

THE GOA VALUE ADDED TAX (EIGHTH AMENDMENT) BILL, 2015

(Bill No. 26 of 2015)

A

BILL

further to amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005).

BE it enacted by the Legislative Assembly of Goa in the Sixty-sixth Year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Goa Value Added Tax (Eighth Amendment) Act, 2015.

(2) It shall come into force at once.

2. Amendment of section 29.- In section 29 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) (hereinafter referred to as the “principal Act”), in sub-section (3),-

(i) in the first proviso, for the words “two years”, the words “three years” shall be substituted;

(ii) after the third proviso, the following proviso shall be inserted, namely:-

“Provided also that, where a registered dealer who has filed all the returns for a particular financial year, within the prescribed time limit, claiming for that financial year, in said return/s, a refund of any amount of tax paid in excess of the amount due from him under this Act or unduly paid by him and/or for excess of input tax credit over output tax payable under this Act, but remained unassessed beyond the limitation period specified in the Act, the Commissioner shall, upon an application made by the dealer claiming refund of tax or excess of input tax credit, proceed to assess by himself or order in writing to any other officer appointed under section 13 of this Act to carry out assessment of, such dealer, after giving him an opportunity of being heard. The dealer who makes such application under this proviso shall be precluded from filing an appeal against any such order.”.

3. Amendment of section 1 of Act 12 of 2013.- In section 1 of the Goa Value Added Tax (Seventh Amendment) Act, 2013 (Act 12 of 2013), for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Section 2(i) and sections 3 to 22 shall come into force on the 1st day of June, 2013 and section 2(ii) shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.”.

Statement of Objects and Reasons

The Bill seeks to insert a proviso in sub-section (3) of section 29 of the Goa Value Added Tax Act, 2005 (Act 9 of 2005), so as to allow processing of cases of refund, which could not be processed being beyond the period specified in the said Act, subject to an undertaking to the effect that any outcome of such assessment shall be binding on the dealer.

The levy of tax on consideration received or receivable by the builder or developer by way of agreement to sale the flats or housing project or dwelling units or row houses and the like, which are under construction or development, from 01/06/2013 is deferred until the formation of a composition scheme. Hence, suitable amendment is proposed to Act 12 of 2013, vide clause 3 of the Bill.

This Bill seeks to achieve the above objects.

Financial Memorandum

Financial implications, which involve increase in revenue collection, cannot be ascertained as of now.

Memorandum Regarding Delegated Legislation

Clause 3 of the Bill empowers the Government to appoint a date for bringing into force sub-clause (b) of clause (ac) of section 2 of the said Act.

This delegation is of normal character.

Porvorim, Goa.
11th August, 2015

SHRI LAXMIKANT PARSEKAR
Chief Minister/Finance Minister

Assembly Hall,
Porvorim, Goa.
11th August, 2015

N. B. SUBHEDAR
Secretary to the Legislative Assembly of Goa

**Governor's Recommendation under Article 207 of the
Constitution of India**

In pursuance of Article 207 of the Constitution of India, I, Mridula Sinha, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Value Added Tax (Eighth Amendment) Bill, 2015.

RAJ BHAVAN
Date: 11/08/2015

SMT. MRIDULA SINHA
Governor of Goa

ANNEXURE

Bill No. 26 of 2015

Extract of the Goa Value Added Tax Act, 2005 (Act 9 of 2005)

2. **Definition.**- In this Act, unless the context otherwise requires,-

- (ac) “sale” with all its grammatical variations and cognate expressions means every transfer of the property in goods (other than by way of a mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, and includes –
- (a) transfer, otherwise than in pursuance of a contract, of property, in goods for cash, deferred payment or other valuable consideration;
 - (b) transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract including an agreement for carrying out the work of building, construction, manufacture, processing, fabrication, erection, installation, fitting, improvement, modification, repair or commissioning of any movable or immovable property, for cash, deferred payment or other valuable consideration;
 - (c) delivery of any goods on hire purchase or any other system of payment by instalments;
 - (d) transfer of the right to use any goods for any purpose (whether or not for a specified period), for cash, deferred payment or any other valuable consideration;
 - (e) a supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration;

Explanation – A sale shall be deemed to take place in Goa if the goods are within Goa,-

- (i) in the case of specific or ascertained goods, at the time the contract of sale made; and
- (ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller, whether the assent of the buyer to such appropriation is prior or subsequent to the appropriation:

Provided that where there is a single contract of sale in respect of goods situated in Goa as well as in places outside Goa, provisions of this Explanation shall apply as if there were a separate contract of sale in respect of the goods situated in Goa.

29. Assessment.-

- (1) The returns submitted by the dealer shall be accepted as self-assessed:

Provided the Commissioner, as per the procedure prescribed, shall select upto twenty percent of the total number of such dealers or such percentage as may be notified by Government from time to time for detailed assessment:

Provided further when any dealer applies for cancellation of his registration certificate on the ground of closure or stoppage of his business, his last assessment shall

be finalized on the basis of books of accounts and other records maintained by him after giving him an opportunity of being heard.

(2) Where –

(a) a person fails to file a return as required by section 24; or

(b) the Commissioner has reason to believe that the returns filed by a person are not correct and complete; or

(c) the Commissioner has reasonable grounds to believe that a person will become liable to pay tax under this Act but is unlikely to pay the amount due; or

(d) the Commissioner requires to get satisfied with the correctness of the refund so claimed,

the Commissioner may make an assessment of the amount of tax payable by the person to the best of his judgement after giving him an opportunity of being heard.

(3) No assessment under this section for any year shall be made after a period of three years from the end of the year to which the return under section 24 is submitted by a dealer and no assessment under sub-section (9) shall be made after the expiry of five years from the end of the year in respect of which or part of which such assessment is to be made:

Provided that where assessment is made in consequence of or to give effect to, any order of an Appellate Authority or Revisional Authority or of a Court, the said period of two years shall be reckoned from the date of such order:

Provided further that in computing the period laid down in this sub-section, any period during which assessment proceedings are stayed by an order or injunction of any Court or authority such period shall be excluded.

Provided also that the Commissioner may, if it is considered necessary by him so to do, by notification published in the Official Gazette, extend the period specified in this sub-section by a further period not exceeding one year.

(4) The Commissioner shall make an assessment of the amount that in his opinion, is the amount of tax, penalty, interest or any other amount payable under this Act, after making necessary enquiries, as may be deemed fit by him.

(5).....

(6) The Commissioner shall serve a notice on completion of assessment under this section and the dealer shall pay the balance of tax in accordance with the terms of that notice.

(7) An amended assessment shall be treated in all respects as an assessment under this section.

(8) No assessment or other proceedings purporting to be made, issued or executed under this Act, shall be –

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect or omission therein, if it is in substance and effect, in conformity with this Act or the rules made thereunder and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

(9) Where, the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act or has failed to file a return as required by section 24, the Commissioner shall proceed to assess, to the best of his judgement,

wherever necessary, the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, he shall give the dealer reasonable opportunity of being heard; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed.

**Extract of the Goa Value Added Tax (Seventh Amendment) Act, 2013
(Act 12 of 2013)**

1. Short title and commencement.- (1) This Act may be called the Goa Value Added Tax (Seventh Amendment) Act, 2013.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.