

BILL NO. 7. OF 2011

THE DELHI VALUE ADDED TAX (SECOND AMENDMENT) BILL, 2011

A

BILL

to further amend the Delhi Value Added Tax Act, 2004.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Sixty-second Year of the Republic of India as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Delhi Value Added Tax (Second Amendment) Act, 2011.

(2) It extends to the whole of the National Capital Territory of Delhi.

(3) Save as otherwise provided, it shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. Amendment of Section 2.- In the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005) (hereinafter referred to as "the principal Act"), in section 2, in sub-section (1), in clause (zd), after sub-clause (vii) and before the Explanation occurring at the end thereof, the following provisos shall be inserted, namely;

"PROVIDED that an amount equal to the increase in the price of diesel (HSD) (including the duties and levies charged thereon by the Central Government) taking effect from the 25th June, 2011 shall not form part of the sale price of diesel (HSD) sold on or after the date of the commencement of the Delhi Value Added Tax (Second Amendment) Act, 2011 till such date as the Government may, by notification in the official Gazette, direct or if the price of diesel (HSD) falls below the sale price prior to 25th June, 2011, whichever is earlier :

PROVIDED further that if the price of diesel (HSD) further increases from the level of price as on 25th June, 2011, the first proviso shall not have any effect on such further increase:

PROVIDED also that if the price of diesel (HSD) declines but remains above the price prevailing prior to 25th June, 2011, the first proviso shall have effect to the extent of the remaining increase:

PROVIDED also that the first proviso shall not take effect till the benefit is passed on to the consumers."

3. **Amendment of section 4.-** In the principal Act, in section 4, in sub-section (1) -

(I) the proviso to clause (b) shall be omitted;

(II) in the first proviso to clause (d), for the word "four", the word "five" shall be substituted.

4. **Amendment of section 9.-** In the principal Act, in section 9, in sub-section (1), for the words "to the extent of proportion of the goods which have been put to sale", the words "where the purchase arises" shall be substituted.

5. **Amendment of section 74.-** In the principal Act, in section 74, in sub-section (1), after the second proviso, the following proviso shall be inserted, namely: -

"PROVIDED also that the Commissioner may, after giving to the dealer an opportunity of being heard, may direct the dealer to deposit an amount deemed reasonable, out of the amount under dispute, before such objection is entertained."

STATEMENT OF OBJECTS AND REASONS

There has been increase of three rupees in the price of diesel with effect from 25th June, 2011. The Government of NCT of Delhi has decided to exempt from levy of VAT on this increased amount to give relief to the public. This would require an amendment to modify the meaning of the definition of the term 'sale price' for diesel as given in clause (zd) of sub section (1) of section 2 of the Delhi Value Added Tax Act, 2004.

The Union Finance Bill, 2011 introduced on 28th February, 2011 proposes, in section 74 of Chapter VI, an amendment in section 15(a) of the Central Sales Tax Act, 1956 (74 of 1956) (CST Act) to the effect that the rate of tax on sale or purchase of declared goods inside the State would be increased from 4% to 5%. Declared goods include iron and steel, jute, coal, oilseed, crude oil, hides and skins, fabric, cotton yarn, etc. With the enactment of the Finance Bill, 2011, the declared goods would continue to be taxed @ 4% if the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005) (DVAT Act), is not appropriately amended.

Section 74 of the DVAT Act deals with the objections but there is no provision in the section for depositing of any amount against the assessed tax, penalty and interest thereon, under dispute against which the dealer has filed the objection, as is available in case of appeals by virtue of section 76(4). It results into filing of frivolous objections by the dealer to avoid the payment of the tax, penalty and interest. Hence, it leads to plethora of objections being filed before the objection hearing authority. Observations on these lines have been made by the Comptroller & Auditor General of India in his D.O. letter dated 28.07.2010 addressed to Hon'ble Chief Minister of Delhi. An amendment is, therefore, being proposed in the said section for introducing payment of some amount before entertaining the objections filed by the dealers as is done in the case of appeals, provided by sub-section (4) of section 76. This is likely to generate revenue to the tune of Rs. 100 crores.

It has also been observed that certain other provisions of the DVAT Act existing Act require appropriate amendments for making tax administration more efficient and effective and also to plug the loopholes in the Act for better tax compliance.

The Bill seeks to achieve the aforesaid objectives.

(SHEILA DIKSHIT)
MINISTER OF FINANCE/
CHIEF MINISTER

NEW DELHI
DATED

FINANCIAL MEMORANDUM

The Delhi Value Added Tax (Second Amendments) Bill, 2011 does not involve any additional financial implications since no outgo on new posts is anticipated from the Consolidation Fund of the National Capital Territory of Delhi.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Delhi Value Added Tax (Second Amendment) Bill, 2011 does not make provision for delegation of powers in favour of any functionaries to make subordinate legislation.