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मंगळवार, डिसेंबर ११, २०१२/अग्रहायण २०, शके १९३४

### MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on the 11th December, 2012 is published under Rule 117 of the Maharashtra Legislative Assembly Rules :-

### L. A. BILL No. XXXII OF 2012.

#### A BILL

*further to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962.*

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

AND WHEREAS the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, for the purposes hereinafter appearing ; and, therefore, promulgated the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012, on the 3rd December 2012 ;

Mah.  
XXVII  
of 1962.  
Mah.  
Ord. XI  
of 2012.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,  
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixty-third Year of the Republic of India as follows :—

- Short title and commencement. **1. (1)** This Act may be called the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Act, 2012.
- (2) It shall be deemed to have come into force on the 3rd December 2012.
- Amendment of section 2 of Mah. XXVII of 1962. **2.** In section 2 of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (hereinafter referred to as “the principal Act”),—
- Mah. XXVII of 1962.
- (i) in clause (a), proviso shall be deleted ;
- (ii) after clause (b), the following clause shall be inserted,
- namely :—
- “(ba) “capital value” means the capital value of a land or building or part thereof fixed or determined in accordance with the provisions of the relevant municipal law;”.
- Amendment of section 4 of Mah. XXVII of 1962. **3.** In section 4 of the principal Act, for clause (a), the following shall be substituted, namely :—
- “(a)(i) with effect from the 1st day of April 1974, a tax on lands and buildings in a municipal area at the rates specified in Schedule A hereto annexed ;
- III of 1888.
- (ii) with effect from the 1st day of April 2010, in case of municipal area of *Brihan Mumbai* Municipal Corporation constituted under the Mumbai Municipal Corporation Act and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality, a tax on lands and buildings at the rates notified by the Collector, upon receipt of proposal by municipality, by notification in the *Official Gazette*, which may be different for different categories of users of lands or buildings or parts thereof and which shall not be less than 0.01 per cent. and not more than 0.3 per cent. of the capital value of lands or buildings or parts thereof :
- Provided that, for the period of five years from the date on and from which such tax is levied on capital value, the tax shall not exceed,—
- (I) in respect of land or building used for residential purposes, two times, and
- (II) in respect of land or building used for non-residential purposes, three times,
- the amount of tax leviable in respect thereof in the year immediately preceding such date on and from which such tax is levied on capital value :

Provided further that, where the 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 the leave and licence charges, by whatever name called, then for the purposes of the first proviso it shall be lawful to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied :

Provided also that, for the period of five years commencing from such year from which such tax is levied on capital value, the amount of tax leviable in respect of a residential building or residential tenement, having carpet area of 46.45 sq. metre (500 sq. feet) or less, shall not exceed the amount of tax levied and payable in the year immediately preceding the year from which such tax is levied on capital value :

Provided also that, after the year from which such tax is levied on capital value, the tax in respect of any taxable land or building shall be revised after every five years and on each such revision, such amount of tax, shall not in any case exceed forty per cent. of the amount of the tax levied and payable in the year immediately preceding the year of the revision ; ”.

4. In section 5 of the principal Act, in sub-section (1), after the words “annual letting value” the words “or as the case may be, the capital value” shall be inserted.

Amendment  
of section 5  
of Mah.  
XXVII of  
1962.

5. In section 6B of the principal Act, for clause (a), the following shall be substituted, namely :—

Amendment  
of section 6B  
of Mah.  
XXVII of  
1962.

“(a)(i) with effect from the 1st day of April 1975, a further tax on lands and buildings in a municipal area used or intended to be used for a non-residential purpose at the rates specified in Schedule C hereto annexed ;

(ii) with effect from the 1st day of April 2010, in case of municipal area of *Brihan Mumbai* Municipal Corporation constituted under the Mumbai Municipal Corporation Act and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality, a tax on lands and buildings used or intended to be used for a non-residential purpose at the rates notified by the Collector, upon receipt of proposal by municipality, by notification in the *Official Gazette*, which may be different for different categories of users of lands or buildings or parts thereof and which shall not be less than 0.005 per cent. and not more than 0.10 per cent. of the capital value of lands or buildings or parts thereof :

III of  
1888.

Provided that, for the period of five years from the date on and from which such tax is levied on capital value, the tax shall not exceed three times the amount of tax leviable in respect thereof in the year immediately preceding such date on and from which such tax is levied on capital value :

Provided further that, where the tax levied in respect of any non-residential building or portion thereof were on the basis of annual letting value arrived at considering the leave and licence charges, by whatever name called, then for the purposes of the first proviso it shall be lawful to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied :

Provided also that, after the year from which such tax is levied on capital value, the tax in respect of any taxable land or building shall be revised after every five years and on each such revision, such amount of tax, shall not in any case exceed forty per cent. of the amount of the tax levied and payable in the year immediately preceding the year of the revision ;”.

Amendment  
of section 6C  
of Mah.  
XXVII of  
1962.

**6.** In section 6C of the principal Act, in sub-section (2),—

(i) after the word and letter “Schedule C” the words, brackets, letters and figure “or in sub-clause (ii) of clause (a) of section 6B” shall be inserted;

(ii) after the words “annual letting value”, at both the places where they occur, the words “or as the case may be, the capital value” shall be inserted.

Amendment  
of section 6D  
of Mah.  
XXVII of  
1962.

**7.** In section 6D of the principal Act, after the words “annual letting value” the words “or as the case may be, the capital value” shall be inserted.

Amendment  
of section 10  
of Mah.  
XXVII of  
1962.

**8.** In section 10 of the principal Act, in sub-section (1), for the words “as penalty a sum not exceeding one tenth of the amount of the tax so unpaid” the words “as penalty a sum not exceeding two per cent. per month of the amount of the tax so unpaid” shall be substituted.

Amendment  
of section 12  
of Mah.  
XXVII of  
1962.

**9.** In section 12 of the principal Act, for the portion beginning with the words “the tax is due, such portion thereof ” and ending with the words “annual letting value thereof” the following shall be substituted, namely :—

“the tax is due,—

(i) such portion thereof as bears to the total amount of the tax based on the annual letting value due, the same ratio which the rent annually payable by such occupier bears to the aggregate amount of the annual letting value thereof ; or

(ii) such portion thereof as bears to the total amount of the tax based on the capital value due, the same ratio which the capital value of such portion of the land or building of the occupier bears to the aggregate amount of the tax based on the capital value, in respect of the said land or building.”.

- 10.** In section 13 of the principal Act, in sub-section (2), after the words “such tenement is let” the words “or to the amount of capital value of such tenement occupied by him” shall be inserted. Amendment of section 13 of Mah. XXVII of 1962.
- 11.** For the removal of doubt it is hereby declared that all proceedings in connection with any assessment, re-assessment, levy (including levy of penalty) and collection of any tax levied on the basis of annual letting value relating to any period whatsoever, immediately before the 1st April 2010 in case of municipal area of *Brihan Mumbai* Municipal Corporation constituted under the Mumbai Municipal Corporation Act, and in case of other municipality immediately before the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality shall, notwithstanding anything contained in this Act, but save as otherwise expressly provided therein, be continued and dealt with under the principal Act as if this Act has not been enacted. Removal of Doubt.
- 12.** (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act or by reason of anything contained therein or in giving effect to the provisions of the principal Act in respect of the matters contained in this Act, the State Government may, as occasion arises, by order published in the *Official Gazette*, do anything, not inconsistent with the provisions of the principal Act, as amended by this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty : Power to remove difficulty.
- Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.
- (2) Every order under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State Legislature.
- 13.** (1) The Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012, is hereby repealed. Repeal of Mah. Ord. XI of 2012 and saving.
- (2) Notwithstanding such repeal, anything done or any action taken (including any notification, order or bill issued) under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of principal Act, as amended by this Act.

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,  
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

### STATEMENT OF OBJECTS AND REASONS

Education cess and Employment Guarantee Cess are levied under sections 4 and 6B, respectively, of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Mah. XXVII of 1962). In the municipal area such cess are to be collected by the municipality in the same manner in which property taxes are collected in that area under the relevant municipal law.

2. With a view to bring greater transparency and rationalizing the tax structure, the Municipal Corporations and Municipal Councils have been empowered to levy property taxes on the basis of capital value of the lands and buildings in lieu of the system of levy of property taxes on the basis of annual letting value of the lands and buildings.

The *Brihan Mumbai* Municipal Corporation has adopted capital value as a basis for levy of property tax on lands and buildings with effect from the 1st April 2010, which results in deprivation of power to fix the annual letting value of the lands and buildings since then. In this backdrop, with a view to levy the Education cess and Employment Guarantee Cess also on the basis of capital value of the lands and buildings, the Government considered it expedient to amend the said Act, suitably.

*Brihan Mumbai* Municipal Corporation has to issue final bills for collection of property taxes from December 2012 onwards. Taking into consideration the establishment cost and stationary charges for recovery of Education cess and Employment Guarantee Cess, it was proposed to amend the said Act with immediate effect so as to enable the *Brihan Mumbai* Municipal Corporation to issue bills for Education cess and Employment Guarantee Cess alongwith the bills for property taxes.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Mah. XXVII of 1962), for the purposes aforesaid, the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012 (Mah. Ord. XI of 2012), was promulgated by the Governor of Maharashtra on the 3rd December 2012.

4. The Bill is intended to replace the said Ordinance by an Act of the State Legislature.

Nagpur,  
Dated the 5th December 2012.

BALASAHEB THORAT,  
Minister for Revenue.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

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

*Clause 3.*—Under this clause, which seeks to substitute clause (a) of section 4 of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, power is taken to the Collector to notify the rates of Education Cess, upon receipt of proposal by municipality, by notification in the *Official Gazette*, which shall not be less than 0.01 per cent. and not more than 0.3 per cent. the capital value of lands or buildings or parts thereof, with effect from the 1st day of April 2010 in case of municipal area of *Brihan Mumbai* Municipal Corporation and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality.

*Clause 5.*—Under this clause, which seeks to substitute clause (a) of section 6B of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, power is taken to the Collector, to notify the rates of Employment Guarantee Cess, upon receipt of proposal of by municipality, by notification in the *Official Gazette*, which shall not be less than 0.005 per cent. and not more than 0.10 per cent. of the capital value of lands or buildings or parts thereof, with effect from the 1st day of April 2010 in case of municipal area of *Brihan Mumbai* Municipal Corporation and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality.

*Clause 12.*—Under this clause, power is taken to the State Government to remove, by order published in the *Official Gazette*, any difficulty which may arise, in giving effect to the provisions of the principal Act as amended by this Act.

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

महाराष्ट्र शासन राजपत्र, भाग पाच-अ,  
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

#### FINANCIAL MEMORANDUM

The Bill provides to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962, so as to levy the Education cess and Employment Guarantee Cess on the basis of capital value of the lands and buildings.

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.



महाराष्ट्र शासन राजपत्र, भाग पाच-अ,  
गुरुवार-बुधवार, मार्च २७-एप्रिल २, २०१४/चैत्र ६-१२, शके १९३६

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GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207  
OF THE CONSTITUTION OF INDIA

*(Copy of Government of Maharashtra Order, Law and Judiciary  
Department)*

In exercise of the power conferred upon him by clause (1) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the introduction and consideration of the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Bill, 2012.

VIDHAN BHAVAN :  
Nagpur,

Dated the 11 th December 2012

DR. ANANT KALSE,  
Principal Secretary,

Maharashtra Legislative Assembly.