

THE DELHI VALUE ADDED TAX (AMENDMENT) BILL, 2012

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BILL

further to 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-third 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, 2012.

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

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint:

PROVIDED that different dates may be appointed for different provisions of this Act.

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), the provisos occurring after clause (vii) and before the Explanation shall be omitted.

3. Amendment of section 9.- In the principal Act, in section 9,-

(i) in sub-section (3), for the word and figures "(4) and (6)", the word and figures "(4), (6) and (10)" shall be substituted;

(ii) after sub-section (9), the following shall be inserted, namely:-

"(10) Notwithstanding anything contained to the contrary in sub-section (1), where -

(a) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (1) of this section; and,

(b) the goods or goods manufactured out of such goods are to be exported from Delhi by way of sale made under sub-section (1) of Section 8 of the Central Sales Tax Act, 1956,

the amount of the tax credit shall be reduced by the prescribed percentage."

4. **Amendment of section 10.**- In the principal Act, in section 10, in sub-section (3), for clause (c) the following shall be substituted, namely:-

"(c) the goods are exported from Delhi, –

(i) by way of a sale made as per the provisions of sub-section (1) of section 8 of the Central Sales tax Act, 1956; or

(ii) other than by way of a sale, to a branch of the registered dealer or to a consignment agent;"

5. **Amendment of section 28.**- In the principal Act, for section 28 the following shall be substituted, namely:-

"28. If a person discovers a discrepancy in a return furnished by him for a tax period under this Act, he shall remove such discrepancy and furnish a revised return within the year following the year of such tax period:

PROVIDED that if, as a result of the discrepancy, the person has paid less tax than was due under this Act, he shall, pay the tax owed and interest thereon:

PROVIDED FURTHER that for the years 2008-09, 2009-10 and 2010-11, except for those returns pertaining to any tax period of 2010-11, which were scheduled to be furnished in the year 2011-12, the revised return shall be required to be furnished by 31st December, 2012."

6. **Amendment of section 36A.**- In the principal Act, in section 36A, in sub-section (11), after the words "within the prescribed period" the words ", and in the manner as may be notified by the Commissioner" shall be inserted.

7. **Amendment of section 38.**- In the principal Act, in section 38, in sub-section (7), for clause (c), the following clauses shall be substituted, namely:-

"(c) furnish returns under section 26 and section 27; or

(d) furnish the declaration or certificate forms as required under Central Sales Tax Act, 1956,"

8. **Amendment of section 49.**- In the principal Act, for section 49 the following shall be substituted, namely,-

"49. If, in respect of any particular year, the gross turnover of a dealer exceeds sixty lakh rupees or such other amount as may be prescribed, then, such dealer shall submit a report in such manner, form and period as may be notified by the Commissioner."

9. **Amendment of section 50.-** In the principal Act, in section 50,-

(i) in sub-section (2), in clause (d), after the Proviso, the following proviso shall be added namely:-

"PROVIDED FURTHER that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;"

(ii) in sub-section (5),-

(a) in clause (d), the following provisos shall be added, namely:-

"PROVIDED that a dealer may maintain separate numerical series, with distinct codes, either as prefix or suffix, for each place of business, in case the dealer has more than one place of business in Delhi or for each product in case he deals in more than one product or both;

PROVIDED FURTHER that such numerical series may be granted by the Commissioner, in such manner and from such date as may be notified by him;"

(b) in clause (e), for the words "services provided, inclusive of amount of tax charged thereon", the words "services provided and the amount of tax charged thereon indicated separately" shall be substituted.

10. **Amendment of section 66.-** In the principal Act, in section 66, in sub-section (2), in clause (a), for the word "Additional", the word "Special" shall be substituted.

11. **Amendment of section 70.-** In the principal Act, in section 70,-

(i) in sub-section (2), for the words "using the form", the words "using the form, in such manner as may be notified by him" shall be substituted;

(ii) in sub-section (5), for the words "five hundred", the words "ten thousand" shall be substituted.

12. **Amendment of section 73.-** In the principal Act, in section 73, after sub-section (8), the following shall be inserted, namely:-

"(9) Notwithstanding anything contained to the contrary in this section, the Government, may, by a notification in the official Gazette, constitute benches comprising of one or more members, subject to such conditions and regulations as may be laid down in the notification."

13. Amendment of section 82.- In the principal Act, in section 82,-

(i) in sub-section (1), in clause (b), after the words "cost accountant" the words "or company secretary" shall be inserted;

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

(a) in the main clause, for the words "chartered accountant", the words "chartered accountant, cost accountant, company secretary" shall be substituted; and

(b) in clause (b), after the words "cost accountant", the words "or company secretary" shall be inserted.

14. Amendment of section 86.- In the principal Act, in section 86,-

(i) for sub-section (18) the following shall be substitute, namely:-

"(18) If, any dealer fails to comply with the provisions of section 49 of this Act, the dealer shall be liable to pay, by way of penalty, a sum of ten thousand rupees."; and

(ii) in sub-section (19), for the words "the amount of tax payable on such goods", the words "forty paisa in a rupee for the value of such goods" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Amendment of Section 2 of the Delhi Value Added Tax Act, 2004 is proposed to cut on the revenue losses on account of exemption of levy of VAT on increased price of diesel in June, 2011.

Amendment of section 9 is proposed to provide for reduction of tax credit in case of interstate sales against 'C' forms. Amendment in this section would necessitate slight modification of section 10 also for the sake of its conformation to related section 9.

Amendment of section 28 is proposed to provide for some time period for revision of returns for the years 2008-09, 2009-10 and 2010-11 and to do away with the provision for filing of objection to revise return for reducing the tax due.

Amendment of section 36A is proposed to provide for online filing of the return by the contractee in Form DVAT-48.

Amendment of section 38 is proposed to link the time period for processing of refunds with filing of statutory forms as provided under Central Sales Tax Rules, 1957, to streamline the process of refund.

Amendment of section 49 is proposed to de-link this provision from the Income Tax Act, 1961.

Amendment of section 50 is proposed to bring uniformity in the system of issuance of tax invoices and retail invoices by the dealers and to provide for effective monitoring by the department by way of proposed automatic allotment of numerical series for invoices by the department.

Amendment of section 66 is proposed to provide for the new designation of Special Commissioner.

Amendment of section 70 is proposed to provide for calling of information in electronic form also and for enhancement of the fine amount to give it a deterring effect.

To increase the efficiency of the Appellate Tribunal constituted under section 73 of the Delhi Value Added Tax Act, 2004 so that it can dispose off the appeals pending before it in a speedy and time bound manner, amendment of section 73 is proposed. The proposed amendment provides for constitution of Benches in the Tribunal.

Amendment of section 82 is proposed to include the Company Secretaries in the list of professionals for appearance before any authority in proceedings.

Amendment of section 86 is proposed for enhancement of penalty related ~~with transporters to give it a deterrent effect and for a minor modification~~ related to the amended section 49.

The Bill seeks to achieve the aforesaid objectives.

(SHEILA DIKSHIT)
CHIEF MINISTER / FINANCE MINISTER

NEW DELHI
DATED

FINANCIAL MEMORANDUM

The Delhi Value Added Tax (Amendment) Bill, 2012 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 (Amendment) Bill, 2012 does not make provision for the delegation of power in favour of any functionaries to make subordinate legislation.