



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

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असाधारण क्रमांक ४८

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 (Second Amendment and Validation) Bill, 2019 (L. A. Bill No. XXXVII of 2019), introduced in the Maharashtra Legislative Assembly on the 27th June 2019, is hereby published under the authority of the Governor.

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

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

L. A. BILL No. XXXVII OF 2019.

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 Seventieth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Tax Laws (Second Amendment and Validation) Act, 2019.

Short title and commencement.

(2) Save as otherwise provided in this Act, it shall come into force on the date of publication of this Act in the *Official Gazette*.

CHAPTER II

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

Amendment of section 5 of Mah.XVI of 1975. **2.** In section 5 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (hereinafter, in this Chapter, referred to as “the Profession Tax Act”), for sub-section (5) the following sub-section shall be substituted, namely :—

Mah. XVI of 1975.

“ (5) Where an employer, liable to registration has failed to apply for such certificate within the required time, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose penalty of rupees five for each day of delay in case of such employer.”.

Amendment of section 8 of Mah.XVI of 1975. **3.** In section 8 of the Profession Tax Act, for sub-section (2), the following sub-section, shall be substituted, namely :—

“ (2) The amount of tax due from an enrolled person, as specified in his enrolment certificate, shall be paid for each year on or before the 31st March of the said year :

Provided that, in respect of the person who is enrolled and the rate of tax at which he is liable to pay tax is revised, then such revised tax shall be paid on or before the 31st March of the year in which the rates are revised. ”.

Amendment of section 9 of Mah.XVI of 1975. **4.** In section 9 of the Profession Tax Act, after sub-section (3), the following sub-section shall be inserted, namely :—

“(3A) If a person, liable to get enrolled, fails to apply for certificate of enrolment within the period specified under this Act, he shall be liable to pay simple interest at the rate of 1.25 per cent. per month or part thereof of the amount of tax payable, from the 1st July of that year, till the date of payment of such tax, in addition to the amount of tax payable in respect of the year, for which he has remained unenrolled. ”.

CHAPTER III

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment of section 23 of Mah. IX of 2005. **5.** In section 23 of the Maharashtra Value Added Tax Act, 2002 (hereinafter referred to as the “ Value Added Tax Act ”), in sub-section (5), to clause (a), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2005, namely :—

Mah. IX of 2005.

“ Provided that, where,—

(i) a registered dealer has claimed refund in his last return or a revised return containing last day of the year, or

(ii) an auditor has mentioned about eligibility for refund in his audit report under section 61,

then the prescribed authority may, subject to the conditions, restrictions and safeguards as may be prescribed, after adjusting the refund so claimed or, as the case may be, so mentioned, against the tax liability, interest and penalty, if any, determined in the proceedings initiated under this clause, grant net refund to such dealer or, as the case may be, determine the net tax liability :

Provided further that, the amount of refund claimed in the return filed or mentioned in the audit report filed under section 61, whichever is filed later, but not later than the 31st March 2019, in any case, may only be considered for the purposes of the first proviso.”

6. In section 61 of the Value Added Tax Act, 2002, in sub-section (1), after the proviso, the following proviso shall be inserted, namely :—

Amendment of section 61 of Mah. IX of 2005.

“ Provided further that, a dealer whose tax liability, in any year commencing on or after the 1st April 2019 does not exceed rupees twenty-five thousand, shall not be liable to file such audit report.

74 of 1956. *Explanation.*—For the purpose of this proviso, the expression “tax liability” means the total of all taxes payable by a dealer under the Value Added Tax Act or, as the case may be, the Central Sales Tax Act, 1956, after adjustment of the amount of set-off or refund claimed by the dealer, if any, under the respective Acts.”

CHAPTER IV

VALIDATION AND SAVING.

7. (1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment, appeal, 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, appeal, review, levy or collection of tax under the provisions of Value Added Tax Act, as amended by the Maharashtra Tax Laws (Second Amendment and Validation) Act, 2019 (hereinafter, in this section, referred to as “the Amendment Act”) shall be valid and always be deemed to be valid and effective, as if the provisions relating to assessment, appeal, review, levy or collection or action or thing were prevalent under the Value Added Tax Act, on the relevant date and accordingly,—

Validation and saving.

(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, appeal, 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 enforced 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, appeal, review, levy or collection of tax referred to in sub-section (1), or

(b) from claiming of 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.

STATEMENT OF OBJECTS AND REASONS.

With a view to give effect to the proposals announced in the Additional Budget Speech for the year 2019-20, as "Ease of Doing Business" policy of the Government, the State Government considers it expedient to suitably amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975) and the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005).

2. The amendments proposed to be made are explained broadly as follows :—

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

(a) to provide that the enrolled persons can pay profession tax upto the 31st March of the respective year ;

(b) to provide that the persons, who obtains enrolment late, shall be liable to pay simple interest at the rate of 1.25 per cent. per month from the 1st July of the year in which he was liable to obtain enrollment certificate, till the date of payment of tax for such period ;

(c) to delete the provision regarding imposition of penalty for failure to obtain enrolment certificate within the period specified in the Act.

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

(a) to enable grant of refunds or determination of net tax payable, in respect of those dealers, who are being assessed under section 23(5) of the said Act, after adjusting amount of refund claimed in the returns or mentioned in the audit report ;

(b) to provide that the dealers, whose tax liability in a financial year commencing on or after the 1st April 2019 does not exceed rupees twenty five thousand, shall not be liable to file audit report.

3. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 26th June 2019.

SUDHIR MUNGANTIWAR,

Minister for Finance.

FINANCIAL MEMORANDUM

The Bill proposes to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, and the Maharashtra Value Added Tax Act, 2002, with a view to give effect to the proposals obtaining in the Additional Budget Speech for the financial year 2019--20.

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.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 5.—Under this clause, which seeks to insert the proviso to clause (a) of sub-section (5) of section 23 of the Maharashtra Value Added Tax Act, 2002, power is taken to the State Government to prescribe the conditions, restrictions and safeguards for grant of refund or determination of tax payable.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.