



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक ५९(६)]

गुरुवार, मार्च १०, २०११/फाल्गुन १९, शके १९३२

[पृष्ठे ११, किंमत : रुपये १४.००

असाधारण क्रमांक १४

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 Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2011 (Mah. Ord. X 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.

[Translation in English of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2011 (Mah. Ord. X of 2011), published under the authority of the Governor.].

URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 10th March 2011.

MAHARASHTRA ORDINANCE No. X OF 2011.

AN ORDINANCE

further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

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

(१)

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965, for the purposes hereinafter appearing ;

Bom.
III of
1888.
Bom.
LIX of
1949.
C.P
and
Berar
II of
1950.
Mah.
XL of
1965.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :-

CHAPTER I

PRELIMINARY

Short title
and
commence-
ment.

1. (1) This Ordinance may be called the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2011.

(2) It shall come into force at once.

CHAPTER II

AMENDMENTS TO THE MUMBAI MUNICIPAL CORPORATION ACT

Amendment
of section
128 of Bom.
III of 1888.

2. In section 128 of the Mumbai Municipal Corporation Act, (hereinafter, in this Chapter, referred to as "the Mumbai Corporation Act") for sub-section (3), the following sub-section shall be substituted, namely :—

Bom.
III of
1888.

“(3) Notwithstanding anything contained in sub-sections (1) and (2), the Corporation may, at any time during the official years 2010-2011 and 2011-2012, determine, separately for each of the said two years, the rates of property taxes for different categories of users of a building or land or part thereof. The rates of property taxes so determined shall be effective and shall be deemed to have been effective from the 1st of April of those two years and the taxes for the said two years shall be leviable and payable at the rates so determined.”

Amendment
of section
140A of
Bom. III of
1888.

3. In section 140A of the Mumbai Corporation Act,—

(1) in sub-section (1), —

(a) after the first proviso, the following proviso shall be inserted, namely :—

“ Provided further that, where the property tax levied in respect of any residential or non-residential building or portion thereof were on the basis of annual letting value arrived at considering leave and licence charges, by whatever name called, then for the purposes of the first proviso to sub-section (1), it shall be lawful for the Commissioner to ascertain such tax

leviable during such immediately preceding year, as if such building or portion thereof were self-occupied and had been so entered in the assessment book ;”;

(b) in the second proviso, for the word “ further” the word “also” shall be substituted ;

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

“ (2) Notwithstanding anything contained in sub-section (4) of section 139A or any other provisions of this Act or Resolution, if any, passed by the Corporation for adopting the levy of property tax on the basis of capital value but subject to the provisions of section 154A, buildings and lands in respect of which the process of fixing capital value is in progress on the 26th August 2010, being the date of coming into force of section 3 of the Maharashtra Municipal Corporations and Municipal Councils (Third Amendment) Act, 2010, until it is so fixed; the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year, that is to say, for the year commencing on the first day of April 2009 and ending on the thirty-first day of March 2010 and such provisional tax shall be leviable and payable for each of the years 2010-2011 and 2011-2012 according to the provisional bills which may be issued separately for each such year; so, however, that on fixation of capital value of the respective buildings and lands, final bill of assessment of property taxes on the basis of capital value may then be issued for each such year as aforesaid. After such final assessment, if it is found that the assessee has paid excess amount, such excess shall, notwithstanding anything contained in section 179, be refunded within three months from the date of issuing the final bill, alongwith interest from such date as provided in the first proviso to sub-section (5) of section 217, or after obtaining the consent of the assessee, shall be adjusted towards payment of property tax due, if any, for the subsequent years; and if the amount of taxes on final assessment is more than the amount of tax already paid by the assessee, the difference shall be recovered from the assessee.” .

4. For section 154A of the Mumbai Corporation Act, the following section shall be substituted, namely :—

Substitution of section 154A of Bom. III of 1888.

“154A. Notwithstanding anything contained in section 154, the rateable value of any building or land or part thereof, for the official year 2009-2010, shall be the provisional capital value of such buildings or lands in respect of the official years 2010-2011 and 2011-2012, and such provisional capital value shall be deemed to be the capital value validly and legally fixed under the provisions of this Act, pending fixing

Provisional fixation of capital value in certain cases.

the capital value thereof; and it shall be lawful for the Commissioner to treat it as such for the purposes of assessment book kept under the provisions of this Act, and the bill for property taxes issued under sub-section (2) of section 140A shall be deemed to have been validly and legally issued under the provisions of this Act.”

Substitution
of section
172 of
Bom.III of
1888.

Rules for
Water Taxes
and charges
and
Sewerage
Taxes and
charges and
amendment
thereof.

5. For section 172 of the Mumbai Corporation Act, the following section shall be substituted, namely :-

“172. (1) The provisions of section 140A and 154A, as amended by the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2011, shall, *mutatis mutandis* apply, for the purposes of levy of water taxes and charges and sewerage taxes and charges for the years 2010-2011 and 2011-2012.

Mah.
Ord.
X of
2011.

(2) The Standing Committee may, from time to time, add to, amend or rescind any rules made or deemed to be made by it under sections 169 and 170 (both inclusive), but any such revision of the rules shall, subject to the provisions of sub-section (1), come into force on the date appointed by the Committee for this purpose so however that such date shall not be earlier than the 1st April of the official year during which the decision to make such revision is taken by the Standing Committee :

Provided that, the rules fixing the rates for the official years 2010-2011 and 2011-2012 shall be effective from the first day of each respective official year.”

Insertion of
section 216B
in Bom. III
of 1888.

Power to
assess in
case of
escape from
assessment.

6. After section 216A of the Mumbai Corporation Act, the following section shall be inserted, namely :-

“216B. Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this Chapter has escaped assessment in any year, the Commissioner may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates.”

Amendment
of section
219A of
Bom. III of
1888.

7. In section 219A of the Mumbai Corporation Act, after the figures “2010”, the following shall be inserted, namely :—

“or, as the case may be, by the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2011.”

Mah.
Ord. X
of
2011.

CHAPTER III

AMENDMENTS TO THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT, 1949

Bom. LIX of 1949. 8. In section 129 of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter, in this Chapter, referred to as "the Provincial Corporations Act"), in sub-section (2), — Amendment of section 129 of Bom. LIX of 1949.

(a) after the first proviso, the following proviso shall be inserted, namely :—

"Provided further that, where the property taxes levied in respect of any residential or non-residential building or portion thereof were on the basis of annual letting value arrived at considering leave and licence charges, by whatever name called, then for the purposes of the first proviso to sub-section (1), it shall be lawful for the Commissioner to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied and had been so entered in the assessment book :";

(b) in the second proviso, for the word "further" the word "also" shall be substituted.

9. After section 129-1A of the Provincial Corporations Act, the following section shall be inserted, namely :— Insertion of section 129-2A in Bom. LIX of 1949.

"129-2A. (1) Where a Corporation passes a resolution to adopt levy of property taxes on buildings and lands in the City, on the basis of capital value of building and lands, notwithstanding anything contained in any other provisions of this Act, the following provisions shall apply in the official year in which such tax is levied on the basis of capital value of buildings and lands, namely :— Transitory provisions in respect of the property taxes on capital value.

(i) until the capital value of the buildings and lands in the City are fixed, the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year and it shall be lawful for the Corporation to the issue a provisional bill for the tax accordingly ;

(ii) on fixation of the capital value of the buildings and lands, the Corporation shall issue a final bill of assessment of property taxes ;

(iii) after such final assessment, if it is found that the assesee has paid excess amount, such excess shall be refunded within three months from the date of issuing the final bill, alongwith interest from the date of final bill, or after obtaining the consent of the assesee, shall be adjusted towards payment of property taxes due, if any, for the subsequent years; and if the amount of tax on final assessment is more than the amount of tax already paid by the assesee the difference shall be recovered from the assesee.

(2) The provisions of this section shall cease to operate after expiry of the official year in which the Corporation has decided to levy property tax on the basis of capital value of buildings and lands.”

Insertion of section 150A in Bom. LIX of 1949.

Power to assess in case of escape from assessment.

10. After section 150 of the Provincial Corporations Act, the following section shall be inserted, namely :—

“150A. Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this chapter has escaped assessment in any year, Commissioner may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates.”

CHAPTER IV

AMENDMENTS TO THE CITY OF NAGPUR CORPORATION ACT, 1948

Amendment of section 115A of C.P. and Berar II of 1950.

11. In section 115A in the City of Nagpur Corporation Act, 1948 (hereinafter, in this Chapter, referred to as “the Nagpur Corporation Act”), in sub-section (2),—

C.P. and Berar II of 1950.

(a) after the first proviso, the following proviso shall be inserted, namely :—

“Provided further that, where the property taxes levied in respect of any residential or non-residential building or portion thereof were on the basis of annual value arrived at considering leave and licence charges, by whatever name called, then for the purposes of the first proviso to sub-section (2), the property taxes leviable during such immediately preceding year shall be ascertained on the basis of tax which could be leviable and payable as if the building or portion thereof were self-occupied and had been so entered in the assessment book :”;

(b) in the second proviso, for the word “further” the word “also” shall be substituted.

Insertion of section 115AAA in C.P. and Berar II of 1950.

12. After section 115AA of the Nagpur Corporation Act, the following section shall be inserted, namely :—

Transitory provisions in respect of the property tax on capital value.

“115AAA. (1) Where the Corporation passes a resolution to adopt levy of property taxes on buildings and lands in the City, on the basis of capital value of building and lands, notwithstanding anything contained in any other provisions of this Act, the following provisions shall apply in the official year in which such tax on the basis of capital value of buildings and lands is levied, namely :—

(i) until the capital value of the buildings and lands in the City are fixed, the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year and it shall be lawful for the Corporation to the issue a provisional bill for the tax accordingly ;

(ii) on fixation of the capital value of the buildings and lands, the Corporation shall issue a final bill of assessment of property taxes ;

(iii) after such final assessment, if it is found that the assesee has paid excess amount, such excess shall be refunded within three months from the date of issuing the final bill, alongwith interest from the date of final bill, or after obtaining the consent of the assesee, shall be adjusted towards payment of property tax, due, if any, for the subsequent years; and if the amount of tax on final assessment is more than the amount of tax already paid by the assesee the difference shall be recovered from the assesee.

(2) The provisions of this section shall cease to operate after expiry of the official year in which the Corporation has decided to levy property tax on the basis of capital value of buildings and lands.”

13. After section 155A of the Nagpur Corporation Act, the following section shall be inserted, namely :—

Insertion of section 155B in C.P. and Berar II of 1950.

“155B. Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this chapter has escaped assessment in any year, the Commissioner may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates.”

Power to assess in case of escape from assessment.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA MUNICIPAL COUNCILS, NAGAR PANCHAYATS AND INDUSTRIAL TOWNSHIPS ACT, 1965

Mah. XL of 1965. 14. In section 105 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter, in this Chapter, referred to as “ the Municipal Councils Act”), in sub-section (4), —

Amendment of section 105 of Mah. XL of 1965.

(a) after the first proviso, the following proviso shall be inserted, namely :—

“ Provided further that, where the property taxes levied in respect of any residential or non-residential building or portion thereof

were on the basis of annual letting value arrived at considering leave and licence charges, by whatever name called, then for the purposes of the first proviso to sub-section (1), it shall be lawful for the Chief Officer to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied and had been so entered in the assessment book:";

(b) in the second proviso, for the word "further" the word "also" shall be substituted.

Insertion of section 106B in Mah. XL of 1965.

15. After section 106A of the Municipal Councils Act, the following section shall be inserted, namely :—

Transitory provisions in respect of the property tax on capital value.

" 106B. (1) Where a Council passes a resolution to adopt levy of property taxes on buildings and lands in the municipal area, on the basis of capital value of building and lands, notwithstanding anything contained in any other provisions of this Act, the following provisions shall apply in the official year in which such tax on the basis of capital value of buildings and lands is levied, namely :—

(i) until the capital value of the buildings and lands in the municipal area are fixed, the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year and it shall be lawful for the Council to the issue a provisional bill for tax accordingly ;

(ii) on fixation of the capital value of the buildings and lands, the Council shall issue a final bill of assessment of property taxes;

(iii) after such final assessment, if it is found that the assesee has paid excess amount, such excess shall be refunded within three months from the date of issuing the final bill, alongwith interest from the date of final bill, or after obtaining the consent of the assesee, shall be adjusted towards payment of property tax due, if any, for the subsequent years; and if the amount of tax on final assessment is more than the amount of tax already paid by the assesee, the difference shall be recovered from the assesee.

(2) The provisions of this section shall cease to operate after expiry of the official year in which the Council has decided to levy property tax on the basis of capital value of buildings and lands."

Insertion of section 150C in Mah. XL of 1965.

16. After section 150B of the Municipal Councils Act, the following section shall be inserted, namely :—

“150C. Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this chapter has escaped assessment in any year, the Chief Officer may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates.”.

Power to assess in case of escape from assessment.

STATEMENT

On adoption by the Mumbai Municipal Corporation, the system of levy of property taxes on buildings and lands in Brihan Mumbai on the basis of capital value of the buildings and lands with effect from 1st April 2010, the process of fixing the capital value which had started in August, 2010 is bound to stretch beyond 31st March 2011. This is so because there are more than 3 lakh properties of which capital value has to be fixed for the purposes of such levy of property tax thereon, but the volume of work of fixing the capital value of all these properties being so large that it may not be possible for the Corporation to complete the fixation of capital value of all these properties before 31st March 2011. As a result of this, the work of fixing capital value would continue during the year 2011-2012 also. Unless the capital value of all the properties is fixed and the total extent thereof is ascertained, it may not also be feasible to determine the rate of tax at which the property taxes can be levied. This naturally necessitates expanding the scope of certain transitory provisions as contained in sections 128, 140A, 154A and 219A of the Mumbai Municipal Corporation Act, so as to enable the Corporation to separately issue the provisional bills on the basis of rateable value treating it as provisional capital value for the years 2010-11 and 2011-12. It is, therefore, proposed to suitably amend the Mumbai Municipal Corporation Act (Bom. III of 1888) to achieve the objectives.

2. Opportunity is also taken to amend section 172 suitably to enable the Corporation to levy water tax and water benefit tax as also the sewerage tax and sewerage benefit tax likewise, treating rateable value as provisional capital value on the same lines as provided in sections 140A and 154(1A), as amended. With a view to prevent loss of revenue in respect of tax on properties which have escaped from assessment, a new section 216B is proposed to be inserted in the Act to enable the Corporation to assess such properties at any time within six years from the date on which such properties should have been assessed.

3. Similar, suitable provisions are also being incorporated in the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965.

4. As both Houses of the State Legislature are not in Session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Mumbai Municipal Corporation Act (Bom. III of 1888), the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), the

City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950), and the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,
Dated the 9th March 2011.

K. SANKARANARAYANAN,
Governor of Maharashtra.

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

MANU KUMAR SHRIVASTAV,
Principal Secretary to Government.