank guarantees for such amounts from such banks, for such periods and to such authorities as may be prescribed; and

(ii) may call for such additional information as he may think necessary.

(4) Where in any period covered by a return, the dealer has made a sale in the course of inter-State trade or commerce and in the return, fresh return or revised return filed in respect of the said period, he has shown any amount to be refundable, then he may apply in the prescribed form to the Commissioner, after filing the return as may be due, for grant of refund relating to the period covered by the return, fresh return or revised return. He shall furnish a bank guarantee on or after making the said application for such amount, from such banks, for such periods and to such authorities as may be prescribed.

(5) The Commissioner shall, within one month of the receipt of bank guarantee, where it is required to be furnished under sub-section (2), (3) or (4), grant the dealer a refund of the amount claimed as refundable in the return.

Where the Commissioner has not required the dealer to furnish a bank guarantee or in any case, the Commissioner has called for additional information, then the Commissioner shall grant the dealer a refund of the amount found due. The refund shall be granted within a period of three months from the date of receipt of the application or, as the case may be, the date of receipt of the additional information whichever is later.

(6) (a) If before the grant of refund under this section, a notice for assessment covering the period to which the return relates is issued or if any proceedings under sub-section (3) or sub-section (4) of section 64 are initiated in respect of the period to which the return relates, then,—

(i) if the dealer has not furnished a bank guarantee then no refund under this section shall be granted ; and

(ii) if the dealer has furnished a bank guarantee then an amount equal to the guaranteed amount shall be refunded.

(b) If it is found as a result of any order passed under this Act that the refund granted under this section is in excess of the refund, if any, determined as per the said order, then the excess amount shall be recovered as if it is an amount of tax due from the dealer and the dealer shall be liable to pay simple interest at the prescribed rate per month or part thereof from the date of the grant of refund.

(7) No refund under this section shall be granted unless an application as provided is made and no application under this section shall be entertained unless it is made within three years from the end of the year containing the period to which the return relates.”

Amendment of section 52 of Mah. IX of 2005. **51.** In section 52 of the Value Added Tax Act, in the proviso, the word “provisional” shall be deleted.

Amendment of section 53 of Mah. IX of 2005. **52.** In section 53 of the Value Added Tax Act, in sub-section (1), for the portion beginning with the words “Where an amount required to be refunded” and ending with the words “date of the refund :”, the following shall be substituted, namely :—

“Where an amount required to be refunded by the Commissioner to any person, by virtue of the provisions contained in section 51 or by virtue of an order passed under any other provision of this Act, is not so refunded to him within ninety days of the end of the respective period provided in section 51 or, as the case may be, of the date of the said order, the Commissioner shall pay such person simple interest at the prescribed rate on the said amount from the date immediately following the expiry of the period of ninety days to the date of the refund :”

Amendment of section 86 of Mah. IX of 2005. **53.** In section 86 of the Value Added Tax Act, for sub-section (5), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

“(5) Any dealer may apply to the Commissioner to permit him to maintain the records of the bills or cash memorandum on such electronic system as may be approved by the Commissioner. On such permission being granted, the dealer shall stand exempted for the purposes of sub-section (3) regarding keeping counterfoils or duplicates of the said bills or cash memoranda and of signing the bill or cash memorandum.”

Amendment of section 96 of Mah. IX of 2005. **54.** In section 96 of the Value Added Tax Act, in sub-section (1), for clause (g), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

“(g) where a dealer registered under the Maharashtra Sales Tax on Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989, is liable to pay tax under this Act,

Mah.
XXXVI
of
1989.

Mah.
XXXVI
of
1989.

and has at any time prior to the appointed day entered into any works contract and the execution of the said works contract has started before the appointed day and has continued thereafter, then such dealer shall pay tax in respect of the said contract in accordance with the provisions of the Maharashtra Sales Tax on Transfer of Property in Goods involved in the Execution of Works Contract (Re-enacted) Act, 1989, without however claiming set-off on the purchases corresponding to the contract effected on or after the appointed day to which he would have been entitled under the provisions of this Act.”.

CHAPTER VII

VALIDATION AND SAVINGS

55. (1) Notwithstanding anything contained in any judgement, decree or order of any Court or Tribunal to the contrary, any assessment, re-assessment, levy or collection of tax in respect of sales or purchases effected by any dealer or person, engagement by any person in a profession, trade or calling, provision by a hotelier of luxuries made or purporting to have been made or entry effected by any importer or any action taken or thing done in relation to such assessment, re-assessment, levy or collection under the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Tax on Luxuries Act, 1987, the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002, before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2006 (hereinafter, in this Chapter, referred as “ the Amendment Act ”), shall be deemed to be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been duly made, taken or done under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Tax on Luxuries Act, 1987, the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002, as amended by the Amendment Act, and accordingly,—

Validation
and
savings.

Mah.
XVI
of 1975.

Mah.
XLI
of 1987.

Mah.
XLII
of 1987.

Mah. IV
of
2003.

Mah. IX
of 2005.

Mah.
XXXII
of
2006.

Mah.
XVI
of
1975.

Mah.
XLI
of
1987.

Mah.
XLII
of
1987.

Mah.
IV
of
2003.

Mah.
IX
of
2005.

(a) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, re-assessment, levy or collection of any such tax, shall for all purposes be deemed to be, and to have always been done or taken in accordance with law ;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid ; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Tax on Luxuries Act, 1987, the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002, as amended by the Amendment Act, any assessment, re-assessment, levy or collection of tax referred to in sub-section (1), or

Mah.
XVI
of 1975.
Mah.
XLI
of 1987.
Mah.
XLII
of 1987.
Mah. IV
of 2003.
Mah. IX
of 2005.

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, Maharashtra Tax on Luxuries Act, 1987, the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002, as amended by the Amendment Act.

Mah.
XVI
of 1975.
Mah.
XLI
of 1987.
Mah.
XLII
of 1987.
Mah. IV
of 2003.
Mah. IX
of 2005.

(3) Nothing in the Amendment Act shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act, if such act or omission was not an offence under the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Tax on Luxuries Act, 1987, the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002, but for the amendments made by the Amendment Act; nor shall any person in respect of such act or omission be subject to a penalty greater than that which could have been inflicted on him under the law in force immediately before the commencement of the Amendment Act.

Mah.
XVI
of 1975.
Mah. XLI
of 1987.
Mah.
XLII
of 1987.
Mah. IV
of 2003.
Mah. IX
of 2005.

Repeal of
Mah. Ord.
VI of 2006
and saving.

56. (1) The Maharashtra Tax Laws (Levy, Amendment and Validation) Ordinance, 2006 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the relevant tax laws as amended by the said Ordinance (including any notification or order issued), shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the relevant tax laws, as amended by this Act.

Mah.
Ord.
VI of
2006.



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष १, अंक २५]

शनिवार, जून २७, २००९/आषाढ ६, शके १९३१

[पृष्ठे १२, किंमत : रुपये २०.००

असाधारण क्रमांक ४९

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2009 (Mah. Act No. XVII of 2009), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra.

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT NO. XVII OF 2009.

(First published, after having received the assent of the Governor, in the "Maharashtra Government Gazette", on the 27th June 2009).

An Act 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 Sixtieth Year of the Republic of India as follows:—

(१)

CHAPTER I

PRELIMINARY

Short title
and
commencement.

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2009.

(2) (a) Sections 1 to 4 shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

(b) Save as otherwise provided in this Act, the remaining sections shall come into force with effect from the 1st July 2009.

CHAPTER II

AMENDMENTS TO THE BOMBAY STAMP ACT, 1958.

Amendment
of
SCHEDULE I
of Bom. LX
of 1958.

2. In SCHEDULE I appended to the Bombay Stamp Act, 1958,—

Bom.
LX
of
1958.

(a) in article 5, in clause (h), for sub-clause (A), the following sub-clause shall be substituted, namely :—

“(A) If relating to;—

(i) any advertisement on mass media, made for promotion of any product; or programme or event with an intention to make profits or business out of it,—

(a) if the amount agreed does not exceed rupees ten lakhs; Two rupees and fifty *paise* for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.

(b) in any other case Five rupees for every rupees 1,000 or part thereof on the amount agreed in the contract.

(ii) conferring exclusive rights of telecasting, broadcasting or exhibition of an event or a film,—

(a) if the amount agreed does not exceed rupees ten lakhs; *paise* for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.

(b) in any other case Five rupees for every rupees 1,000 or part thereof on the amount agreed in the contract.

(iii) specific performance by any person or a group of persons where the value of contract exceed rupees 1,00,000,—

(a) if the amount agreed does not exceed rupees ten lakhs; *paise* for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.

(b) in any other case Five rupees for every rupees 1,000. or part thereof on the amount agreed in the contract.

(iv) creation of any obligation, right or interest and having monetary value, but not covered under any other article,—

- (a) if the amount agreed does not exceed rupees ten lakhs; One rupee for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.
- (b) in any other case Two rupees for every rupees 1,000 or part thereof on the amount agreed in the contract.
- 14 of 1957. (v) assignment of copyright under the Copyright Act, 1957,—
- (a) if the amount agreed does not exceed rupees ten lakhs; Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.
- (b) in any other case Five rupees for every rupees 1,000 or part thereof on the amount agreed in the contract.
- (vi) project under Built, Operate and Transfer (BOT) system, whether with or without toll or fee collection rights,—
- (a) if the amount agreed does not exceed rupees five lakhs; One rupee for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.
- (b) in any other case Two rupees for every rupees 1,000 or part thereof on the amount agreed in the contract.”;
- (b) in article 6,—
- (i) for clauses (1) and (2), the following clauses shall be substituted, namely :—

“(1) The deposit of the title deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), where such deposit has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt,—

(a) if the amount secured by such deed does not exceed rupees five lakhs;

One rupee for every one thousand or part thereof for the amount secured by such deed subject to the minimum of one hundred rupees.

(b) in any other case

Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed.

(2) The pawn, pledge or hypothecation of movable property, where such pawn, pledge or hypothecation has been made by way of security for their repayment of money advanced or to be advanced by way of loan or an existing or future debt,—

(a) if the amount secured by such deed does not exceed rupees five lakhs;

One rupee for every one thousand or part thereof for the amount secured by such deed subject to the minimum of one hundred rupees.

(b) in any other case

Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed.”;

(ii) the existing *Explanation II* shall be deleted.

CHAPTER III

AMENDMENTS TO THE BOMBAY MOTOR VEHICLES TAX ACT, 1958.

Amendment of THIRD SCHEDULE to Bom. LXV of 1958. 3. In the THIRD SCHEDULE to the Bombay Motor Vehicles Tax Act, 1958, in Part I, in column (2), for the figure, sign and words "7% of the cost of vehicle", the following figures and words shall be substituted, namely :—

"(a) 7 per cent. of the cost of vehicle, if the cost of the vehicle is upto Rs. 10 lakhs;

(b) 8 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs. 10 lakhs but does not exceed Rs. 20 lakhs;

(c) 9 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs. 20 lakhs."

CHAPTER IV

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

Amendment to SCHEDULE I of Mah. XVI of 1975. 4. In SCHEDULE I appended to the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, for entry 1, the following entry shall be substituted, namely :—

"1 Salary and wage earners—

Such persons whose monthly salaries or wages,—

- | | |
|---|--|
| (a) do not exceed rupees 5,000 | Nil. |
| (b) exceed rupees 5,000 but do not exceed rupees 10,000 | 175 per month. |
| (c) exceeds rupees 10,000 | 2,500 per annum, to be paid in the following manner :— |

(a) rupees two hundred per month except for the month of February ;

(b) rupees three hundred for the month of February."

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Mah. IX of 2005. 5. In section 20 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), for sub-section (4), the following sub-section shall be substituted, namely :—

Amendment of section 20 of Mah. IX of 2005.

"(4) Any person or dealer who, having furnished a return or, as the case may be, a revised return,—

(a) discovers any omission or incorrect statement therein, may furnish, a revised return in respect of the period covered by the return at any time before a notice for assessment is served on him in respect of the period covered by the said return or before the expiry of a period of nine months from the end of the year to which the return or, as the case may be, the revised return relates, whichever is earlier ;

(b) discovers as a result of the report of audit of his accounts prepared for the purpose of section 61, any omission or incorrect statement therein, may furnish a revised return as regards the period in respect of which the omission or incorrect statement is discovered, after the expiry of the period of thirty days from the date prescribed for furnishing the said report ;

(c) agrees with the observation contained in any intimation received by him under section 63, that the return, fresh return or, as the case may be, revised return, filed by him contains any omission or incorrect statement, may furnish a revised return in respect of the period covered by the said return within thirty days from the date of service on him of the said intimation."

6. In section 29 of the Value Added Tax Act, for sub-section (8), the following sub-section shall be substituted, namely :—

Amendment of section 29 of Mah. IX of 2005.

"(8) Where, any person or dealer has failed to file within the prescribed time, a return for any period as provided in section 20, the Commissioner shall impose on him, a sum of rupees five thousand by way of penalty. Such penalty shall be without prejudice to any other penalty which may be imposed under this Act."

Amendment
of section 30
of Mah. IX
of 2005.

7. In section 30 of the Value Added Tax Act, after sub-section (3), the following sub-section shall be added, namely:—

“(4) If,—

(a) after the commencement of,—

(i) audit of the business of the dealer in respect of any period, or

(ii) inspection of the accounts, registers and documents pertaining to any period, kept at any place of business of the dealer, or

(iii) entry and search of any place of business or any other place where the dealer has kept his accounts, registers, documents pertaining to any period or stock of goods,

(b) in consequence of any intimation issued under sub-section (7) of section 63,

the dealer files one or more returns or, as the case may be, revised returns in respect of the said period, then he shall be liable to pay by way of interest, in addition to the amount of tax, if any, payable as per the return or, as the case may be, revised return, a sum equal to 25 per cent. of the additional tax payable as per the return or, as the case may be, revised return.”.

Amendment
of section 63
of Mah. IX
of 2005.

8. In section 63 of the Value Added Tax Act, after sub-section (6), the following sub-section shall be added, namely:—

“(7) If during the course of any proceeding in the case of any dealer or otherwise, it appears to the Commissioner that the quantum of tax payable or, as the case may be, the amount of set-off or refund as disclosed in the returns filed by the dealer or, as the case may be, recorded in the books of accounts of that dealer is incorrect, then the Commissioner may send an intimation in the prescribed Form to such dealer communicating the likely additional quantum of tax, if any, which should have been paid, or the likely reduction in the quantum of set-off or refund and may advise him to file a return or, as the case may be, revised return after taking into account the contents of the intimation.”.

9. In section 85 of the Value Added Tax Act, in sub-section (2), after clause (b-1), the following clause shall be inserted, namely :—

Amendment of section 85 of Mah. IX of 2005.

“(b-2) an order levying penalty under sub-section (8) of section 29, or”.

10. In SCHEDULE A appended to the Value Added Tax Act, after entry 54, the following entries shall be added, namely :—

Amendment of SCHEDULE A appended to Mah. IX of 2005.

“55 Incense sticks commonly known as, *agarbatti, dhoop, dhupkadi* or *dhupbatti*. Nil%

56 Solar energy devices as may be notified, from time to time, by State Government in the *Official Gazette*, and spare parts thereof. Nil%.”.

11. In SCHEDULE B appended to the Value Added Tax Act, after entry 3, the following entry shall be added, namely:—

Amendment of SCHEDULE B appended to Mah. IX of 2005.

“4 Imitation Jewellery, beads of glass, plastics or of any metal other than precious metals and parts and components thereof. 1%.”.

12. In SCHEDULE C appended to the Value Added Tax Act,—

Amendment of SCHEDULE C appended to Mah. IX of 2005.

(1) in entry 41, in column (2), after the words “Gypsum of all forms and description” the words “excluding gypsum boards” shall be added;

(2) for entry 51, the following entry shall be substituted, namely:—

“51 Hair pins. 4%.”;

(3) entry 52 shall be deleted;

(4) entry 74 shall be re-numbered as sub-entry (a) thereof ; and after sub-entry (a) as so re-numbered, the following sub-entry shall be added, namely:—

“(b) Plastic mats (*Chatai*) 4%.”;

(5) in entry 105, in column (2), the brackets, letters and words “ (xi) glass beads;” shall be deleted;

(6) in entry 108, in sub-entry (2), for the figures, letters and word “ 31st March 2009” the figures, letters and word “31st March 2010” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2009;

(7) after entry 109, the following entries shall be added, namely:—

“110 Clearing nuts (<i>Shikekai</i>) and Soap nuts (<i>Ritha</i>) in whole or powder form.	4 %
111 Compact Fluorescent Lamps.	4 %
112 LPG Stoves for domestic use ; parts, components and accessories thereof.	4 %
113 Cotton ginning and pressing machinery covered by sub-heading 8445 19 10 of the Central Excise Tariff Act, 1985.	4 %
114 Composting Machinery.	4%”.

Amendment
of
SCHEDULE
D appended
to Mah. IX
of 2005.

13. In SCHEDULE D appended to the Value Added Tax Act,—

(1) in entry 1, in column (3), for the figures and sign “20%” the figures and sign “25%” shall be substituted;

(2) in entry 2, in column (3), for the figures and sign “20%” the figures and sign “25%” shall be substituted;

(3) in entry 3, in column (3), for the figures and sign “20%” the figures and sign “25%” shall be substituted;

(4) after entry 11, the following entry shall be added, namely:—

“12 Tobacco, manufactured tobacco and products thereof including cigar and cigaretes but excluding those to which entry 45A of SCHEDULE A and entry 101 of SCHEDULE C applies.	20%.”.
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CHAPTER VI

VALIDATION AND SAVINGS

14. (1) Notwithstanding anything contained in any judgement, decree or order of any Court or Tribunal to the contrary, any assessment, review, levy or collection of tax in respect of sales or purchases effected by any dealer or person, or any action taken or thing done in relation to such assessment, review, levy or collection under the provisions of the Maharashtra Value Added Tax Act, 2002. (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), before the date of the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2009 (hereinafter, in this Chapter, referred to as "the Amendment Act"), shall be deemed to be valid and effective as if such assessment, review, levy or collection or action or thing had been duly made, taken or done under the Value Added Tax Act, as amended by the Amendment Act, and accordingly,—

Validation
and savings.

Mah.
IX of
2005.

Mah.
XVII
of
2009.

(a) all acts, proceedings or thing done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, review, levy or collection of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the Value Added Tax Act, as amended by the Amendment Act, any assessment, review, levy or collection of tax referred to in sub-section (1), or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Value Added Tax Act, as amended by the Amendment Act.

(3) Nothing in the Value Added Tax Act, as amended by the Amendment Act, shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act, if such act or omission was not an offence under the Value Added Tax Act but for the amendments made by the Amendment Act; nor shall any person in respect of such act or omission be subject to a penalty have greater than that which could have been imposed on him under the law in force immediately before the commencement of the Amendment Act.



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष २, अंक १७]

गुरुवार, एप्रिल २९, २०१०/वैशाख ९, शके १९३२

[पृष्ठे ८, किंमत : रुपये १९.००

असाधारण क्रमांक ३७

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy and Amendment) Act, 2010 (Mah. Act No. XII of 2010), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XII OF 2010

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 29th April 2010.)

An Act 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 commencement.

(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 (1E), the following sub-section shall be inserted, namely:—

Bom.
LXV
of
1958.

"(1F) 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.
XII of
2010.

(ii) if already registered before the said date and on which tax is already paid under sub-section (1), 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 word " (1C), (1D) or (1E) " the brackets, figures, letters and word " (1C), (1D), (1E) or (1F) " shall be substituted ;

(b) in clauses (a), (b) and (c), for the brackets, figures, letters and word " (1C), (1D) and (1E) " the brackets, figures, letters and word " (1C), (1D), (1E) and (1F) " 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 word " (1C), (1D) or (1E) " the brackets, figures, letters and word " (1C), (1D), (1E) or (1F) " shall be substituted ;

(b) in sub-section (6A), for the brackets, figures, letters and word " (1C), (1D) or (1E) " the brackets, figures, letters and word " (1C), (1D), (1E) or (1F) " 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 (1), 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 :—

Amendment
of section 16
of Bom. LXV
of 1958.

“ 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 word “ (IC) and (IE) ” the brackets, figures, letters and word “ (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. ” ;
---	---

(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 exceeds 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 buisness, 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.
LI 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,—

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

Amendment to SCHEDULE A of Mah. IX of 2005.

(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%".



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक १२(३)] गुरुवार, एप्रिल २१, २०११/वेशाख १, शके १९३३ [पृष्ठे १२, किंमत : रुपये १४.००

असाधारण क्रमांक ५०

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011 (Mah. Act. No. XV of 2011), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,

Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XV OF 2011.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 21st April 2011.)

An Act 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-second Year of the Republic of India as follows :—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011.

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

(b) Section 19 (1) shall come into force with effect from the date on which the Finance Act, 2011 comes into force.

(c) Save as otherwise provided in this Act, the remaining sections shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions.

(१)

CHAPTER II.

AMENDMENTS TO THE BOMBAY STAMP ACT, 1958

Amendment
of
SCHEDULE
I of Bom.
LX of 1958.

2. In SCHEDULE I appended to the Bombay Stamp Act, 1958,—

Bom.
LX of
1958.

(a) in article 5,—

(i) in clause (a), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the amount of a bill of exchange." shall be substituted;

(ii) in clause (b), in column 2, for the words and figures "Fifty paise for every rupees 1,00,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(iii) in clause (c),—

(A) in sub-clause (i), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(B) in sub-clause (ii), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(iv) in clause (d), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(v) in clause (e), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(vi) in clause (f), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(vii) in clause (g), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(viii) in clause (g-d),—

(A) in sub-clause (i),—

(1) in entry (A), in column 2, for the words "Two thousand rupees." the words and figures "The same duty as is payable under Article 60." shall be substituted;

(2) for entry (B), the following entry shall be substituted, namely :—

"(B) for the purpose of residential use,—

- | | |
|--|---|
| (1) having area upto
27.88 square metres
(300 square feet); | Two hundred rupees. |
| (2) having area more
than 27.88 square metres
(300 square feet). | The same duty as is
payable under Article
60."; |

(B) in sub-clause (ii),—

(1) in entry (A), in column 2, for the words "One thousand rupees." the words and figures "The same duty as is payable under Article 60." shall be substituted ;

(2) for entry (B), the following entry shall be substituted, namely :—

"(B) for the purpose of residential

use,—

- | | |
|--|--|
| (1) having area upto 27.88 square metres (300 square feet); | One hundred rupees. |
| (2) having area more than 27.88 square metres (300 square feet). | The same duty as is payable under Article 60.; |

(C) in sub-clause (iii),—

(1) in entry (A), in column 2, for the words "Four hundred rupees." the words and figures "The same duty as is payable under Article 60." shall be substituted;

(2) for entry (B), the following entry shall be substituted, namely :—

"(B) for the purpose of residential

use,—

- | | |
|--|--|
| (1) having area upto 27.88 square metres (300 square feet); | Fifty rupees. |
| (2) having area more than 27.88 square metres (300 square feet). | The same duty as is payable under Article 60.; |

(b) in article 43,—

(i) in clause (a), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof," the figures and words "0.005 per cent." shall be substituted;

(ii) in clause (b), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof," the figures and words "0.005 per cent." shall be substituted;

(iii) in clause (c), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof," the figures and words "0.005 per cent." shall be substituted;

(iv) in clause (d), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof " the figures and words "0.005 per cent." shall be substituted;

(v) in clause (e), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof " the figures and words "0.005 per cent." shall be substituted;

(vi) in clause (f), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(vii) in clause (g), in column 2, for the words and figures "Fifty paise for every rupees 1,00,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(c) in article 51A,—

(i) in clause (a), in column 2, for the words "Fifty rupees for every rupees one crore or part thereof" the figures and words "0.005 per cent." shall be substituted;

(ii) in clause (b),—

(A) in sub-clause (i), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the value of the security." shall be substituted;

(B) in sub-clause (ii), in column 2, for the words and figures "Twenty paise for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the value of the security." shall be substituted;

(iii) in clause (c), in column 2, for the words and figures "Twenty paise for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the value of the futures and options trading." shall be substituted;

(iv) in clause (d), in column 2, for the words and figures "One rupee for every rupees 1,00,000 or part thereof." the figures and words "0.005 per cent. of the value of the forward contract." shall be substituted.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA PURCHASE TAX ON SUGARCANE ACT, 1962

Amendment of section 2 of Mah. IX of 1962. **3.** In section 2 of the Maharashtra Purchase Tax on Sugarcane Act, 1962 (hereinafter, in this Chapter, referred to as "the Purchase Tax on Sugarcane Act"), after clause (h), the following clause shall be added, namely:—

Mah. IX of 1962.

"(i) "year" means the year starting from the 1st day of October and ending on the 30th day of September next following."

Insertion of section 3A in Mah. IX of 1962. **4.** After section 3 of the Purchase Tax on Sugarcane Act, the following section shall be inserted, namely:—

Application of certain provisions of Maharashtra Value Added Tax Act, 2002 and rules made thereunder. **"3A.** Subject to the provisions of this Act and the rules made thereunder, the provisions of the Maharashtra Value Added Tax Act, 2002 and 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.

5. In section 5 of the Purchase Tax on Sugarcane Act, in sub-section (4), for the word "June" the word "September" shall be substituted.

Amendment of section 5 of Mah. IX of 1962.

6. In section 6 of the Purchase Tax on Sugarcane Act,—

Amendment of section 6 of Mah. IX of 1962.

(1) in sub-section (2), for the words "full amount of tax leviable" the words "the amount payable as prescribed" shall be substituted;

(2) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) Where a return is submitted to the Commissioner without making the payment of the amount of tax as prescribed under section 3, the amount or the remaining unpaid amount, shall be paid by the occupier into a Government Treasury or the Reserve Bank of India on or before the date specified in the notice served by the Commissioner for this purpose, being a date not later than ten days from the date of service of the notice."

7. After section 6 of the Purchase Tax on Sugarcane Act, the following section shall be inserted, namely :—

Insertion of section 6A in Mah. IX of 1962.

"6A. (1) Notwithstanding anything contained in this Act or the rules made and notifications issued thereunder, the assessment of tax and payment of tax in respect of the transitional accounting year shall be made in such manner as may be prescribed.

Special provisions for transitional accounting year.

Explanation.—For the purpose of this sub-section, the period beginning on the 1st day of April 2010 and ending on the 30th day of September 2011 shall be deemed to be the "transitional accounting year" for levy and collection of tax.

(2) If any difficulty arises in giving effect to the provisions of this section, during the period of three years from the date of commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011, the State Government may, as occasion arises, by an order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(3) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature."

8. In section 7 of the Purchase Tax on Sugarcane Act, in sub-section (4), the *Explanation* shall be deleted.

Amendment of section 7 of Mah. IX of 1962.

9. In section 7B of the Purchase Tax on Sugarcane Act,—

Amendment of section 7B of Mah. IX of 1962.

(1) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) If an occupier fails to submit the return as required by sub-section (1) of section 6 or to pay the amount payable as prescribed as required by sub-section (2) of that section, he shall, in addition to

the tax and the penalty, if any, pay simple interest on the amount due at the rate of one and a quarter per cent. for each month from the date immediately following the last day as prescribed till the date the occupier continues to make default in the payment of the amount due.

Explanation.—For the purposes of this sub-section, where an occupier fails to submit the return in due time, the amount of tax assessed under section 7 shall be deemed to be the amount of tax due from the occupier under sub-section (2) of section 6.”;

(2) in sub-section (2), the words, brackets and figure “sub-section (1) of” shall be deleted.

Insertion of section 7E in Mah. IX of 1962.

10. After section 7D of the Purchase Tax on Sugarcane Act, the following section shall be inserted, namely :—

Refund of excess payment of tax.

“7E. If any amount of tax becomes refundable to an occupier of the factory or the unit as per the return for the month of September then, the said amount shall be refunded to the said occupier within six months, from the due date prescribed for filing the return for the month of September or, as the case may be, the date on which the return for the month of September is filed, whichever is later.”.

CHAPTER IV

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002

Amendment of section 16 of Mah. IX of 2005.

11. In section 16 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”),—

Mah. IX of 2005.

(a) in sub-section (2), for the proviso, the following proviso shall be substituted, namely :—

“Provided that, if the application is made on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011, by a person who voluntarily desires to get registered, the application shall not be entertained, unless the applicant has deposited an amount of rupees 25,000 in the Government Treasury by way of security deposit and the amount so deposited shall not be adjusted against the tax payable as per any return or towards any other liability under this Act.”;

Mah. of XV 2011.

(b) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) The security deposit deposited under the proviso to sub-section (2) shall be refundable on such conditions, restrictions and within such time as may be prescribed. The security deposit shall be forfeited, if there is no compliance of such conditions, restrictions and time limit.”.

12. In section 20 of Value Added Tax Act, in sub-section (4),— Amendment of section 20 of Mah. IX of 2005.

(1) the words "or, as the case may be, a revised return" shall be deleted;

(2) in clause (a),—

(a) for the word "nine" the word "ten" shall be substituted;

(b) the words "or, as the case may be, the revised return" shall be deleted ;

(3) after clause (c), the following proviso shall be added, namely :—

"Provided that, any such person or dealer may furnish not more than one revised return under each of the aforesaid clauses and such revised return may include revision of return or revised return filed earlier."

13. In section 26 of the Value Added Tax Act, in sub-section (5), clause (c) shall be deleted. Amendment of section 26 of Mah. IX of 2005.

14. In section 41 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be added, namely :— Amendment of section 41 of Mah. IX of 2005.

"(5) Subject to such conditions and restrictions as it may impose, the State Government may, by notification in the *Official Gazette*, provide for exemption from the payment of full or part of the taxes payable on any class or classes of sales of liquor by any class or classes of dealers."

15. In section 50 of the Value Added Tax Act, in sub-section (1), for the words "tax, penalty, interest" the words and figures "tax, penalty, interest, security deposit deposited under section 16" shall be substituted. Amendment of section 50 of Mah. IX of 2005.

16. In section 51 of the Value Added Tax Act,—

(1) in sub-section (2),—

(a) in clause (a), for the words "within one month of the receipt of the application" the words "on receipt of the application" shall be substituted ;

(b) clause (b) shall be deleted;

(2) in sub-section (3),—

(a) in clause (a),—

(i) sub-clause (iv) shall be deleted;

(ii) after sub-clause (v), after the words "fresh return or revised return." the following *Explanation* shall be added, namely :—

"*Explanation.*—For the purposes of sub-clause (i), the expression "exporter" shall mean a registered dealer whose turnover of exports during such period as may be prescribed, is not less than such percentage of the total turnover of his sales as may be prescribed in this behalf."

Amendment of section 51 of Mah. IX of 2005.

(b) for clause (b), the following clause shall be substituted, namely:—

“(b) The Commissioner, on receipt of the said application, may require the dealer to furnish such bank guarantee for such amounts from such banks, for such periods and to such authorities as may be prescribed.”;

(3) for sub-section (4), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2011, namely:—

“(4) Save as otherwise provided in this section, the Commissioner shall grant the refund under this section within eighteen months from the end of the month containing the date of the receipt of the application for refund :

Provided that, where a dealer has filed an application for refund under this section on or before the 31st March 2011, then, notwithstanding anything contained in sub-section (4) as it existed prior to the date of commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011, the Commissioner shall,—

Mah.
of XV
2011.

(a) in respect of the periods ending on or before the 31st March 2010, grant the refund to such dealer on or before the 30th September 2011, and

(b) in respect of the periods beginning with the 1st April 2010 and ending on the 31st March 2011, grant the refund to such dealer on or before the 30th June 2012.”;

(4) in sub-section (7), for the words “three years” the words “eighteen months” shall be substituted.

Amendment
of section 61
of Mah. IX
of 2005.

17. In section 61 of the Value Added Tax Act,—

(1) in sub-section (1),—

(a) for the words “report of such audit” the words “complete report of such audit” shall be substituted ;

(b) the existing *Explanation* shall be re-numbered as *Explanation-I* thereof; and after the *Explanation-I* as so re-numbered, the following *Explanation* shall be added, namely :—

“*Explanation-II*.—For the purposes of this section, an audit report shall be deemed to be the “complete audit report” only if all the items, certifications, tables, schedules and annexures are filled appropriately and are arithmetically self-consistent.”;

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where a dealer liable to file audit report under this section has knowingly furnished the audit report which is not complete, then the Commissioner may, after giving a reasonable opportunity

of being heard, impose on him, in addition to any tax payable or any other penalty leviable under this section or any other section, a sum by way of penalty equal to one tenth per cent., of the total sales.”

18. In section 74 of the Value Added Tax Act, after sub-section (1), the following sub-section shall be inserted, namely :—

Amendment of section 74 of Mah. IX of 2005.

“(1A)(i) Whoever knowingly with the intention to defraud revenue, issues or produces a false tax invoice and thereby makes a false claim in respect of the set-off or the refund, or claims any other deduction that results into reduced tax liability or enhances the amount of refund, or

(ii) abets any of the aforesaid offences,

shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than one year but which may extend to two years and with fine.”

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

Amendment of SCHEDULE A appended to Mah. IX of 2005.

(1) in entry 45, in column (2), for the words, brackets and figures “the Additional Duties of Excise (Goods of Special Importance) Act, 1957” the words, brackets and figures “ the Additional Duties of Excise (Goods of Special Importance) Act, 1957 as it stood prior to the date on which the Finance Act, 2011 comes into force” shall be substituted;

(2) in entry 55, in column (2), in clause (c), for the words “Dhoop including Loban” the words “Dhoop including Loban and *Ral*” shall be substituted ;

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

“56A. Pre-fabricated domestic

biogas units

Nil”.

20. In SCHEDULE C appended to the Value Added Tax Act,—

Amendment of SCHEDULE C appended to Mah. IX of 2005.

(1) in entry 4, in sub-entry (a), in column (3), for the figure and sign “4%” the figure and sign “5%” shall be substituted;

(2) in entry 8, in column (3), for the figure and sign “4%” the figure and sign “5%” shall be substituted;

(3) in entry 22, in column (3), for the figure and sign “4%” the figure and sign “5%” shall be substituted;

(4) in entry 25, in column (3), for the figure and sign “4%” the figure and sign “5%” shall be substituted;

(5) in entry 27, in column (3), for the figure and sign “4%” the figure and sign “5%” shall be substituted;

(6) in entry 45, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(7) in entry 55, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(8) in entry 57, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(9) in entry 68, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(10) in entry 94, in column (2), after sub-entry (b), the following sub-entry shall be added, namely:—

"(c) *Vada Pav* 5%";

(11) in entry 101, in sub-entry (a), in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(12) after entry 108, the following entry shall be inserted, namely:—

"108A. Dry fruits excluding cashew kernels and cashew nuts and those to which entry 59 of SCHEDULE A applies. 5%".

Amendment
of
SCHEDULE
D appended
to Mah. IX
of 2005.

21. In SCHEDULE D appended to the Value Added Tax Act,—

(1) in entry 1, in column (3), for the figures and sign "25%" the figures and sign "50%" shall be substituted;

(2) in entry 2, in column (3), for the figures and sign "25%" the figures and sign "50%" shall be substituted;

(3) In entry 3, in column (3), for the figures and sign "25%" the figures and sign "50%" shall be substituted;

(4) after entry 12, the following entry shall be added, namely:—

"13. Aerated and Carbonated non-alcoholic beverage whether or not containing sugar or other sweetening matter or flavour or any other additives. 20%".

CHAPTER V

VALIDATION AND SAVING

22. (1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment, review, levy, collection, refund or interest on refund of tax in respect of sales or purchases effected by any dealer or person, or any action taken or thing done in relation to such assessment, review, levy, collection, refund or interest on refund under the provisions of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), during the period commencing on the 1st April 2005 and ending on the date immediately preceding the date of the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011 (hereinafter, in this Chapter, referred to as "the Amendment Act"), shall be deemed to be valid and effective as if such assessment, review, levy, collection, refund or interest on refund, or action or thing had been duly made, taken or done under the Value Added Tax Act, as amended by the Amendment Act, and accordingly,---

Mah.
IX of
2005.

Mah.
XV of
2011.

Validation
and saving.

(a) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, review, levy, collection or refund of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,---

(a) from questioning in accordance with the provisions of the Value Added Tax Act as amended by the Amendment Act, any assessment, review, levy, collection or refund of tax referred to in sub-section (1),

or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Value Added Tax Act, as amended by the Amendment Act.

(3) Nothing in the Value Added Tax Act, as amended by the Amendment Act, shall, render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act; if such act or omission was not an offence under the Value Added Tax Act but for the amendments made by the Amendment Act; nor shall any person in respect of such act or omission be subject to a penalty greater than that which could have been imposed on him under the law in force immediately before the commencement of the Amendment Act.



RNI No. MAHENG/2009/35528
Reg No. MH/MR/South-344/2011-2013

महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ४, अंक १४]

बुधवार, एप्रिल २५, २०१२/वैशाख ५, शके १९३४

[पृष्ठे १५, किंमत : रुपये १८.००

असाधारण क्रमांक २६

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2012 (Mah. Act No. VIII of 2012), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. VIII OF 2012.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 25th April 2012.)

An Act 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-third Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2012.

Short title and commencement.

(2) Save as otherwise provided in this Act,—

(a) sections 3 to 6, sub-section (2) of section 7, sections 8 to 11, sub-sections (2) and (3) of section 12, sections 13 and 14, section 17, sub-section (3) of section 18, section 19, sub-section (2) of section 20, sections 21 and 22, sections 24 and 25, sub-section (1) of section 26, sections 27 to 30 and section 32 shall come into force with effect from the 1st May 2012 ;

(b) sub-section (1) of section 7, sub-section (1) of section 20, section 23, sub-section (2) of section 26 shall come into force from such date as the State Government may by notification in the *Official Gazette*, appoint, and different dates may be appointed for different sections.

CHAPTER II

AMENDMENTS TO THE BOMBAY STAMP ACT, 1958.

Amendment
of
SCHEDULE
I appended
to Bom. LX
of 1958.

2. In SCHEDULE I appended to the Bombay Stamp Act, 1958,—

Bom.
LX of
1958.

(a) in article 5, in clause (g-a), in column 2, for the brackets, letters and word “, (c) or (d)” at both the places where they occur, the word, brackets and letter “or (c)” shall be substituted ;

(b) in article 16, in column 2, for the brackets, letters and word “, (c) or (d)” the word, brackets and letter “or (c)” shall be substituted;

(c) in article 25,—

(i) for clause (b), the following clause shall be substituted, namely :—

“(b) if relating to immovable property situated,—

(i) within the limits of any Municipal Corporation or any Cantonment area annexed to it or any urban area not mentioned in sub-clause (ii). 5 per cent. of the market value of the property.

(ii) within the limits of any Municipal Council or *Nagar Panchayat* or Cantonment area annexed to it, or any rural area within the limits of the Mumbai Metropolitan Region Development Authority, or the Influence Areas as per the annual statement of rates published under the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995. 4 per cent. of the market value of the property.

(iii) within the limits of any *Grampanchayat* area or any such area not mentioned in sub-clause (ii). 3 per cent. of the market value of the property.”;

(ii) clause (d) shall be deleted ;

(iii) the existing *Explanation II* shall be deleted ;

(d) in article 32, in column 2, for the brackets, letters and word “, (c) or (d)” the word, brackets and letter “or (c)” shall be substituted ;

(e) in article 33, in column 2, for the brackets, letters and word “, (c) or (d)” at both the places where they occur, the word, brackets and letter “or (c)” shall be substituted ;

(f) in article 34, in column 2, for the brackets, letters and word “, (c) or (d)” the word, brackets and letter “or (c)” shall be substituted ;

(g) in article 36, in column 2, for the brackets, letters and word “, (c) or (d)” wherever they occur, the word, brackets and letter “or (c)” shall be substituted ;

(h) in article 40, in column 2, for the brackets, letters and word “, (c) or (d)” the word, brackets and letter “or (c)” shall be substituted ;

(i) in article 47, in column 2, for the brackets, letters and word “, (c) or (d)” at both the places where they occur, the word, brackets and letter “or (c)” shall be substituted ;

(j) in article 48, in column 2, for the brackets, letters and word “, (c) or (d)” wherever they occur, the word, brackets and letter “or (c)” shall be substituted ;

(k) in article 52, in column 2, for the brackets, letters and words “, (c) or (d), as the case may be” the words, brackets and letter “or as the case may be (c)” shall be substituted ;

(l) in article 55, in column 2, for the brackets, letters and word “, (c) or (d)” at both the places where they occur, the word, brackets and letter “or (c)” shall be substituted ;

(m) in article 58, in column 2, for the brackets, letters and word “, (c) or (d)” the word, brackets and letter “or (c)” shall be substituted ;

(n) in article 60, in column 2, for the brackets, letters and word “, (c) or (d)” the word, brackets and letter “or (c)” shall be substituted ;

(o) in article 61, in column 2, for the brackets, letters and word “, (c) or (d)” the word, brackets and letter “or (c)” shall be substituted.

CHAPTER III

AMENDMENTS TO THE BOMBAY MOTOR VEHICLES TAX ACT, 1958.

Bom.
LXV
of
1958.

3. In the THIRD SCHEDULE to the Bombay Motor Vehicles Tax Act, 1958, in PART I, in column (2), for clauses (a), (b) and (c), the following shall be substituted, namely :—

Amendment
of THIRD
SCHEDULE
of Bom.
LXV of
1958.

“(1) Petrol driven vehicles :

(a) 9 per cent. of the cost of vehicle, if the cost of the vehicle is upto Rs. 10 lakhs ;

(b) 10 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs. 10 lakhs but does not exceed Rs. 20 lakhs ;

(c) 11 per cent. of the cost of vehicle, if the cost of vehicle exceeds Rs. 20 lakhs ;

(2) Diesel driven vehicles :

(a) 11 per cent. of the cost of vehicle, if the cost of the vehicle is upto Rs.10 lakhs;

(b) 12 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs.10 lakhs but does not exceed Rs.20 lakhs;

(c) 13 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs.20 lakhs;

(3) Compressed Natural Gas (CNG) driven new vehicle with original equipment fitted with CNG Kit by manufacturer :

(a) 5 per cent. of the cost of vehicle, if the cost of the vehicle is upto Rs. 10 lakhs;

(b) 6 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs.10 lakhs but does not exceed Rs. 20 lakhs;

(c) 7 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs.20 lakhs.”.

CHAPTER IV

AMENDMENTS TO THE MAHARASHTRA PURCHASE TAX ON SUGARCANE ACT, 1962.

Amendment
of section
12B of Mah.
IX of 1962.

4. In section 12B of the Maharashtra Purchase Tax on Sugarcane Act, 1962,-

Mah.
IX of
1962.

(1) in clause (b), for the word “and” the word “or” shall be substituted;

(2) in clause (c), for the words “a factory” the words “a factory ; or” shall be substituted;

(3) after clause (c), the following clause shall be added, namely : -

“(d) for the purpose of establishing a co-generation unit for generation of electricity from the products or by-products of the said factory.”.

CHAPTER V

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

Amendment
of section 2
of Mah. XVI
of 1975.

5. In section 2 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (hereinafter, in this Chapter, referred to as “the Profession Tax Act”), in clause (a), after the words “and includes” the words “the Special Commissioner of Profession Tax and” shall be inserted.

Mah.
XVI
of
1975.

Amendment
of section 3
of Mah. XVI
of 1975.

6. In section 3 of the Profession Tax Act, in sub-section (2), after the second proviso, the following proviso shall be added, namely :—

“Provided also that, a person who is liable to pay tax has remained un-enrolled; then, his liability to pay tax under this section for the periods for which he has remained so un-enrolled shall not exceed eight years from the end of the year immediately preceding the year

in which he has obtained the enrollment certificate or the year in which the proceeding for enrollment is initiated against him, whichever is earlier.”

7. In section 6 of the Profession Tax Act,—

Amendment
of section 6
of Mah. XVI
of 1975.

(1) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) Where an employer has failed to file such return within the prescribed time, he shall pay, by way of a late fee, an amount of rupees one thousand before filing of the said return. This amount shall be in addition to the amount payable, if any, as per the return.”;

(2) after sub-section (3), the following sub-section shall be added, namely :—

“(4) Any employer liable to file return, having furnished a return,—

(a) discovers any omission or incorrect statement therein, may furnish, a revised return in respect of the period covered by the return, at any time before a notice for assessment is served on him in respect of the period covered by the said return or before the expiry of a period of six months from the end of the year to which such return relates, whichever is earlier;

(b) agrees with the findings contained in any intimation received by him as a result of,—

(i) audit under section 7A; or,

(ii) inspection under section 18,

then he may furnish a revised return as per the findings of audit or, as the case may be, inspection within thirty days from the date of receipt of such intimation.”

8. In section 12 of the Profession Tax Act, in sub-section (1),—

Amendment
of section
12 of Mah.
XVI of
1975.

(1) in clause (a), in sub-clause (ii), for the words “one or more officers” the words “a Special Commissioner of Profession Tax and one or more officers” shall be substituted;

(2) in clause (b), for the words “Additional Commissioners” the words “Special Commissioner, Additional Commissioners” shall be substituted.

9. In section 19 of the Profession Tax Act, for the word “person”, wherever it occurs, the words “employer or person” shall be substituted.

Amendment
of section 19
of Mah. XVI
of 1975.

CHAPTER VI

AMENDMENTS TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987.

Mah. XLI of 1987. 10. In section 2 of the Maharashtra Tax on Luxuries Act, 1987 (hereinafter, in this Chapter, referred to as “the Luxury Tax Act”), in clause (c), after the words “and includes” the words “a Special Commissioner of Luxury Tax and” shall be inserted.

Amendment
of section 2
of Mah. XLI
of 1987.

Amendment of section 7 of Mah. XLI of 1987. 11. In section 7 of the Luxury Tax Act, in sub-section (1), in clause (b), in sub-clause (i), for the words "one or more officers" the words "the Special Commissioner of Luxury Tax and one or more officers" shall be substituted.

CHAPTER VII

AMENDMENTS TO THE MAHARASHTRA TAX ON ENTRY OF MOTOR VEHICLES INTO LOCAL AREAS ACT, 1987.

Amendment of section 2 of Mah. XLII of 1987. 12. In section 2 of the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 (hereinafter, in this Chapter, referred to as "the Entry Tax Act"), in sub-section (1),—

(1) in clause (b), for the words and figure "under section 6" the words and figure "under section 5" shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2006;

(2) in clause (f), for the words "for use or sale therein" the words "for use, consumption or, as the case may be, sale therein" shall be substituted;

(3) in clause (g), for the words "for use or sale therein" the words "for use, consumption or, as the case may be, sale therein" shall be substituted.

Amendment of section 3 of Mah. XLII of 1987. 13. In section 3 of the Entry Tax Act, in sub-section (1), for the words "for use or sale therein" the words "for use, consumption or, as the case may be, sale therein" shall be substituted.

Insertion of section 7A in Mah. XLII of 1987. 14. After section 7 of the Entry Tax Act, the following section shall be inserted, namely:-

Electronic filing of return and electronic payment.

"7A. (1) Notwithstanding anything contained in this Act, the Commissioner may, from time to time, by notification in the *Official Gazette*, specify the period, starting on or after the date mentioned therein and the class or classes of importers,-

(a) who shall submit application, annexure, appeal, return or such other document as may be required, in an electronic form with or without digital signature, in the manner specified in the said notification;

(b) who shall pay tax, interest, penalty or any amount due and payable by or under this Act electronically in chalan as prescribed under the rules made in this behalf.

(2) If the Commissioner has issued any notification under this section, then with a view to promote effective compliance and ensuring compatibility with the automated system, he may provide for amendments to be made to the forms or may introduce new forms of returns, applications, annexures or any other document which is required to be transmitted or submitted electronically."

15. In section 9A of the Entry Tax Act, in sub-section (2), for the words and figure "under section 6" the words and figure "under section 5" shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2006. Amendment of section 9A of Mah. XLII of 1987.

16. In section 13 of the Entry Tax Act, in sub-section (1), for the words and figure "under section 6" the words and figure "under section 5" shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2006. Amendment of section 13 of Mah. XLII of 1987.

CHAPTER VIII

AMENDMENTS TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002.

Mah. IV of 2003. 17. In the SCHEDULE appended to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002,— Amendment of SCHEDULE appended to Mah. IV of 2003.

(1) in entry 1,—

(a) in clause (a), in sub-clause (ii), in column (3), for the figures and sign "26%" the words, brackets, figures and letters "As specified from time to time, against clause (a) of entry 5 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted;

Mah. IX of 2005.

(b) in clause (b), in sub-clause (ii), in column (3), for the figures and sign "23%" the words, brackets, figures and letters "As specified from time to time, against clause (b) of entry 5 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted;

Mah. IX of 2005.

(2) in entry 2,—

(a) in column (2), for the brackets, words and figure "(other than that covered by entry 3)" the words, figure and letter "other than those covered by entry 2A of this SCHEDULE" shall be substituted;

Mah. IX of 2005.

(b) in column (3), for the figures and sign "25%" the words, figures and letter "As specified from time to time, against entry 6 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted ;

(3) after entry 2, the following entry shall be inserted, namely :—

<p>"2A. Aviation Turbine Fuel (Duty paid) when delivered within the Maharashtra State excluding the geographical limits of Brihan Mumbai Corporation and Pune District.</p>	<p>As specified from time to time, against entry 11 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002." ;</p>
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Mah. IX of 2005.

(4) in entry 3, in column (3), for the figures and sign "30%" the words, figures and letter "As specified from time to time, against

entry 7 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted ;

Mah.
IX of
2005.

(5) in entry 4, in column (3), for the figures and sign "10%" the words, figures and letter "As specified from time to time, against entry 8 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted;

Mah.
IX of
2005.

(6) in entry 5, in column (3), for the figures and sign "24%" the words, figures and letter "As specified from time to time, against entry 9 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted;

Mah.
IX of
2005.

(7) in entry 6,-

(a) in clause (a), in column (3), for the figures, signs and words "26% + one rupee per litre" the words, figures and letter "As specified from time to time, against entry 10 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted;

Mah.
IX of
2005.

(b) in clause (b), in column (3), for the figures, signs and words "25% + one rupee per litre" the words, figures and letter "As specified from time to time, against entry 10 of SCHEDULE D appended to the Maharashtra Value Added Tax Act, 2002" shall be substituted ;

Mah.
IX of
2005.

(8) after entry 15, the following entry shall be added, namely :—

"16. Natural gas. 12.5%."

CHAPTER IX

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment
of section 2
of Mah. IX
of 2005.

18. In section 2 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"),-

Mah.
IX of
2005.

(1) after clause (15), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2005, namely :-

"(15A) "motor spirit" means,-

- (a) High Speed Diesel Oil;
- (b) Aviation Turbine Fuel (Duty paid);
- (c) Aviation Turbine Fuel (Bonded);
- (d) Aviation Gasoline (Duty paid);
- (e) Aviation Gasoline (Bonded);
- (f) Petrol,

or any other product as the State Government may, from time to time, notify in the *Official Gazette* ;";

(2) after clause (17), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2005, namely :-

“(17A) “petroleum products” means,-

- (a) Superior Kerosene Oil (SKO);
- (b) Liquefied Petroleum Gas (LPG);
- (c) Furnace Oil (FO);
- (d) Light Diesel Oil (LDO);
- (e) Raw Naptha or Naptha;
- (f) Low Sulpher Heavy Stock,

or any other product as the State Government may, from time to time, notify in the *Official Gazette* ;”;

(3) in clause (29), for the words “sales tax leviable” the words “sales tax or purchase tax leviable” shall be substituted.

19. In section 3 of the Value Added Tax Act,-

Amendment
of section 3
of Mah. IX
of 2005.

(1) in sub-section (2),-

(a) for the words “turnover of all sales” the words “turnover either of all sales or, as the case may be, purchases” shall be substituted ;

(b) in the proviso,-

(i) for the words “ such sales” the words “ such sales and purchases” shall be substituted;

(ii) for the words “turnover of sales” the words “turnover of sales or turnover of purchases” shall be substituted;

(2) in sub-section (3), for the words “turnover of sales” the words “turnover of sales or turnover of purchases” shall be substituted;

(3) in sub-section (4), for the words “turnover of sales”, wherever they occurs, the word “turnover” shall be substituted;

(4) after sub-section (5), the following sub-section shall be inserted, namely:-

“(5A) For the purpose of calculating the limit of turnover of purchases for liability to tax, the turnover of purchases of the goods that are liable to purchase tax as specified in sections 6A and 6B shall be considered. The provisions of sub-section (5) in respect of sales shall apply *mutatis mutandis*.”.

20. After section 6 of the Value Added Tax Act,-

Insertion of
sections 6A
and 6B in Mah.
IX of 2005.

(1) the following section shall be inserted, namely :-

“6A. (1) There shall be levied a purchase tax on the turnover of purchases of cotton purchased, directly or through a commission agent, from a person who is not a dealer or a dealer who is not a registered dealer, if,-

Purchase
tax payable
on
purchases
of cotton.

(a) the cotton so purchased are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent; or

(b) the cotton so purchased are used in the manufacture of—

(i) tax free goods ; or

(ii) taxable goods, and the goods so manufactured are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent.

(2) The rate of purchase tax shall be equal to the rate of sales tax set out against the aforesaid goods in SCHEDULE C.”;

(2) after section 6A as so inserted, the following section shall be inserted, namely :—

Purchase
tax payable
on
purchases
of oil
seeds.

“6B. (1) There shall be levied a purchase tax on the turnover of purchases of oil seeds purchased, directly or through a commission agent, from a person who is not a dealer or a dealer who is not a registered dealer, if,—

(a) the Oil seeds so purchased are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent; or

(b) the Oil seeds so purchased are used in the manufacture of—

(i) tax free goods; or

(ii) taxable goods, and the goods so manufactured are dispatched outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent.

(2) The rate of purchase tax shall be equal to the rate of sales tax set out against the aforesaid goods in SCHEDULE C.”.

Amendment
of section 8
of Mah. IX
of 2005.

21. In section 8 of the Value Added Tax Act,—

(1) in sub-section (3),—

(a) for the word “developer” the words “developer or co-developer” shall be substituted ;

(b) in the *Explanation*, for clause (e), the following clauses shall be substituted, namely :—

“(e) a developer of the Special Economic Zone means, a person,—

(i) or a body of persons, company, firm or Government undertaking, who develops, builds, designs, organizes, promotes, finances, or transfers by way of sale or lease, operates or maintains whole or a part of the infrastructure in the Special Economic Zone, and

(ii) who has been certified by the Commissioner ;

(e-a) a Co-developer means a person,—

(i) who has entered into an agreement with the Developer to develop, build, design, organize, promote, finance, or transfer by way of sale or lease, operate or maintain whole

or a part of the infrastructure in the Special Economic Zone,
and

(ii) who has been certified by the Commissioner;”;

(2) in sub-section (3C), after the figures “1957” the words, figures and letters “as it stood immediately before the 8th April 2011” shall be added.

22. In section 10 of the Value Added Tax Act,—

Amendment
of section
10 of Mah.
IX of 2005.

(1) in sub-section (2), for the words “State Government may appoint” the words “State Government may appoint a Special Commissioner and” shall be substituted;

(2) in sub-section (4), for the words “and the Additional Commissioner” the words “a Special Commissioner of Sales Tax and the Additional Commissioner” shall be substituted;

(3) in sub-section (7), for the words “of Additional Commissioner” the words “of a Special Commissioner or Additional Commissioner” shall be substituted.

23. In section 20 of the Value Added Tax Act, after sub-section (5), the following sub-section shall be added, namely :—

Amendment
of section
20 of Mah.
IX of 2005.

“(6) Where a person or a dealer fails to file a return within the prescribed time, as provided under this section, then the said person or dealer shall, before filing of the said return, pay, by way of late fee, an amount of rupees five thousand. This amount shall be in addition to any other amount payable, if any, as per return.”.

24. In section 26 of the Value Added Tax Act, in sub-section (6), the following proviso shall be added, namely :—

Amendment
of section
26 of Mah.
IX of 2005.

“Provided that, if at the request of the appellant, the appellate authority or the Tribunal has granted three adjournments or the appellant fails to attend on the date fixed for hearing by the appellate authority or the Tribunal on three occasions, whether consecutive or not then,—

(a) (i) the stay, if any, shall not be continued unless an amount equal to fifteen per cent. of the amount so disputed in appeal or rupees fifteen crore, whichever is less is paid into the Government Treasury within the time mentioned in the order by the appellate authority or the Tribunal for this purpose.

Explanation.—The amount of fifteen per cent. or rupees fifteen crore referred to above shall be inclusive of any part payment made earlier towards the disputed amount ;

(ii) if the appellant fails to pay the amount so enhanced, within such time as mentioned in the order by the appellate authority or Tribunal, the amount in dispute shall be recoverable and all orders to the contrary shall stand vacated ;

(b) the appellate authority or the Tribunal shall accordingly modify the order of stay, if any, pending the disposal of the said appeal ;

(c) notwithstanding anything contained in clause (i) of sub-section (2) of section 85, no appeal shall lie against the order passed under clause (a) above.”

Insertion of section 26A in Mah. IX of 2005.

25. After section 26 of the Value Added Tax Act, the following section shall be inserted, namely :—

Regulating filing of appeal by Commissioner.

“26A. (1) The Commissioner may, from time to time, issue orders, instructions or directions for fixing such monetary limits as he may deem fit, for the purpose of regulating filing of appeal as per the provisions of section 27.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), the Commissioner has not filed any appeal on any issue in the case of any appellant for any assessment period, it shall not preclude the Commissioner from filing an appeal on the same issue in the case of—

(a) the same appellant for any other assessment period; or

(b) any other appellant for the same or any other assessment period.

(3) Notwithstanding that no appeal has been filed pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for any appellant, being a party in any appeal, to contend that the Commissioner has acquiesced in the decision on the disputed issue by not filing an appeal in any case.

(4) The Court or, as the case may be, Tribunal hearing such appeal shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal was filed or not filed in respect of any case.

(5) Every order, instructions or direction which has been issued by the Commissioner fixing monetary limits for filing an appeal shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.

(6) The provisions of sub-section (7) of section 23, so far as it relates to the giving effect to the Court order, shall also apply to the cases where the Commissioner has not filed the appeal as provided under sub-section (2) of this section.”

Amendment of section 29 of Mah. IX of 2005.

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

(1) before sub-section (3), the following sub-section shall be inserted, namely :—

“(2A) While or after passing any order in respect of any dealer under any provisions of this Act, it appears to the Commissioner that, the dealer has failed to apply for registration as required

under this Act or has carried on business as a dealer without being registered in contravention of the provisions of this Act, then the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose upon him, by way of penalty, a sum equal to the amount of tax payable by the dealer for the period during which he has carried on business as a dealer without being registered in contravention of the provisions of this Act.”;

(2) sub-section (8) shall be deleted.

27. After section 31 of the Value Added Tax Act, the following section shall be inserted, namely :—

Insertion of section 31A in Mah. IX of 2005.

“31A. (1) The State Government may, by notification in *Official Gazette*, and subject to such conditions and restrictions as may be specified in the notification, require any person, local bodies or authorities or agencies under the Central Government or, as the case may be, the State Government,—

Collection and payment towards tax.

(a) who auction the rights for excavation of sand within their jurisdiction, to collect an amount at such rate as provided in sub-section (2), towards the liability of sales tax to be incurred on sale of sand by the auction purchaser, on auction of sand;

(b) who has temporary possession or control over the goods as may be notified, pending clearance of the said goods by the purchaser, to collect an amount at such rate as provided in sub-section (2), towards the liability of sales tax to be incurred by the purchasing dealer on sale of such goods.

(2) The State Government may, by the like notification in the *Official Gazette*, specify such rate from time to time, at which such amount shall be collected by any person, local bodies or authorities under the Central Government or, as the case may be, the State Government, under clauses (a) and (b) of sub-section (1).

(3) The amount so collected shall be paid into the Government Treasury by the authorities referred to in clauses (a) and (b) of sub-section (1) in the manner prescribed. The amount so paid under this section shall be deemed to have been paid on behalf of the auction purchaser, dealer or person and it shall be adjusted towards their tax liability, if any.”.

28. In section 41 of the Value Added Tax Act, in sub-section (4), after clause (b), the following clause shall be added, namely :—

Amendment of section 41 of Mah. IX of 2005.

“(c) on the sales of the furnishing cloth as specified in the notification issued under entry 101 of SCHEDULE C, at a point other than the last point of sales in the State.”.

- Amendment of section 45 of Mah. IX of 2005. **29.** In section 45 of the Value Added Tax Act,—
 (1) in sub-section (1),—
 (a) for the words “sells any taxable goods” the words “sells or purchases any taxable goods” shall be substituted;
 (b) for the words “turnover of such sales” the words “turnover of such sales or purchases” shall be substituted;
 (2) in sub-section (2), for the words “sold any” the words “sold or purchased any” shall be substituted;
 (3) in sub-section (3),—
 (a) for the word “sells” the words “sells or purchases” shall be substituted;
 (b) for the words “turnover of such sales” the words “turnover of such sales or purchases” shall be substituted;
 (c) in the proviso, for the words “such sale” the words “such sale or purchase” shall be substituted.
- Amendment of section 59 of Mah. IX of 2005. **30.** In section 59 of the Value Added Tax Act, in sub-section (1), in the proviso, for the words “Thane District” the words “Thane and Raigad District” shall be substituted.
- Amendment of section 86 of Mah. IX of 2005. **31.** In section 86 of the Value Added Tax Act,—
 (1) in sub-section (1), for the words “three years” the words “eight years” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005 ;
 (2) in sub-section (3), for the words “three years” the words “eight years” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005.
- Amendment of section 94 of Mah. IX of 2005. **32.** In section 94 of the Value Added Tax Act, in sub-section (1), for the words “sales tax liability” the words “sales tax or purchase tax liability” shall be substituted.

CHAPTER X

VALIDATION AND SAVINGS.

- Validation and savings. **33.** (1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment, review, levy or collection of tax in respect of sales or purchases effected by any dealer or person or any action taken or thing done in relation to such assessment, review, levy or collection of tax by any dealer or person under the provisions of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”), during the period commencing on the 1st April 2005 and ending, on and including the date immediately preceding the date of the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation). Act, 2012 (hereinafter, in this Chapter, referred to as “the Amendment Act”), shall be deemed to be valid and effective as if such assessment, review, levy or collection or action or thing had been duly
- Mah. IX of 2005.
Mah. VIII of 2012.

made, taken or done under the Value Added Tax Act, as amended by the Amendment Act, and accordingly,—

(a) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, review, levy or collection of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the law ;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid ; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the Value Added Tax Act, as amended by the Amendment Act, any assessment, review, levy or collection of tax referred to in sub-section (1), or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Value Added Tax Act, as amended by the Amendment Act.

(3) Nothing in the Value Added Tax Act, as amended by the Amendment Act, shall, render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act, if such act or omission was not an offence under the Value Added Tax Act, but for the amendments made by the Amendment Act; nor shall any person in respect of such Act or omission be subject to a penalty have greater than that which could have been imposed on him under the law in force immediately before the commencement of the Amendment Act.



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ६, अंक २३(३)]

गुरुवार, जून २६, २०१४/आषाढ ५, शके १९३६

[पृष्ठे ९, किंमत : रुपये २७.००

असाधारण क्रमांक ७९

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2014 (Mah. Act No. XXVII of 2014), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Principal Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXVII OF 2014.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 26th June 2014).

An Act 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-fifth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2014. Short title and commencement

(१)

(2) Sections 2, 7, 9 and 15 shall come into force with effect from the 1st July 2014 and remaining sections shall come into force on the date of publication of this Act in the *Official Gazette*.

CHAPTER II

AMENDMENTS TO THE MAHARASHTRA STAMP ACT.

Amendment of SCHEDULE I of LX of 1958.	2. In SCHEDULE I appended to the Maharashtra Stamp Act, in article 6,—	LX of 1958.
	(1) in clause (1), in sub-clause (b), in column (2), for the words and figures "Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed." the words and figures "Two rupees for every rupees 1000 or part thereof, for the amount secured by such deed, subject to the maximum of ten lakh rupees." shall be substituted;	
	(2) in clause (2), in sub-clause (b), in column (2), for the words and figures "Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed." the words and figures "Two rupees for every rupees 1000 or part thereof, for the amount secured by such deed subject to the maximum of ten lakh rupees." shall be substituted.	

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA PURCHASE TAX ON SUGARCANE ACT, 1962.

Insertion of section 12AA in Mah. IX of 1962.	3. After section 12A of the Maharashtra Purchase Tax on Sugarcane Act, 1962 (hereinafter, in this Chapter, referred to as "the Purchase Tax on Sugarcane Act"), the following section shall be inserted, namely :—	Mah. IX of 1962.
Special powers of authorities under Act for recovery of tax as arrears of land revenue.	"12AA. Subject to the provisions of this Act and the rules made thereunder, the provisions of the Maharashtra Value Added Tax Act, 2002 and the rules made thereunder so far as they relate to the recovery of tax as arrears of land revenue, shall <i>mutatis mutandis</i> apply for the purposes of recovery of tax under this Act. The authorities appointed under this Act shall have and exercise all the powers and perform all the duties of the equivalent authorities appointed under the Maharashtra Value Added Tax Act, 2002."	Mah. IX of 2005. Mah. IX of 2005.
Amendment of section 12B in Mah. IX of 1962.	4. In section 12B of the Purchase Tax on Sugarcane Act, after clause (d), the following clause shall be added, namely :— "e) for the purpose of assisting the sugar factories in the State, to give the fair and remunerative price to the farmers for the year 2013-14."	

CHAPTER IV

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

Amendment of section 6 of Mah. XVI of 1975.	5. In section 6 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (hereinafter, in this Chapter, referred to as "the Profession Tax Act"), to sub-section (3), the following proviso shall be added, namely :— "Provided that, if the State Government is satisfied that it is necessary so to do in the public interest, it may, from time to time, by notification published in the <i>Official Gazette</i> , exempt the whole or any	Mah. XVI of 1975.
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part of the late fee payable under this sub-section, by such class or classes of employers, for such period or periods, either prospectively or retrospectively, as may be specified in such notification.”.

6. In section 27A of the Profession Tax Act, for clause (e), the following clause shall be substituted, namely :—

Amendment of section 27A of Mah. XVI of 1975.

“(e) Any person with Intellectual and Development Disabilities (Mental Retardation) specified in the rules made in this behalf, which is certified by a psychiatrist working in a Government Hospital and which has the effect of reducing considerably such individual’s capacity for normal work or engaging in a gainful employment or occupation and parents or guardian of such person :

Provided that, such individual or, as the case may be, employer produces the aforesaid certificate before the prescribed authority in respect of the first assessment year for which he claims deduction under this clause.

Explanation.— For the purpose of this clause, the expression “Government Hospital” shall have the same meaning as assigned to it in clause (c);”.

7. In SCHEDULE I appended to the Profession Tax Act, in entry 1.—

Amendment of SCHEDULE I of Mah. XVI of 1975.

(1) in clause (a), for the figures “5,000” the figures “7,500” shall be substituted;

(2) in clause (b), for the figures “5,000” the figures “7,500” shall be substituted.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987.

Mah. XLI of 1987.

8. In section 2 of the Maharashtra Tax on Luxuries Act, 1987 (hereinafter, in this Chapter, referred to as “the Luxury Tax Act”),—

Amendment of section 2 of Mah. XLI of 1987.

(1) in clause (b-1A), after the words and figures “Tourism Projects, 2000” the words and figures “or the Tourism Policy- 2006” shall be added;

(2) in clause (d-1), after the words and figures “Tourism Projects, 2000” the words and figures “or the Tourism Policy-2006” shall be added.

9. In section 3 of the Luxury Tax Act, in sub-section (2),—

Amendment of section 3 of Mah. XLI of 1987.

(1) in clause (a), for the words “seven hundred and fifty rupees” the words “one thousand rupees” shall be substituted;

(2) in clause (b),—

(i) for the words “seven hundred and fifty rupees” the words “one thousand rupees” shall be substituted;

(ii) for the words “twelve hundred rupees” the words “one thousand five hundred rupees” shall be substituted;

(3) in clause (c), for the words “twelve hundred rupees” the words “one thousand five hundred rupees” shall be substituted.

10. In section 22A of the Luxury Tax Act, in sub-section (1),—

Amendment of section 22A of Mah. XLI of 1987.

(1) for the words, brackets and figures “sub-entry (2) or, as the case may be, sub-entry (3) of entry 7 of the Schedule appended to the notification issued” the words “any of the entries of the Schedule appended to the notification issued, from time to time,” shall be substituted,

(2) after the word and figures "Act, 2004," the words and figures "or, as the case may be, the Tourism Policy- 2006," shall be inserted;

(3) in the marginal note, after the words "Tourism Projects" the words "and Tourism Policy" shall be added."

Insertion of section 22B in Mah. XLI of 1987.

11. After section 22A of the Luxury Tax Act, the following section shall be inserted, namely :—

Incentives to Eligible Unit in certain contingencies under Tourism Policy-2006.

"22B. (1) Notwithstanding anything to the contrary contained in Tourism Policy- 2006, the Certificate of Entitlement, in respect of Tourism Policy- 2006, shall be granted only to the Eligible Unit, situated in areas specified in Zone 'B' or, as the case may be, Zone 'C' as shown in Annexure 'B' to the said Policy, to which the Eligibility Certificate has been issued after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2014 :

Mah. XXVII of 2014.

Provided that, Certificate of Entitlement to the Expansion Unit under the Tourism Policy- 2006 shall be granted only if there is an increase in capacity of the existing unit.

(2) Notwithstanding anything to the contrary contained in Tourism Policy-2006, any Eligible Unit, to whom the Eligibility Certificate and Certificate of Entitlement has been granted, for expansion of existing unit, shall be entitled to draw the benefits under the Act, in any year, only on that part of its turnover of receipts as may be arrived at, by applying the provisions of sub-section (3).

(3) In case where the Eligible Unit has,—

(a) maintained separate accounts of receipts and able to identify the receipts pertaining to the increased capacity, then the portion of the turnover of receipts eligible for benefits will be decided solely on the basis of such identification;

(b) not maintained separate accounts of receipts and not able to identify the receipts in relation to increase in the capacity, then such benefits shall be calculated after applying the formula as under :—

$$\text{Eligible turnover of receipts} = \frac{\text{Turnover of receipts} \times \text{increase in capacity}}{\text{Total capacity after such increase}}$$

Explanation.— For the purpose of this section, the expression "increase in capacity" shall have the same meaning as specified in the Tourism Policy-2006."

CHAPTER VI

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment of section 3 of Mah. IX of 2005.

12. In section 3 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), in sub-section (4), in clause (b), for the figures "5,00,000" the figures "10,00,000" shall be substituted. Mah. IX of 2005.

Amendment of section 10 of Mah. IX of 2005.

13. In section 10 of the Value Added Tax Act,—
(1) in sub-section (2), clause (b) shall be deleted;
(2) in sub-section (6), the words "Senior Deputy Commissioners," shall be deleted.

14. In section 16 of the Value Added Tax Act, in sub-section (6),—
 (1) in clause (b), after the words and figure "of section 3," the word "or" shall be added;
 (2) after clause (b) so amended, the following clause shall be added, namely :—

Amendment of section 16 of Mah. IX of 2005.

"(c) the turnover of sales of a registered dealer, other than an importer, has during the year 2013-14, not exceeded the limit, specified in sub-section (4) of section 3,";

- (3) after the words "circumstances of the case.", the following shall be inserted, namely :—

"In the case covered by clause (c), the dealer may apply in the prescribed form for cancellation of his registration to the Commissioner on or before the 30th September 2014 and thereupon the Commissioner may, after such inquiry as he deems fit, cancel the registration with effect from the 1st October 2014."

15. In section 20 of the Value Added Tax Act, in sub-section (6), for the words "five thousand" the words "two thousand if the return is filed within a period of thirty days from the expiry of the due date prescribed for filing of such return and an amount of rupees five thousand, in any other case" shall be substituted.

Amendment of section 20 of Mah. IX of 2005.

16. In section 23 of the Value Added Tax Act,—

(1) sub-section (9) shall be deleted;

- (2) to sub-section (10), the following proviso shall be added, namely :—

Amendment of section 23 of Mah. IX of 2005.

"Provided that, in respect of the period commencing on or after the 1st April 2011, in case a dealer is required under the rules, to file more than one return in different forms prescribed, then such dealer may be assessed separately for each form of return for the said period.";

- (3) in sub-section (11),—

(a) after the words "order in writing" the words "within three months from the end of the month in which such application is made" shall be inserted;

- (b) after the proviso, the following proviso shall be added, namely :—

"Provided further that, if no order is passed within the aforesaid period of three months, then the assessment order shall be deemed to be cancelled.";

- (4) in sub-section (12), after the words "cancellation order" the words, brackets and figures " or, as the case may be, from the date on which the assessment order is deemed to have been cancelled under the second proviso to sub-section (11)" shall be added.

17. In section 26 of the Value Added Tax Act, in sub-section (6),—

- (1) before the existing proviso, the following proviso shall be inserted, namely :—

"Provided that, in case of an appeal filed on or after the 1st July 2014 against any order, in which claim against declaration or certificate, has been disallowed on the grounds of non-production of such declarations or, as the case may be, certificates then,—

Amendment of section 26 of Mah. IX of 2005.

(a) where such appeal is filed after two years from the end of the year to which such claim relates, then the stay shall not be granted unless the appellant makes 100 per cent. payment of tax, in respect of such claim,

(b) where such appeal is filed before the expiry of two years from the end of the year to which such claim relates, the stay, if any, shall stand vacated, if the dealer fails to produce the required declaration before the expiry of the said period of two years.

Explanation.— For the purpose of computing payment in the appeal, mentioned in the above clauses, the amount of part payment made earlier, if any, shall be included.”;

(2) in the existing proviso, for the words “Provided that” the words “Provided further that” shall be substituted.

Amendment
of section 29
of Mah. IX
of 2005.

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

(1) in sub-section (3), for the words “equal to” the words “not exceeding the amount of tax due but not less than twenty five per cent. of ” shall be substituted;

(2) after sub-section (7), the following sub-section shall be inserted, namely :—

“(7A) In case of a dealer, who has filed late return on or after the 1st August 2012, and has also paid the late fee, under sub-section (6) of section 20, the penalty in respect of such return, if any, imposed under sub-section (8) of this section, as it existed, shall not be recovered.”;

(3) after sub-section (11), the following sub-section shall be inserted, namely :—

“(11A) Notwithstanding anything contained in sub-section (11), penalty under this section may be imposed while passing an order under this Act.”;

(4) sub-section (12) shall be deleted.

Amendment
of section 30
of Mah. IX
of 2005.

19. In section 30 of the Value Added Tax Act, in sub-section (4), the following shall be added at the end, namely :—

“Provided that, interest under this sub-section shall not be payable on account of the additional tax liability arising due to non-production of declarations or, as the case may be, certificates:

Provided further that, if the amount of tax paid as per revised return is less than ten per cent. of the aggregate amount of tax paid as per the original returns, in respect of the corresponding period, then no interest under this sub-section shall be payable.

Explanation.—For the purpose of this sub-section the expressions,—

(i) “tax paid as per original returns” shall be deemed to include the amount of tax paid, as per the revised returns, filed before the commencement of proceedings specified in clause (a) or before the receipt of intimation specified in clause (b) of sub-section (4) ;

(ii) “tax paid” shall mean the amount of tax paid by such person or dealer, after the adjustment of set-off.”.

Amendment
of section
31A of Mah.
IX of 2005.

20. In section 31A of the Value Added Tax Act,—

(1) in sub-section (1), after clause (b), the following clause shall be added, namely :—

“(c) who awards quarrying lease or quarrying permit in respect of minor minerals to a dealer, within their jurisdiction to collect an amount at the time of such award or, as the case may be, auction, at such rate as provided in sub-section (2) towards the liability of sales tax to be incurred on sale of such minor minerals.”;

- (2) in sub-section (2), for the brackets, letters and word "(a) and (b)" the brackets, letters and word "(a), (b) and (c)" shall be substituted;
- (3) in sub-section (3), for the brackets, word and letters "(a) and (b)" the brackets, letters and word "(a), (b) and (c)" shall be substituted
21. In section 51 of the Value Added Tax Act, in sub-section (3), in clause (a), in sub-clause (iii), for the words and figures "Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007" the words and figures "Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013" shall be substituted. Amendment of section 51 of Mah. IX of 2005.
22. In section 61 of the Value Added Tax Act,— Amendment of section 61 of Mah. IX of 2005
- (1) in sub-section (1),—
- (i) for clause (a), the following clause shall be substituted, namely :—
- “(a) if the,—
- (i) aggregate of his turnover of sales and the value of goods transferred to any other place of his business or of his agent or principal, situated outside the State, not by reason of sale, or
- (ii) turnover of purchases, exceeds rupees one crore in any year;”;
- (ii) clause (b) shall be deleted;
- (2) in sub-section (2), the proviso shall be deleted.
23. In section 63 of the Value Added Tax Act, in sub-section (7), for the words "Commissioner may" the words "Commissioner shall" shall be substituted. Amendment of section 63 of Mah IX of 2005.
24. In section 88 of the Value Added Tax Act,— Amendment of section 88 of Mah IX of 2005.
- (1) in clause (a-1), for the words and figures "Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007" the words and figures "Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013" shall be substituted;
- (2) in clause (e), for the words and figures "the Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007" the words and figures "the Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013" shall be substituted.
25. In section 89 of the Value Added Tax Act, in sub-section (4), for the words and figures "Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007" the words and figures "Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013" shall be substituted. Amendment of section 89 of Mah. IX of 2005.
26. In SCHEDULE A appended to the Value Added Tax Act, after entry 26, the following entry shall be inserted, namely :— Amendment of SCHEDULE A of Mah. IX of 2005.
- “26A Copyrights, for distribution and exhibition of cinematographic films in theatres and cinema halls, sold during the period commencing on the 1st April 2005 and ending on the 30th April 2011. Nil”.

Amendment of SCHEDULE C of Mah. IX of 2005.

27. In SCHEDULE C of the Value Added Tax Act, after entry 55, the following entries shall be inserted, namely :—

- “55A Tool, alloy and special steels of any of the categories, specified in clause (x) to clause (xv) of entry 55 of this Schedule, sold during the period commencing on the 1st April 2005 and ending on the 30th April 2011. 4%
- 55B Tool, alloy and special steels of any of the categories, specified in clause (x) to clause (xv) of entry 55 of this Schedule, sold on or after the 1st May 2011. 5%”.

Validation and savings.

CHAPTER VII

VALIDATION AND SAVINGS.

28. (1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment, review, levy or collection of tax in respect of sales or purchases effected by any dealer or person, or any action taken or thing done in relation to such assessment, review, levy or collection of tax by any dealer or person under the provisions of the Maharashtra Value Added Tax Act, 2002 (hereinafter in this section referred to as “the Value Added Tax Act”), before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2014 (hereinafter, in this section, referred to as “the Amendment Act”), shall be deemed to be valid and effective as if such assessment, review, levy or collection or action or thing had been duly made, taken or done under the Value Added Tax Act, as amended by the Amendment Act, and accordingly,—

Mah. IX of 2005. Mah. XXVII of 2014.

(a) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, review, levy or collection of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the Value Added Tax Act, as amended by the Amendment Act, any assessment, review, levy or collection of tax referred to in sub-section (1), or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Value Added Tax Act, as amended by the Amendment Act.

(3) Nothing in the Value Added Tax Act, as amended by the Amendment Act, shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act, if such act or omission was not an offence under the Value Added Tax Act, but for the amendments made by the Amendment Act; nor shall any person in respect of such act or omission be subject to a penalty have greater than that which could have been imposed on him under the law in force immediately before the commencement of the Amendment Act.



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष १, अंक २१]

शनिवार, एप्रिल १८, २०१५/चैत्र २८, शके १९३७

[पृष्ठे ६, किंमत : रुपये २७.००

असाधारण क्रमांक ४४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2015 (Mah. Act No. XVII of 2015), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

M. A. SAYEED,
Principal Secretary and R. L. A. to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XVII OF 2015.

(First published, after having received the assent of the Governor in the
"Maharashtra Government Gazette", on the 18th April 2015).

An Act 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-sixth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2015.

Short title
and
commencement.

(2) Save as otherwise provided in this Act,—

(a) sections 2 to 5, sub-section (1) of section 6 and sections 7 to 11 shall come into force with effect from the 1st April 2015;

(b) sub-section (2) of section 6 shall come into force with effect from the 1st May 2015.

CHAPTER II

AMENDMENT TO THE MAHARASHTRA PURCHASE TAX ON SUGARCANE ACT, 1962.

Amendment of section 12B of Mah. IX of 1962.

2. In section 12B of the Maharashtra Purchase Tax on Sugarcane Act, 1962, in clause (e), for the word and figures “year 2013-14” the words and figures “years 2013-14 and 2014-15” shall be substituted.

Mah. IX of 1962.

CHAPTER III

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

Amendment of SCHEDULE I of Mah. XVI of 1975.

3. In SCHEDULE I appended to the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, in entry 1, for clause (b), the following clause shall be substituted, namely :—

Mah. XVI of 1975.

“(b) (i) in case of a male, exceed Rs. 7,500 . . 175 per month. but do not exceed Rs. 10,000 ;

(ii) in case of a female, do not exceed . . Nil.”
Rs. 10,000 ;

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002.

Amendment of SCHEDULE of Mah. IV of 2003.

4. In the SCHEDULE appended to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, after entry 16, the following entry shall be added, namely :—

Mah. IV of 2003.

“**17.** Goods covered by clauses (iv) and (v) of entry . . 5%.”
55 of Schedule C, appended to the Maharashtra Value Added Tax Act, 2002.

Mah. IX of 2005.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment of section 2 of Mah. IX of 2005.

5. In section 2 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”),—

Mah. IX of 2005.

(1) in clause (20), after *Explanation I*, the following *Explanation* shall be inserted, namely :—

“*Explanation—IA.*—Purchase price shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately by the seller.”;

32 of 1994.

(2) in clause (25), after *Explanation I*, the following *Explanation* shall be inserted, namely :—

“*Explanation—IA.*—Sale price shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately from the purchaser.”.

32 of 1994.

6. In section 20 of the Value Added Tax Act,—

Amendment of section 20 of Mah. IX of 2005.

(1) in sub-section (4), in the proviso, for the words “the aforesaid clauses” the words, brackets and letters “clause (a) or, as the case may be, clause (b),” shall be substituted;

(2) in sub-section (6), for the words “two thousand” the words “one thousand” shall be substituted.

7. In section 23 of the Value Added Tax Act,—

Amendment of section 23 of Mah. IX of 2005.

(1) in sub-section (5),—

(a) in clause (a), for the words “During the course of any proceedings under this Act, if the prescribed authority is satisfied” the words “Where the prescribed authority has reason to believe” shall be substituted;

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

“Provided further that, in case a notice is issued under this sub-section on or after the 1st April 2015, no order of assessment under this sub-section shall be made after the expiry of six years from the end of the year, containing the transaction or, as the case may be, claim.”;

(2) in sub-section (11), for the brackets, figures and word “(3) or (4)” in both the places where they occur, the brackets, figures and words “(3), (4) or, as the case may be, (5)” shall be substituted;

(3) in sub-section (12), for the brackets, figures and word “(3) or (4)” the brackets, figures and words “(3), (4) or, as the case may be, (5)” shall be substituted.

8. For section 28 of the Value Added Tax Act, the following section shall be substituted, namely :—

Substitution of section 28 of Mah. IX of 2005.

“28. Where any Court or Tribunal or any Appellate authority or any other authority passes an order in appeal or review which has the effect that,—

Modification of tax liability.

(i) any tax assessed under this Act or any other Act should have been assessed under the provisions of an Act other than that under which it was assessed, or

(ii) any claim allowed or disallowed modifies the tax liability under this Act or any other Act,

then in consequence of such order, such turnover or part thereof may be assessed or, as the case may be, tax liability may be determined, under this Act in accordance with the allowance or disallowance of such claim and may be subjected to tax at any time within five years from the date of such order :

Provided that, where any assessment has already been made, the assessment shall be modified after giving the dealer a reasonable opportunity of being heard, notwithstanding that any provision regarding limitation applies to such assessment period.”.

9. In section 30 of the Value Added Tax Act, in sub-section (2), after the proviso, the following proviso shall be added, namely :—

Amendment of section 30 of Mah. IX of 2005.

“Provided further that, in case a dealer files an annual revised return, as provided under clause (b) or, as the case may be, clause (c) of sub-section (4) of section 20, then the interest shall be payable on the excess amount of tax, as per such annual revised return, from the dates mentioned in column (2) of the Table, till the date of payment of such excess amount of tax.

TABLE

Registration status in the year for which annual revised return is filed (1)	Interest to be computed from (2)
(a) Dealer, holding certificate of registration for whole year.	1st October of the year, to which the annual revised return relates.
(b) Certificate of registration granted, effective from any date up to the 30th September of the year to which revised return relates.	1st October of the year, to which the annual revised return relates.
(c) Certificate of registration cancelled, effective on any date after the 30th September of the year to which revised return relates.	1st October of the year, to which the annual revised return relates.
(d) Certificate of registration granted, effective from any date after the 30th September of the year to which revised return relates.	effective date of registration.
(e) Certificate of registration cancelled, effective on any date prior to the 30th September of the year to which revised return relates.	effective date of cancellation of registration.”.

Amendment of
section 44 of
Mah. IX of
2005.

10. In section 44 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be inserted, namely :—

“(4A) For the purposes of this Act, in case of amalgamation, merger or, as the case may be, demerger, the transfer of business shall be deemed to have taken effect either from,

(i) the date of the order of the High Court, the Tribunal or the Central Government, or

(ii) the date on which the Registrar of Companies notifies the amalgamation, merger or as the case may be, demerger, as opted by the company.”.

Amendment of
section 47 of
Mah. IX of
2005.

11. In section 47 of the Value Added Tax Act,—

(1) in sub-section (1),—

(a) for the word “Court” the words “ Court, Tribunal ” shall be substituted;

(b) for the words “ending on the date of the order,” the words “ending on the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the amalgamation,” shall be substituted ;

(2) in sub-section (2), for the words “the date of the said order” in both the places where they occur, the words “such date, as opted by the company under sub-section (4A) of section 44” shall be substituted;

(3) in sub-section (2A),—

(a) in clause (a),—

(i) for the word, “Court” the words “ Court, Tribunal ” shall be substituted;

(ii) for the words “order to the date of the order” the words “order to the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the demerger” shall be substituted ;

(b) in clause (b), for the words “ the date of the said order” wherever they occur, the words “such date, as opted by the company under sub-section (4A) of section 44” shall be substituted.

12. In Schedule C appended to the Value Added Tax Act,—

(1) in entry 4, the following *Explanation* shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely:—

“*Explanation.*—For the purposes of this entry, as it stood from time to time, the “sewing thread” shall include embroidery thread.”;

(2) in entry 91, the following *Explanation* shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely :—

“*Explanation.*—For the purposes of this entry, as it stood from time to time, “spices” shall include spices in all forms, varieties and mixtures of any of the spices.”.

Amendment to Schedule C of Mah. IX of 2005.

13. In the Government Notification, Finance Department, No. VAT-1505/CR-234/Taxation-1, dated the 1st September 2005, issued under entry 54 of Schedule C of the Maharashtra Value Added Tax Act, 2002, in the Schedule appended to the said notification, in entry 2, in column (5), for the words “Desi loni” the words “Desi loni, white butter” shall be substituted and shall be deemed to have been substituted with effect from the 1st September 2005.

Mah. IX of 2005.

Amendment to notification issued under entry 54 of Schedule C of Mah. IX of 2005.

CHAPTER VI

VALIDATION AND SAVINGS

14. (1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment, review, levy or collection of tax in respect of sales or purchases effected by any dealer or person, or any action taken or thing done in relation to such assessment, review, levy or collection under the provisions of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this section, referred to as “the Value Added Tax Act”), before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2015 (hereinafter, in this section, referred to as “the Amendment Act”), shall be deemed to be valid and effective as if such assessment, review, levy or collection or action or thing had been duly made, taken or done under the Value Added Tax Act, as amended by the Amendment Act, and accordingly,—

Mah. IX of 2005.

Mah. XVII of 2015.

Validation and savings.

(a) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, review, levy or collection of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the Value Added Tax Act, as amended by the Amendment Act, any assessment, review, levy or collection of tax referred to in sub-section (1), or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Value Added Tax Act, as amended by the Amendment Act.

(3) Nothing in the Value Added Tax Act, as amended by the Amendment Act, shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act, if such act or omission was not an offence under the Value Added Tax Act, but for the amendments made by the Amendment Act; nor shall any person in respect of such Act or omission be subject to a penalty greater than that which could have been imposed on him under the law in force immediately before the commencement of the Amendment Act.



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक ३६(६)]

शनिवार, एप्रिल १५, २०१७/चैत्र २५, शके १९३९

[पृष्ठे ७, किंमत : रुपये २७.००

असाधारण क्रमांक ७४

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017 (Mah. Act No. XXXI of 2017), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

PRAKASH H. MALI,
Principal Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXXI OF 2017

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 15th April 2017).

An Act 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-eighth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017. Short title and commencement.

(2) Save as otherwise provided in this Act,—

(a) sections 3, 4, 5 and 6 shall come into force with effect from the 1st April 2017 ; and

(b) remaining sections shall come into force on the date of publication of this Act in the *Official Gazette*.

CHAPTER II

AMENDMENT TO THE MAHARASHTRA PURCHASE TAX ON SUGARCANE ACT, 1962.

Amendment
of section
12B of Mah.
IX of 1962.

2. In section 12B of the Maharashtra Purchase Tax on Sugarcane Act, 1962,—

Mah. IX
of 1962.

(1) in sub-section (1), in clause (e), for the word and figures “and 2014-15” the figures and word “,2014-15, 2015-16 and 2016-17” shall be substituted ;

(2) sub-section (2) shall be deleted.

CHAPTER III

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

Amendment
of section 3
of Mah. XVI
of 1975.

3. In section 3 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (hereinafter, in this Chapter, referred to as “the Profession Tax Act”), in sub-section (2), in the third proviso, for the portion beginning with the words “ exceed eight years” and ending with the words “whichever is earlier” the following shall be substituted, namely :—

Mah.
XVI of
1975.

“ exceed :

(a) four years, in case where certificate of enrollment is granted on or after the 1st April 2017,

(b) eight years, in any other case,

from the end of the year immediately preceding the year in which certificate of enrollment has been granted, or the year in which the proceeding for enrollment is initiated against him, whichever is earlier.”.

Insertion of
sections 4A
and 4B in
Mah. XVI of
1975.

4. After section 4 of the Profession Tax Act, the following sections shall be inserted, namely :—

Restricted
liability to
pay tax.

“4A. An employer, who has been granted certificate of registration on or after the 1st April 2017, shall not be liable to pay tax for a period of more than four years from the end of the year immediately preceding the year in which the certificate of registration has been granted or the year in which the proceeding for registration is initiated against him, whichever is earlier.

Liability to
deduct and
pay tax in
certain cases.

4B. (1) The State Government may, from time to time, by notification published in the *Official Gazette*, provide for the class of persons who shall deduct the tax out of the amount of the commission paid or payable to an agent, to be mentioned in the said notification, before the payment of such commission. The person so notified to deduct the tax shall pay the tax, in the manner provided in the said notification and at the rate specified in entry 1A of SCHEDULE I of the Act.

(2) All the provisions related to an employer and employee under the Act shall apply *mutatis mutandis* to the person liable to deduct the tax and the person from whom such tax is to be deducted under sub-section (1).”.

5. In section 9 of the Profession Tax Act, in sub-section (2), for the portion beginning with the words “pay simple interest” and ending with the words “remains unpaid” the words “pay by way of simple interest, in addition to the amount of such tax, a sum calculated at the prescribed rate on the amount of such tax, for each month or part thereof, after the last date by which he should have paid the tax” shall be substituted.

Amendment of section 9 of Mah. XVI of 1975.

6. In Schedule I appended to the Profession Tax Act,—

Amendment to Schedule I of Mah. XVI of 1975.

(1) after entry 1, the following entry shall be inserted, namely :—

“ 1A. Persons as notified under section 4B. 2,500 per annum.”;

(2) after entry 20, the following entry shall be inserted, namely :—

“20A. Service provider, registered under the Finance Act, 1994. 2,500 per annum.”.

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS RULES, 2003.

7. In rule 8 of the Maharashtra Tax on the Entry of Goods into Local Areas Rules, 2003,—

Amendment of rule 8 of rules made under Mah. IV of 2003.

(1) sub-rule (1) shall be deleted and shall be deemed to have been deleted with effect from the 1st April 2005 ;

(2) for sub-rule (3), the following sub-rule shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

“(3) The assessment of an unregistered importer shall be made by the assessing authority in whose jurisdiction, the specified goods are found or detected to have been consumed, used or sold.”.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Mah. IX of 2005. 8. In section 8 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”), in sub-section (3D), for the words “with effect from the date specified in the order” the words “either prospectively or retrospectively” shall be substituted.

Amendment of section 8 of Mah. IX of 2005.

9. In section 23 of the Value Added Tax Act,—

Amendment of section 23 of Mah. IX of 2005.

(1) in sub-section (7),—

(a) for the portion beginning with the words “such assessment shall be” and ending with the words “to the Commissioner” the following shall be substituted, namely :—

“such assessment shall be made within a period of eighteen months, if the said order is made by the appellate authority in first appeal and in any other case, within a period of thirty-six months from the date of communication of such finding or direction contained in the said order to the assessing authority or, as the case may be, to the Commissioner”;

(b) in the proviso, for the portion beginning with the words “the dealer concerned” and ending with the words “the period of thirty-six months” the following shall be substituted, namely :—

“the dealer concerned to the assessing authority or, as the case may be, to the Commissioner earlier than the said date of communication, then the said period of eighteen months or, as the case may be, of thirty-six months”;

(2) in sub-section (11), after the second proviso, the following proviso shall be added, namely :—

“Provided also that, no application under this sub-section shall be entertained, in case the assessment order is passed, on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017.”.

Mah.
XXXI
of 2017.

Amendment
of section 26
of Mah. IX
of 2005.

10. In section 26 of the Value Added Tax Act,—

(1) in sub-section (5), in clause (a), after the proviso, the following proviso shall be added, namely :—

“Provided further that, in respect of any appeal against an order of assessment, wherein dealer was not able to attend or remain present before the assessing authority at the time of hearing when the assessment order had been passed, then the appellate authority in first appeal may set-aside the said assessment order,—

(i) within nine months from the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, if the appeal is filed prior to the date of commencement of the said Act,

Mah.
XXXI of
2017.

(ii) within six-months from the date on which the said appeal has been filed, if the appeal is filed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017,

Mah.
XXXI of
2017.

and refer the case back to the assessing authority for making a fresh assessment under sub-section (7) of section 23.”;

(2) after sub-section (6), the following sub-sections shall be inserted, namely :—

“(6A) No appeal against an order, passed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, shall be filed before the appellate authority in first appeal, unless it is accompanied by the proof of payment of an aggregate of the following amounts, as applicable,—

Mah.
XXXI of
2017.

(a) in case of an appeal against an order, in which claim against declaration or certificate, has been disallowed on the ground of non-production of such declaration or, as the case may be, certificate then, amount of tax, as provided in the proviso to sub-section (6),

(b) in case of an appeal against an order, which involves disallowance of claims as stated in clause (a) above and also tax liability on other grounds, then, an amount equal to 10 per cent. of the amount of tax, disputed by the appellant so far as such tax liability pertains to tax, on grounds, other than those mentioned in clause (a),

(c) in case of an appeal against an order, other than an order, described in clauses (a) and (b) above, an amount equal to 10 per cent. of the amount of tax disputed by the appellant,

(d) in case of an appeal against a separate order imposing only penalty, deposit of an amount, as directed by the appellate authority, which shall not in any case, exceed 10 per cent. of the amount of penalty, disputed by appellant :

Provided that, the amount required to be deposited under clause (b) or, as the case may be, clause (c), shall not exceed rupees fifteen crores.

(6B) No appeal shall be filed, before the Tribunal, against an order, which is passed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, unless it is accompanied by the proof of payment of an aggregate of following amounts, as applicable,—

(a) in case of an appeal against an order, in which claim against declaration or certificate has been disallowed on the grounds of non-production of such declarations or, as the case may be, certificates then, amount of tax, as provided in the proviso to sub-section (6),

(b) in case of an appeal against an order, which involves disallowance of claims as stated in clause (a) above and also tax liability on other grounds, then, an amount equal to 10 per cent. of the balance amount of disputed tax, so far as such tax liability pertains to tax, on grounds, other than those mentioned in clause (a),

(c) in case of an appeal against an order, other than an order, described in clauses (a) and (b) above, an amount equal to 10 per cent. of the balance amount of disputed tax,

(d) in case of an appeal against any other order, an amount, as directed by the Tribunal :

Provided that, the amount required to be deposited under clause (b) or, as the case may be, clause (c), shall not exceed rupees fifteen crores.

Explanation.— For the purposes of clause (b) or clause (c) of sub-section (6B), the expression, “balance amount of disputed tax” shall mean an amount of disputed tax, which remains outstanding, after considering the amount paid, as directed by the appellate authority in first appeal under clause (b) or, as the case may be, clause (c), respectively of sub-section (6A).

(6C) The appellate authority or, as the case may be, Tribunal shall stay the recovery of the remaining disputed dues, in the prescribed manner, on filing of an appeal under sub-section (6A) or, as the case may be, sub-section (6B).”.

11. In section 27 of the Value Added Tax Act, in sub-section (2), in clause (a), for the words “one hundred and twenty days” the words “one hundred and eighty days” shall be substituted.

Amendment of section 27 of Mah. IX of 2005.

Amendment
of section
30 of Mah.
IX of 2005.

12. In section 30 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be added, namely :—

“(5) The State Government may, from time to time, by notification published in the *Official Gazette*, subject to such conditions mentioned therein, remit the whole or any part of the interest, in respect of any period, payable by any prescribed class of registered dealers,—

(i) who were not able to pay the tax during the prescribed period, due to technical problems of the automation system of the Sales Tax Department, or

(ii) who obtained registration late.”.

Amendment
of section 37
of Mah. IX
of 2005.

13. Section 37 of the Value Added Tax Act shall be renumbered as sub-section (1) thereof ; and after sub-section (1) as so renumbered, the following sub-section shall be added, namely :—

“(2) The first charge as mentioned in sub-section (1) shall be deemed to have been created on the expiry of the period specified in sub-section (4) of section 32, for the payment of tax, penalty, interest, sum forfeited, fine or any other amount.”.

Amendment
of section 40
of Mah. IX
of 2005.

14. In section 40 of the Value Added Tax Act, after the words, brackets and figure “sub-section (6)” the word, brackets, figure and letter “or, as the case may be, sub-section (6C)” shall be inserted.

Amendment
of section 44
of Mah. IX
of 2005.

15. In section 44 of the Value Added Tax Act, after sub-section (5), the following sub-section shall be added, namely :—

“(6) Subject to the provisions of the Companies Act, 2013, where any tax or other amount recoverable under this Act from a private company, whether existing or wound up or under liquidation, for any period, cannot be recovered, for any reason whatsoever, then, every person who was a director of the private company during such period shall be jointly and severally liable for the payment of such tax or other amount unless, he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the said company.”.

18 of
2013.

Amendment
of section 53
of Mah. IX
of 2005.

16. In section 53 of the Value Added Tax Act, in sub-section (1), after *Explanation*, the following sub-section shall be inserted, namely :—

“(1A) In case of refunds, which become due on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, the provisions of sub-section (1) shall be applicable, if the delay in granting refund is more than sixty days.”.

Mah.
XXXI
of 2017.

Amendment
to Schedule
'A' appended
to Mah. IX
of 2005.

17. In SCHEDULE ‘A’ appended to the Value Added Tax Act, after entry 63, the following entry shall be added, namely :—

“64 Sale, during the period from the 1st April 2005 to the 31st March 2016, of processed, semi-processed, semi-cooked, ready-mix, ready to eat, shelled sweet corn, whether or not sold,—

(1) Tax should not have been collected from the customer. NIL %”.

(2) Tax should not have been paid into the Government Treasury.

(a) in a frozen state, or
(b) in a sealed container, or
(c) under a brand name, except when served for consumption.

CHAPTER VI

AMENDMENT TO THE MAHARASHTRA TAX ON LOTTERIES ACT, 2006.

Mah. XLIII of 2006. **18.** In section 3 of the Maharashtra Tax on the Lotteries Act, 2006, in sub-section (1), in the TABLE, in entry 1, in column (3), for the figures “70,000” the figures “1,00,000” shall be substituted. Amendment of section 3 of Mah. XLIII of 2006.

CHAPTER VII

AMENDMENT TO THE MAHARASHTRA TAX LAWS (LEVY, AMENDMENT AND VALIDATION) ACT, 2012.

Mah. VIII of 2012. **19.** In the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2012, in section 1, in sub-section (2),— Amendment in section 1 of Mah. VIII of 2012.
 (1) in clause (a), for the word and figures “sections 21” the words, bracket and figures “sub-section (1) of section 21” shall be substituted and shall always be deemed to have been substituted ;
 (2) after clause (a), the following clause shall be inserted and shall always be deemed to have been inserted, namely :—
 “(a-1) sub-section (2) of section 21 shall be deemed to have been come into force with effect from the 8th April 2011.”

CHAPTER VIII

VALIDATION AND SAVING.

Mah. IV of 2003. **20.** (1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment or any action taken or thing done in relation to such assessment, under the provisions of the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 and the rules made thereunder (hereinafter, in this Chapter, referred to as “the law relating to the Entry Tax”), at any time before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017 (hereinafter, in this Chapter, referred to as “the Amendment Act”), if made within the time limit provided under section 23 of the Maharashtra Value Added Tax Act, 2002, as it exists on the date of such assessment, or any action taken or thing done in relation to such assessment, shall be deemed to be valid and effective as if such assessment or action taken or thing had been duly made, taken or done under the law relating to the Entry Tax, as amended by the Amendment Act, and accordingly, all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the law. Validation and saving.
 Mah. XXXI of 2017.
 Mah. IX of 2005. (2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person, from questioning in accordance with the law relating to the Entry Tax, as amended by the Amendment Act, any assessment referred to in sub-section (1).