



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ४४

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 Tax Laws (Levy and Amendment) Bill, 2018 (L. A. Bill No. XV of 2018), introduced in the Maharashtra Legislative Assembly on the 22nd March 2018, is hereby published under the authority of the Governor.

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

RAJENDRA G. BHAGWAT,
I/c. Secretary (Legislation) to Government,
Law and Judiciary Department.

L. A. BILL No. XV OF 2018.

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-ninth 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, 2018.

Short title
and
commence-
ment.

(2) Save as otherwise provided in this Act, it shall come into force with effect from the 1st April 2018.

CHAPTER II

AMENDMENTS TO THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975.

- Amendment of section 3 of Mah. XVI of 1975. **2.** In section 3 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 sub-section (2), after the words “Every person” the words and figures, “including limited liability partnership, registered under the Limited Liability Partnership Act, 2008 but” shall be inserted. Mah. XVI of 1975. 6 of 2009.
- Insertion of new section 4C in Mah. XVI of 1975. **3.** After section 4B of the Profession Tax Act, the following section shall be inserted, namely :—
- Collection and payment towards tax. **“4C. (1)** The State Government may, from time to time, by notification published in the *Official Gazette* and subject to such conditions and restrictions as may be specified therein, require any notified person or class of persons (hereinafter, in this section referred to as “tax collector”), who is eligible to receive any amount towards supply of goods or, as the case may be, supply of services or towards any other purposes, to collect an amount towards tax from an enrolled person or a person, liable to be enrolled.
- (2) The tax collector shall pay such amount into the Government Treasury in the manner specified in the notification. The amount so paid under this section shall be deemed to have been paid on behalf of such person, from whom the said amount by way of tax is collected.
- (3) All the provisions under the Act, related to an employer and employee, shall *mutatis mutandis* apply to the person liable to collect the tax and the person from whom such tax is collected under sub-section (1).”.
- Amendment of section 8 of Mah. XVI of 1975. **4.** In section 8 of the Profession Tax Act,—for sub-section (3), the following sub-sections shall be substituted, namely :—
- “**(3)** The State Government may, by notification published in the *Official Gazette*, subject to such conditions and restrictions, as may be specified therein, provide a scheme for payment of tax, in advance, at the rate, which shall be lower than the rate applicable to an enrolled person under Schedule I.
- (3A)** The liability of such enrolled person, who has paid such amount in advance, as per the notification issued under sub-section (3) shall not be varied due to any increase or decrease in the rate of tax, as provided in Schedule I.”.

5. For section 11 of the Profession Tax Act, the following section shall be substituted, namely :—

Amendment of section 11 of Mah. XVI of 1975.

Mah. XLIII of 2017.

“11. The provisions of the Maharashtra Goods and Services Tax Act, 2017 regarding recovery of tax shall, *mutatis mutandis* apply for the recovery of dues under this Act.”

Recovery of tax.

6. In section 12 of the Profession Tax Act, in sub-section (1), in clause (b), for the words “and Profession Tax Officers” the words and brackets “,Profession Tax Officers and such other officers and persons (with such designation) as the State Government thinks necessary” shall be substituted.

Amendment of section 12 of Mah. XVI of 1975.

7. After section 26 of the Profession Tax Act, the following section shall be inserted, namely :—

Insertion of new section 26A in Mah. XVI of 1975.

“26A. (1) The Commissioner may, if he considers that for the purposes of better administration of this Act, it is necessary so to do, he may, by notification in the *Official Gazette*, direct that statistics be collected relating to any matter dealt with, by or in connection with this Act.

Power to collect statistics.

(2) Upon such direction being given, the Commissioner or any officer, authorized by the Commissioner in this behalf, may, by notification in the *Official Gazette* and if found necessary by notice in any newspaper or in such other manner as in the opinion of the Commissioner or the said officer, is best suited to bring the notice to the attention of persons, call upon all persons to furnish such information or returns, as may be specified therein, relating to any matter in respect of which statistics is to be collected. The form in which the officers to whom, such information or returns should be furnished, the particulars which they should contain and the period specified in the notification, within which such information or returns should be furnished, shall be such as may be specified therein.

(3) Any person, who fails to furnish information as provided in this section within the period specified in such notification, shall be liable to pay, by way of penalty, a sum not exceeding rupees ten thousand and in case of continuing default, for a period beyond two months, a further penalty of rupees one hundred for every day of such continuance.”

8. In the SCHEDULE I appended to the Profession Tax Act,—

Amendment to SCHEDULE I of Mah. XVI of 1975.

(1) after entry 18, the following entry shall be inserted, namely :—

6 of 2009.

“18A. Limited liability partnership, registered under the Limited Liability Partnership Act, 2008. 2,500 per annum.”;

(2) for entry 19, the following entry shall be substituted, namely :—

9 of 1932.

“19. (a) Each partner of a firm (whether registered or not under the Indian Partnership Act, 1932), 2,500 per annum.

6 of 2009.

(b) Each partner of a limited liability partnership, registered under the Limited Liability Partnership Act, 2008, 2,500 per annum.”.

engaged in any profession, trade or calling.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment
of section 11
of Mah. IX of
2005.

9. In section 11 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”), for sub-section (3), the following sub-sections shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2017, namely :—

Mah. IX
of 2005.

“(3) Every member of the Tribunal shall be a person, who,—

(i) is or has been, a Judge of the High Court, or

(ii) is or has been, a District Judge, or

(iii) is qualified for appointment as a District Judge, and has held Judicial Office for not less than ten years, or

(iv) (a) has, for a continuous period of not less than two years held office, not below the rank of Joint Commissioner of Sales Tax or, as the case may be, Joint Commissioner of State Tax and has dealt with quasi-judicial proceedings, or

(b) is retired and has before his retirement held office not below the rank of Joint Commissioner of Sales Tax or, as the case may be, Joint Commissioner of State Tax and had before his retirement dealt with quasi-judicial proceedings, or

(c) is retired and before his retirement has held office as member of the Tribunal.

Explanation.—For the purposes of this sub-section, “quasi-judicial proceedings” shall include assessment, audit or appeal proceedings.

(3A) (a) The members, specified in clause (i), (ii) or (iii) shall be appointed or re-appointed by the State Government after consultation with the High Court of Judicature at Bombay.

(b) The member, specified in clause (iv), shall be appointed or re-appointed by the State Government on the recommendations of a Selection Committee, constituted in the prescribed manner.

(3B) The terms of office of the member of the Tribunal shall be such as may be prescribed. The member shall hold office for such period, as may be prescribed or as the State Government may, by special order in his case, specify.”.

Amendment
of section 31
of Mah. IX of
2005.

10. In section 31 of the Value Added Tax Act,—

(1) in sub-section (1), in clause (b), in sub-clause (i), after the words “amount payable” the words, figures and letters “upto the 31st December 2018” shall be inserted;

(2) in sub-section (4), the following proviso shall be added and shall be deemed to have been added with effect from the 1st July 2017, namely :—

“Provided that, any amount paid by an employer, in accordance with the provisions of this section to the credit of the State Government during the period starting on or after the 1st July 2017 and ending on the 31st December 2018, may be claimed as credit in the prescribed manner and subject to the prescribed conditions, by the person making the supply to the employer or the concerned sub-contractor (if any).”.

11. In section 32A of the Value Added Tax Act, in sub-section (2), in the *Explanation*, for the words “dues which are rupees one hundred or less” the words “tax, which is rupees five hundred or less, per order or, as the case may be, per period and the interest payable thereon” shall be substituted. Amendment of section 32A of Mah. IX of 2005.

12. In section 59 of the Value Added Tax Act, in sub-section (1), in the proviso, for the words “Thane and Raigad District” the words “Thane, Palghar and Raigad Districts” shall be substituted. Amendment of section 59 of Mah. IX of 2005.

13. In section 61 of the Value Added Tax Act, after sub-section (1), before *Explanation-I*, the following proviso shall be inserted, namely :— Amendment of section 61 of Mah. IX of 2005.

“Provided that, for the year 2017-18, the provisions of this sub-section shall be applicable to a dealer, whose registration is deemed to have been cancelled under sub-section (6A) of section 16, if the,—

(a) aggregate of his turnover of sales and the value of goods transferred to any other place of his business or of his agent or principal, situated outside the State, not by reason of sale, or

(b) turnover of purchases,

exceeds rupees twenty five lakh.”.

14. In section 85 of the Value Added Tax Act, in sub-section (2),— Amendment of section 85 of Mah. IX of 2005.

(1) in clause (i), for the word and figures “section 26.” the words and figures “ section 26, or” shall be substituted;

(2) after clause (i), the following clause shall be added, namely :—

“(j) any order, published by the Commissioner, by virtue of the powers conferred on him by notification issued under section 26B.”.

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

Mah. XLIII of 2017. 15. In section 3 of the Maharashtra Goods and Services Tax Act, 2017, Amendment of section 3 of Mah. XLIII of 2017. for clause (f), the following clauses shall be substituted, namely :—

“(f) Assistant Commissioners of State Tax,

(f-1) State Tax Officers, and”.

STATEMENT OF OBJECTS AND REASONS.

With a view to give effect to the proposals obtaining in the Budget Speech for the year 2018-19 and to make certain amendments, in view of the situations arising due to the introduction of the Goods and Services Tax Law and due to certain other reasons as explained below, the State Government considers it expedient to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005) and the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017).

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

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

(a) to provide that the limited liability partnerships and its' partners shall also be liable to pay profession tax ;

(b) to empower the State Government to notify class of persons, who shall collect an amount towards profession tax from certain notified persons, who are liable to pay an amount towards any supply of goods, services, etc. ;

(c) to enable the State Government to notify a scheme allowing one time payment of profession tax in advance at a lower rate ;

(d) to provide that the provisions of recovery under the Maharashtra Goods and Services Tax Act, 2017 shall be applicable for the recovery under the said Act ;

(e) to cover “other officers” also in the class of authorities under the Act ;

(f) to empower the Commissioner or an officer, authorized by the Commissioner, to issue notification and collect information about the potential tax payers and to impose penalty for failure to furnish the same.

(2) The Maharashtra Value Added Tax Act, 2002 is being amended,—

(a) to provide for qualifications for appointment and re-appointment and terms of office of the members of the Tribunal ;

(b) to provide that the tax deducted at source under section 31 and paid into the treasury between 1st July 2017 to 31st December 2018 by an employer may also be claimed as credit by the contractor ;

(c) to provide that an amount of tax upto rupees five hundred per order or per period and the interest payable thereon shall not be recovered ;

(d) to provide that the turnover limit for filing an audit report under section 61, in respect of dealers, whose registration is deemed to be cancelled under section 16(6A), shall be rupees twenty five lakh ;

(e) to provide that an order, published by the Commissioner, by virtue of the powers conferred on him by the notification issued under section 26B shall be non-appealable.

(3) The Maharashtra Goods and Services Tax Act, 2017 is being amended to explicitly provide that the State Tax Officers shall also be the officers for the purposes of the Act.

3. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 19th March 2018.

SUDHIR MUNGANTIWAR,
Minister for Finance.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 3.—Under this clause, which seeks to insert new section 4C in the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the power is taken to the State Government to notify, subject to such conditions and restrictions specified therein, that the notified persons shall collect an amount by way of tax from persons who are liable to pay any amount towards any supply and pay such amount into the treasury.

Clause 4.—Under this clause, which seeks to substitute sub-section (3) of section 8 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the power is taken to the State Government to notify a scheme, subject to such conditions and restrictions specified therein, for payment of tax, in advance, at a rate lower than the rate, applicable in Schedule I, to an enrolled person.

Clause 7.—Under this clause, which seeks to insert new section 26A in the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975,—

(a) in sub-section (1), power is taken to the Commissioner, by notification in the *Official Gazette*, to direct that the statistics be collected relating to any matter dealt with, by or in connection with the Act ;

(b) in sub-section (2), power is taken to the Commissioner or any officer authorized by the Commissioner, by notification in the *Official Gazette*, to specify,—

(i) the form of information or return;

(ii) the officers to whom, such form of information or return should be furnished ; and

(iii) the period within which such information or returns should be furnished.

Clause 9.—Under this clause, which seeks to substitute sub-section (3) and insert new sub-sections (3A) and (3B) in section 11 of the Maharashtra Value Added Tax Act, 2002,—

(a) in sub-section (3A), power is taken to the State Government, to prescribe the manner in which Selection Committee for the appointment or re-appointment of member of the Tribunal shall be constituted;

(b) in sub-section (3B), power is taken to the State Government, to prescribe the terms and period of the office of the member of the Tribunal.

Clause 10.—Under this clause, which seeks to add the proviso in sub-section (4) of section 31 of the Maharashtra Value Added Tax Act, 2002, power is taken to the State Government, to prescribe the manner and the conditions in which credit of the amount paid during the period mentioned in the said sub-section, may be claimed.

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

FINANCIAL MEMORANDUM

The Bill proposes to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Value Added Tax Act, 2002 and the Maharashtra Goods and Services Tax Act, 2017, with a view to give effect to the proposals obtaining in the Budget Speech for the year 2018-19.

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.