

Andhra Pradesh Value Added Tax (Amendment) Act, 2009

4 of 2009

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PREAMBLE

AN ACT FURTHER TO AMEND THE ANDHRA PRADESH VALUE ADDED TAX ACT, 2005.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Sixtieth Year of the Republic of India as follows:-

1. Short title and commencement :-

(1) This Act may be called as the Andhra Pradesh Value Added Tax (Amendment)) Act, 2009.

(2) It extends to the whole of the State of Andhra Pradesh

(3) (a) sections 2,3,4,5 and 6, shall come into force on such date as the State Government may, by notification, appoint.

(b) clause (i) of section 6 shall be deemed to have come into force on the 1st September, 2008;

(c) clause (ii) of section 6 shall be deemed to have come into force

on the 1st July, 2008;

(d) clause (i) of section 7 shall be deemed to have come into force on the 1st July, 2006;

(e) clause (ii) of section 7 shall be deemed to have come into force on the 1st November, 2008;

(f) clause (iii) of section 7 shall be deemed to have come into force on the 1st January, 2009;

(g) clauses (i) and (ii) of section 8 shall be deemed to have come into force on the 1st October, 2008; and

(h) clause (iii) of section 8 shall be deemed to have come into force on the 1st November, 2008.

2. Amendment of Section 4. Act 5 of 2005 :-

In the Andhra Pradesh Value Added Tax Act, 2005, (herein after referred to as the principal Act), in section 4,-

(i) for sub-section (2), the following shall be substituted, namely,-

"(2) Every dealer, who has not opted for registration as a Value Added Tax dealer and who is registered or liable to be registered for Turnover Tax, shall pay tax at the rate of one percent (1%) on the taxable turnover in such manner as may be prescribed."

(ii) after sub-section (8), the following new sub-section shall be inserted, namely,-

"(8A) Notwithstanding anything contained in sub section (8), a producer of a feature film, who transfers the right to use the film to the distributors or the exhibitors for the purpose of exhibiting such

films in the theatres, may opt to pay tax by way of composition as may be prescribed.

Explanation: Wherever tax is paid under sub-section (8A) by any producer in respect of any film, the subsequent transfer of right to use such film for exhibition in the theatre shall not be liable to tax under sub-sections (8) and (8A)"

(iii) for sub- section (9), the following shall be substituted, namely,-

"(9) Notwithstanding anything contained in this Act,-

(a) every dealer, being a star hotel, having a status of three star and above, as recognized by competent authority prescribed by the Government of India, shall pay tax at the rate of twelve and half percent (12.5%) of the taxable turnover of the sale or supply of goods, being food or any other article for human consumption or drink, served in restaurants attached to such hotels or anywhere whether indoor or outdoor;

(b) every dealer, being a Hotel other than those mentioned in clause(a), shall pay tax at the rate of four percent (4%) of the taxable turnover of the sale or supply of goods, being food or any other article for human consumption or drink, served in restaurants attached to such hotels or anywhere whether indoor or outdoor;

(c) every dealer, other than those mentioned in clause (a) and clause(b) and whose annual total turnover is rupees one Crore and fifty lakhs (1.5 Crore) and above shall pay tax at the rate of twelve and half percent (12.5%)of the taxable turnover of the sale or supply of goods, being food or any other article for human consumption or drink, served in restaurants, sweet-stalls, clubs, any other eating houses or anywhere whether indoor or outdoor or by caterers;

(d) every dealer, other than those mentioned in clause (a) and clause (b) and whose annual total turnover is more than rupees five lakhs and less than rupees one Crore and fifty lakhs (1.5 Crore) shall pay tax at the rate of four percent (4%) of the taxable turnover of the sale or supply of goods, being food or any other article for human consumption or drink served in restaurants, sweet-stalls, clubs, any other eating houses or anywhere whether indoor or outdoor or by caterer.

Explanation: For the purposes of the computing the total turnover under this sub-section, the sales turnover of all business units in common premises sharing the common kitchen or common employees shall be added to the sales turnover of the business unit having higher turnover."

3. Amendment of section 13 :-

In section 13 of the principal Act, in sub-section (5) after clause (f), the following clauses shall be added namely,-

(g) the transactions on which VAT dealer pays tax under sub-Section (8A) of Section 4 of the Act;

(h) the supply or sale of goods, on which a VAT dealer pays tax under clause (b) and (d) of sub-section (9) of section 4 of the Act.

4. Amendment of section 17 :-

In section 17 of the principal Act,-

(i) for sub-section (3), the following shall be substituted, namely,-

"(3) Every dealer whose taxable turnover in the twelve preceding months exceeds Rs.40, 00,000/- (Rupees forty lakhs only) shall be registered as a Value Added Tax dealer.",

(ii) in sub-section (5), after clause (h), the following new clause shall be added, namely,-

"(i) every dealer opting to pay tax under sub-section (8A) of section 4."

5. In section 22 of the principal Act :-

(i) after sub-section (3A), the following new sub-section shall be inserted, namely,-

"(3B) Every Film Processing Laboratory by whatever name it is called shall collect tax at source at the rates as may be prescribed for this purpose, from the film producers opting for payment of tax under sub-section (8A) of section 4 and remit the tax so collected on the immediate next working day from the date of such collection in the manner as may be prescribed."

(ii) in sub-section 4, for the expression "sub-section (3), the expression "sub-section (3) or sub section (3-A) or sub-section (3-B)" shall be substituted.

6. Amendment of section 33 :-

In section 33 of the principal Act,-

(i) for sub-section (1), the following shall be substituted, namely,-

"(1) any dealer objecting to an order passed or proceeding recorded:-

by any authority, on appeal under section 31; or

by the Additional Commissioner or Joint Commissioner or Deputy Commissioner under sections 21 or 32 or 38; or

By any authority following the ruling or order passed under section

may appeal to the Appellate Tribunal within sixty days from the date of service of the order or proceeding on him."

(ii) in sub-section (2), for the provisos thereunder, the following provisos shall be substituted, namely,-

"Provided that no appeal against the order passed under section 31 shall be admitted under sub-section (1) or sub-section (2) of this section unless it is accompanied by satisfactory proof of the payment of fifty percent of the tax, penalty, interest or any other amount as ordered by the Appellate Authority under section 31;

Provided further that no appeal against the order passed under sub-section (2) of section 32 shall be admitted under sub-section (12) or sub-section (2) unless it is accompanied by satisfactory proof of the payment of the tax, penalty, interest or any other amount admitted by the appellant to be due or of such instalments as might have become payable, as the case may be, and twenty five percent of the difference of the tax, penalty, interest or any other amount ordered by the revisional authority under sub-section (2) of section 32 and the tax, penalty, interest or any other amount admitted to be due and paid by the appellant;

Provided also that no appeal against the order passed by any authority by following the ruling or order, issued under Section 67, shall be admitted under sub-section (1) or sub-section (2) unless it is accompanied by satisfactory proof of the payment of the tax, penalty, interest or any other amount admitted by the appellant to be due or payable, or of such instalments thereof, as might have become payable, as the case may be and the proof of payment of fifty percent of the difference of the tax penalty, interest or any other amount, levied by the authority by following the ruling, issued under section 67, and the tax, penalty, interest or any other amount admitted to be due and paid by the appellant:

Provided also that the authority prescribed shall refund the said amount of twelve and half percent or twenty five percent or fifty percent of the difference of tax, penalty, interest or any other amount assessed by the authority prescribed or revisional authority as the case may be and the tax, penalty, interest or any other amount admitted and paid by the appellant, with interest calculated at the rate of 12% per annum if the refund is not made within 90 days from the date or receipt of the order passed under section 31 or section 33."

7. Amendment of Schedule I Act 5 of 2005 :-

In the principal Act, in Schedule-I,-

(i) for serial number 26 and the entries relating thereto, the following shall be substituted, namely,-

"26. Organic manures excluding de-oiled cakes."

(ii) in entry 44, after the words "National Seeds Corporation Limited" the words "National Agricultural Co-operative Marketing Federation of India Limited (NAFED)", shall be inserted.