



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ४, अंक ७]

शुक्रवार, एप्रिल १३, २०१२/चैत्र २४, शके १९३४

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असाधारण क्रमांक १७

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) Bill, 2012 (L. A. Bill No. XVII of 2012), introduced in the Maharashtra Legislative Assembly on the 13th April 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.

L. A. BILL No. XVII OF 2012.

A BILL

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),— Mah. XLII of 1987.

(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;

(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 ;

Mah. IX of 2005.

(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.
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.

STATEMENT OF OBJECTS AND REASONS

With a view to give effect to the proposals obtaining in the Budget Speech for the year 2012-2013 and streamline the procedural aspects of the administration of the Bombay Stamp Act, 1958 (Bom. LX of 1958), the Bombay Motor Vehicles Tax Act, 1958 (Bom.LXV of 1958), the Maharashtra Purchase Tax on Sugarcane Act, 1962 (Mah.IX of 1962), the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Maharashtra Tax on Luxuries Act, 1987 (Mah. XLI of 1987), the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 (Mah. XLII of 1987), the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 (Mah. IV of 2003) and the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), the State Government considers it expedient to suitably amend the said Acts.

2. Some of the important amendments which are proposed to be made are explained broadly as follows :—

(a) the Bombay Stamp Act, 1958, is being amended, so as to simplify the present slabs for charging of stamp duty on conveyance deeds of immovable properties situated within the limits of *Grampanchayats*, Municipal Councils and Influence Areas and urban areas including the Municipal Corporations;

(b) the Bombay Motor Vehicles Tax Act, 1958, is being amended,—

(i) to reduce the rate of tax by 2 per cent. on purchase of a new motor vehicle fitted with CNG Kit by manufacturer;

(ii) to increase the rate of tax by 2 per cent. on petrol driven motor vehicles and 4 per cent. on diesel driven motor vehicles;

(c) the Maharashtra Purchase Tax on Sugarcane Act, 1962, is being amended to provide exemption from Sugarcane Purchase Tax to the factories establishing co-generation units for generation of electricity;

(d) the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, is being amended,—

(i) to designate the Additional Commissioner of Profession Tax (EST), as the Special Commissioner of Profession Tax ;

(ii) to restrict the liability of un-enrolled person to eight years and to provide for charging late fees for filing late returns instead of penalty ;

(e) the Maharashtra Tax on Luxuries Act, 1987, is being amended to designate the Additional Commissioner of Luxury Tax (EST), as the Special Commissioner of Luxury Tax ;

(f) the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, is being amended to provide for the electronic filing of return and electronic payment ;

(g) the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002, is being amended,—

(i) to provide same rates of taxes as applicable under the Maharashtra Value Added Tax Act, 2002;

(ii) to provide for the entry tax on import of the Natural gas;

(h) the Maharashtra Value Added Tax Act, 2002, is being amended,—

(i) to provide the definitions of the terms “motor spirit” and “petroleum products”;

(ii) to designate the Additional Commissioner of Sales Tax (EST), as the Special Commissioner of Sales Tax;

(iii) to provide for the levy of purchase tax on purchases of cotton and oil seeds from persons who are not dealers or registered dealers;

(iv) to provide for late fee instead of penalty for late filing of returns;

(v) to regulate the pendency of appeals;

(vi) to regulate the filing of appeals by the Commissioner;

(vii) to provide tax collection at source on the auction of the right to excavate sand and also on delivery of certain goods;

(viii) to provide for increasing time limit for preservation of books of accounts.

2. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 11th April 2012.

AJIT PAWAR,

Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 1(2)(b).—Under this clause, power is taken to the State Government to bring certain sections of the Act 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.

Clause 14.—Under this clause, which seeks to insert section 7A in the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, in sub-section (1),—

(i) the power is taken to the Commissioner to publish by notification in the *Official Gazette*, to specify the period starting on or after the date mentioned therein the class or classes of importer, 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 and who shall pay tax, interest, penalty or any amount due and payable by or under the Act electronically ;

(ii) power is taken to the State Government to prescribe by rules the Chalan in which class or classes of importers shall pay tax, interest, penalty or any amount due and payable by or under the Act electronically.

Clause 18(1).—Under this clause, which seeks to insert clauses (15A) and (17A) in section 2 of the Maharashtra Value Added Tax Act, 2002, the power is taken to the State Government to notify in the *Official Gazette*, any other product as the motor spirit and petroleum products, respectively.

Clause 25.—Under this clause, which seeks to insert section 26A in the Maharashtra Value Added Tax Act, 2002, in sub-section (1), the power is taken to the Commissioner, from time to time, to issue orders, instructions or directions for fixing such monetary limits as he may deem fit, for the purpose of regulating the filing of appeal as per the provisions of section 27.

Clause 27.—Under this clause, which seeks to insert section 31A in the Maharashtra Value Added Tax Act, 2002,—

(a) in sub-section (1), the power is taken to the State Government to require, by notification in the *Official Gazette*, and subject to such conditions and restrictions, any person, local bodies or authorities or agencies under the Central Government or, as the case may be, the State Government, who auction the rights for excavation of sand within their jurisdiction, to collect an amount at such rate as provided in sub-section (2) of section 31A, towards the liability of sales tax to be incurred on sale of sand by the auction purchaser, on auction of sand and 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) of section 31A towards liability of sales tax to be incurred by the purchasing dealer on sale of such goods ;

(b) in sub-section (2), the power is taken to the State Government to specify, by notification in the *Official Gazette*, the rate 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);

(c) in sub-section (3), the power is taken to the State Government to prescribe by rules the manner in which the amount so collected shall be paid into Government Treasury.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

The Bill proposes to amend the Bombay Stamp Act, 1958, the Bombay Motor Vehicles Tax Act, 1958, the Maharashtra Purchase Tax on Sugarcane Act, 1962, 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 the Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.