



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक १९

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 and Amendment) Bill, 2013 (L. A. Bill No. XI of 2013), introduced in the Maharashtra Legislative Assembly on the 8th April 2013, 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. XI OF 2013.

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-fourth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Maharashtra Tax Laws (Levy and Amendment) Act, 2013.

Short title
and
commence-
ment.

(2) Save as otherwise provided in this Act, it 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 provisions.

(१)

CHAPTER II

AMENDMENTS TO THE MAHARASHTRA STAMP ACT.

Insertion of
section 30A in
LX of 1958.

2. After section 30 of the Maharashtra Stamp Act (hereinafter, in this Chapter, referred to as "the Stamp Act"), the following section shall be inserted, namely :—

LX of
1958.

Duties
payable by
financial
institution.

"30A. (1) Notwithstanding anything contained in section 30, where any instrument referred to in clauses (a) to (g) of section 30, is executed on or after the date of commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 2013, in favour of or by any financial institution such as Bank, Non-Banking Finance Company, Housing Finance Company or alike, which creates any right in favour of any such financial institution, the liability to pay proper stamp duty shall be on such financial institution concerned without affecting their right, if any, to collect it from the other party.

Mah.
of 2013.

(2) In respect of any such instrument executed before the date of commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 2013, and are effective and where proper stamp duty is not paid, then the financial institution shall impound such instrument on or before the 30th September 2013 and forward the same to the Collector for recovery.

Mah.
of 2013.

(3) Where the financial institution fails to impound such instrument as provided in sub-section (2), then the concerned financial institution shall be liable to pay a penalty equal to the stamp duty payable on such instrument."

Amendment
of section 70
of LX of 1958.

3. Section 70 of the Stamp Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be added, namely :—

"(2) In determining the amount of duty payable, or of the allowances to be made, under this Act, in case of instrument in respect of which duty payable is more than one hundred rupees, any fraction of one hundred rupees equal to or exceeding fifty rupees shall be rounded off to the next one hundred rupees, and fractions of less than fifty rupees shall be disregarded."

Amendment
of
SCHEDULE I
appended to
LX of 1958.

4. In SCHEDULE I appended to the Stamp Act,—

(a) in article 25, in *Explanation I*, after the second proviso, the following proviso shall be added, namely :—

"Provided also that, where proper stamp duty is paid on a registered agreement to sell an immovable property, treating it as a deemed conveyance and subsequently a conveyance deed is executed without any modification then such a conveyance shall be treated as other instrument under section 4 and the duty of one hundred rupees shall be charged.";

(b) in article 36A, for clause (a), the following clause shall be substituted, namely :—

- “(a) Where the leave and licence agreement purports to be for a term not exceeding sixty months with or without renewal clause. 0.25 per cent. of the total sum of,—
- (i) the licence fees or rent payable under the agreement ; plus
- (ii) the amount of non-refundable deposit or money advanced or to be advanced or premium, by whatever name called ; plus
- (iii) the interest calculated at the rate of 10 per cent. per annum on the refundable security deposit or money advanced or to be advanced, by whatever name called.”.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Mah. IX of 2005. 5. In section 2 of the Maharashtra Value Added Tax Act, 2002, (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”),—

(1) in clause (15A), for the word “ or ” the word “ and ” shall be substituted ;

(2) in clause (17A), for the word “ or ” the word “ and ” shall be substituted.

Amendment of section 2 of Mah. IX of 2005.

6. In section 20 of the Value Added Tax Act,—

Amendment of section 20 of Mah. IX of 2005.

(1) in sub-section (4),—

(a) in clause (b), for the words “ may furnish a revised return ” the words “ may furnish a single revised return for the year ” shall be substituted ;

(b) in clause (c), for the words “ may furnish a revised return in respect of the period covered by the said return ” the words “ may furnish a single revised return for that year ” shall be substituted ;

(2) in sub-section (6), the following proviso shall be added, namely :—

“ Provided that, if circumstances exist which render it necessary so to do in the public interest, the State Government may, from time to time, by notification published in the *Official Gazette*, exempt the whole or any part of the late fee payable under this sub-section, by such class or classes of dealers, for such period or periods, either prospectively or retrospectively, as may be mentioned in such notification.”.

7. In section 23 of the Value Added Tax Act, in sub-section (1), for the first proviso, the following proviso shall be substituted, namely :—

Amendment of section 23 of Mah. IX of 2005.

“ Provided that, if after the assessment order is passed, the dealer submits the return for the period to which the said order relates then, the order passed as aforesaid shall stand cancelled and after such cancellation, the dealer may be assessed in respect of the same period under other provisions of this section :”.

Insertion of section 32A in Mah. IX of 2005.

8. After section 32 of the Value Added Tax Act, the following section shall be inserted, namely :—

Payment of tax or interest in certain cases.

“32A. (1) After submission of the report of the audit as required under section 61, if it is noticed by the Commissioner that the Accountant has made a recommendation in respect of a sum payable or, as the case may be, the interest payable, if any, and the dealer has accepted the recommendations so made, either fully or partly, then the said dealer shall pay the same within thirty days from the date of service of the notice issued by the Commissioner in respect thereof.

(2) The provisions with regard to the payment of interest as provided under sub-section (2) of section 30 shall, in the circumstances provided under this section, apply *mutatis mutandis* as they apply to the tax that has remained unpaid before the last date prescribed for payment of the said tax as disclosed in the return or, as the case may be, the revised return.

Explanation.—For the purposes of this section and section 32, the Commissioner shall not recover dues which are rupees one hundred or less.”

Amendment of section 41 of Mah. IX of 2005.

9. In section 41 of the Value Added Tax Act, in sub-section (5), for the words “sales of liquor” the words “sales of liquor or, as the case may be, wine” shall be substituted.

Amendment of section 50 of Mah. IX of 2005.

10. In section 50 of the Value Added Tax Act, in sub-section (2), the following proviso shall be added, namely :—

“Provided that, for the period commencing on or after the 1st April 2012, a dealer whose refund claim in a year is rupees five lakh or less, may, carry forward such refund to the return or revised return for immediate succeeding year to which such refund relates.”

Amendment of section 51 of Mah. IX of 2005.

11. In section 51 of the Value Added Tax Act, in sub-section (3), in clause (a),—

(1) in sub-clause (iii), at the end, after the word “or” the words and figures “a holder of an Identification Certificate issued to a Mega Unit covered under the Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007; or” shall be inserted ;

(2) in sub-clause (v), at the end, for the word “services,” the words “services ; or” shall be substituted ;

(3) after sub-clause (v), the following sub-clause shall be added, namely:—

“(vi) selling the goods in the course of inter-State trade or commerce and turnover of the said inter-State sales in immediate previous year exceeds fifty per cent. of his total turnover of sales for that year.”

Amendment of section 61 of Mah. IX of 2005.

12. In section 61 of the Value Added Tax Act, in sub-section (1), in *Explanation-I*, for the words “For the purposes of this section” the words, brackets, figures and letter “For the purposes of this section and sub-section (1) of section 32A” shall be substituted.

Amendment of section 82 of Mah. IX of 2005.

13. In section 82 of the Value Added Tax Act,—

(1) in sub-section (1),—

(a) in clause (b), for the words “or Cost Accountant” the words “Cost Accountant or Company Secretary” shall be substituted ;

(b) in the portion after clause (d), after the words "Cost Accountant" the words ", Company Secretary" shall be inserted ;

(2) in sub-section (2),—

(a) after the words "Cost Accountant" the words ",Company Secretary" shall be inserted ;

(b) in clause (ii), for the words "or a Cost Accountant" the words ", a Cost Accountant or a Company Secretary" shall be substituted.

14. In SCHEDULE A appended to the Value Added Tax Act, in entry 34, for clause (b), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

"(b) milk containing any ingredients (other than milk fat, milk powder, or, as the case may be, solid non fat) and sold under a brand name."

Amendment of SCHEDULE A of Mah. IX of 2005.

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA TAX ON LOTTERIES ACT, 2006.

Mah. XLIII of 2006. 15. In section 3 of the Maharashtra Tax on Lotteries Act, 2006, in sub-section (1), in the TABLE,—

(a) in entry 1, in column (3), for the figures "50,000" the figures "60,000" shall be substituted ;

(b) in entry 2, in column (3), for the figures "1,00,000" the figures "1,25,000" shall be substituted ;

(c) in entry 3, in column (3), for the figures "2,00,000" the figures "2,50,000" shall be substituted ;

(d) in entry 4, in column (3), for the figures "10,00,000" the figures "12,00,000" shall be substituted.

Amendment of section 3 of Mah. XLIII of 2006.

STATEMENT OF OBJECTS AND REASONS

With a view to give effect to the proposals obtaining in the Budget Speech for the year 2013-14 and streamline the procedural aspects of the administration of the Maharashtra Stamp Act (LX of 1958), the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005) and the Maharashtra Tax on Lotteries Act, 2006 (Mah. XLIII of 2006), 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 Maharashtra Stamp Act, is being amended,—

(i) to insert a new section 30A in the said Act with a view to make financial institution liable for payment of proper stamp duty in case of any instrument executed in favour of or by any financial institution such as Bank, Non-Banking Finance Company, Housing Finance Company or alike, which creates any right in favour of any such financial institution ;

(ii) to amend section 70 for rounding off of fractions in stamp duty payable in case of instrument in respect of which stamp duty payable is more than one hundred rupees ;

(iii) to amend articles 25 and 36A, respectively, in SCHEDULE I,—

(A) for charging of stamp duty in case of conveyance executed in pursuance of agreement to sell ;

(B) for charging stamp duty at uniform rate in respect of Leave and Licence Agreement;

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

(i) to provide for furnishing a single revised return for a year, instead of furnishing revised returns as per frequency of filing return either on the recommendations made by the Accountant or on the intimation sent by the Sales Tax Authorities ;

(ii) to enable the State Government to exempt in the public interest, the whole or part of late fee payable on account of failure to file return within specified time ;

(iii) to provide for simplified procedure for cancellation of unilateral assessment order on furnishing the return ;

(iv) to provide for,—

(A) recovery of the amount of tax or, as the case may be, interest to the extent accepted by the dealer, out of the tax or, the interest payment recommended by the Accountant in the audit report ;

(B) not to recover dues which are rupees hundred or less ;

(v) to provide for tax on wine on the lines of taxation for liquor ;

(vi) to allow, to carry forward of the claim of refund of rupees five lakh or less from the last return of a year to the return or revised return of the immediate succeeding year ;

(vii) to allow submission of application for refund as per the frequency of filing return,—

(A) to the dealers holding Identification Certificate issued to the Mega Unit, and

(B) to the dealers, where in the immediate previous year, the turnover of sales in the course of inter-State trade or commerce, is more than fifty per cent. of the total sales turnover ;

(viii) to allow appearance of Company Secretary before the Sales Tax Authorities ;

(ix) to remove the doubts about the taxability of milk as covered under entry 34 of SCHEDULE A, a provision is being made with effect from the 1st April 2005;

(c) the Maharashtra Tax on Lotteries Act, 2006, is being amended suitably so as to increase the rate of taxes on Weekly lottery scheme, Fortnightly lottery scheme or any lottery scheme between week and fortnight, Monthly lottery scheme or any lottery scheme of any duration exceeding fortnight and Bumper lottery scheme.

3. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 5th April 2013.

AJIT PAWAR,
Deputy Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 1(2).—Under this clause, power is taken to the State Government to bring into force certain sections of the Act 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 6(2).—Under this clause, which seeks to add the proviso to sub-section (6) of section 20 of the Maharashtra Value Added Tax Act, 2002, power is taken to the State Government, to exempt in the public interest, by notification published in the *Official Gazette*, the whole or any part of the late fee payable under sub-section (6) of section 20 of the said Act, by such class or classes of dealers, for such period or periods, either prospectively or retrospectively as may be mentioned in the notification.

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

FINANCIAL MEMORANDUM

The Bill proposes to amend the Maharashtra Stamp Act, the Maharashtra Value Added Tax Act, 2002 and the Maharashtra Tax on Lotteries Act, 2006, for taxation purpose.

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.