

Bihar Finance Act, 2006**7 of 2006**

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Amendment in section 2 of the Bihar value added tax Act 2005 (Act 27 of 2005) (here in after referred to as "the act") Sub section (zd) of the said act shall be substituted in the fallowing way, namely.-

1. Section 1 :-

"(zd) (1) "Sale Price" means the amount payable to a dealer as valuable consideration for the sale or supply of any goods and includes-

- (i) any amount charged for anything done by the vendor in respect of the goods at the time of, or before, the delivery thereof;
- (ii) transport costs or freight, if any;
- (iii) trade commission, if any, by whatever name called;
- (iv) clearing, forwarding and handling charges, if any;
- (v) insurance charges, if any;
- (vi) taxes or duties levied under any law for the time being in force (other than tax paid or payable under this Act), by whatever name

called, if any;

(vi) cost of packing, if any; and

(viii) the amount received or receivable by the seller by way of non-refundable deposit, whether by way of a separate agreement or not, in connection with or incidental to or ancillary to, the said sale of goods;

Explanation I.-Where goods are sold on hire purchase or any system of payment by installments, the sale price of such goods shall be inclusive of insurance charges, interest and hire charges and such other charges related to hire purchase or any system of payment by installments.

Explanation II.-Where goods are sold by way of transfer of right to use such goods, the sale price thereof shall be the amount of valuable consideration received or receivable by the transferor for such transfer;

Explanation III.-Sale price shall not include trade discount allowed by the dealer according to the ordinary trade practice, if shown separately.

(2) Notwithstanding any thing contained in clause (1), in case of goods sold to a person other than a dealer who is registered under Section 19, the sale price shall be deemed to be-

(a) the retail sale price, in a case where such price is required to be declared on the package thereof under the provisions of the Standard Weights and Measurement Act, 1976 (Act 60 of 1976) or the Rules made thereunder or under any other law for the time being in force, or

(b) in any other case, the price on which the goods would have been sold in the normal course of business to a consumer at the retail level.

Explanation I.-For the purpose of this clause, the retail sale price means the maximum sale price at which the goods may be sold to the ultimate consumer and includes all taxes (excluding tax payable under the Act), freight, transport charges, commission payable and all charges towards advertisement, delivery, packing, forwarding, and the like.

Explanation II.-Where different retail sale prices are applicable for sale in different areas, each such retail sale price shall be the retail sale price of the purpose of valuation of goods intended to be sold in the area to which the retail sale price relates.

1. Assented by Governor of Bihar on 15.4.2006.

2. Amendment In Section 3 Of The Act :-

(1) Sub-section (2) of Section 3 of the said Act shall be substituted in the following way, namely:-

"(2) Every dealer to whom the provisions of sub-section (1) do not apply and whose gross turnover of sales calculated from the commencement of the year ending on the day immediately before the commencement of the Act:, exceeds the specified quantum, as applicable to him under the Bihar Finance Act, 1981, as it stood before its repeal by Section 94, on the last day of such year shall, in addition to the tax, if any, payable by him under any other provision of this Act, be liable to pay tax under this Act on all his sales.

(2) Sub-section (3) of Section 3 of the said Act shall be substituted in the following way, namely:-

"(3) Every dealer to whom the provisions of sub-section (1) or sub section (2) do not apply, shall be liable to pay tax under this Act,
(a) on all his sales of goods which have been imported by him from any place outside Bihar, with effect from the day on which he effects first sale of such goods; or
(b) in any other case, from the date on which his gross turnover, during a period not exceeding twelve months, first exceeded such taxable quantum as may be prescribed:

Provided that the taxable quantum as may be prescribed under this sub-section shall not exceed five lakh rupees:

Provided further that different taxable quantum may be prescribed for different classes of dealers."

3. Insertion Of A New Section 3A After Section 3 Of The Act :-

After Section 3 of the said Act a new Section 3A shall be inserted in the following way, namely:

"3A. Surcharge.-

(1) Notwithstanding anything contained in Sections 13 or 14 every dealer liable to pay tax under the Act shall, in addition to the tax payable by him, also pay a surcharge on the sale of goods specified in Schedule IV at such rate, not exceeding twenty per centum of the total amount of tax payable by him, as may be fixed by the State Government by a notification published in the Official Gazette.

(2) All provisions of this Act relating to the payment, assessment, recovery and refund of tax shall apply to the payment, assessment

recovery and refund of surcharge.

(3) Notwithstanding any thing to the contrary contained in this Act, no dealer shall be entitled to collect the amount of this surcharge."

4. Amendment In Section 13 Of The Act :-

(1) The brackets and the words "other than goods specified in Schedule IV" appearing in the said bracket in sub-section (1) of Section 13 of the said Act shall be deleted.

(2) Sub-section (2) of Section 13 of the said Act shall be substituted in the following way, namely:-

(a) Notwithstanding anything contained in sub-section (1), the tax on the sale of goods specified in Schedule IV shall be levied at such point or points in a series of sales in the State as the State Government may, by notification, specify.

(b) Where by a notification published under clause (a), the State Government specifies, in respect of any goods specified in Schedule IV, that the tax shall be levied at the first point of their sale in the State of Bihar by a dealer, subsequent sales of the same goods in the State of Bihar shall not be levied to tax, if the dealer making the subsequent sale produces before the prescribed authority the original copy of the cash memo, or invoice or bill issued to him and files a true and complete declaration in the form and in the manner prescribed.

(c) Where by a notification published under clause (a), the State Government specifies, in respect of any goods specified in Schedule IV, that the tax shall be levied at more than one point or on all points of sale, the amount of tax paid at each preceeding stage of sale shall be adjusted against the amount of tax payable at each subsequent stage of sale in the manner prescribed.

(d) The declaration referred to in clause (b) shall be issued by the selling dealer to the purchasing dealer not later than the 30th day of September of the year following the year to which such sales relate.

5. Amendment In Section 15 Of The Act :-

(1) After sub-section (3) of Section 15 of the said Act two new sub-sections (4) and (5) shall be added in the following way, namely:-

"(4) Notwithstanding anything to the contrary contained in the Act, the State Government may, by notification and subject to such conditions and restrictions as may be specified in the notification, permit any class of registered dealers to pay, in respect of sales of

any goods or class or description of goods, a fixed amount in lieu of the tax payable by the dealer under the Act.

(5) (a) Notwithstanding anything to the contrary contained in the Act, the State Government may, by notification and subject to such conditions and restrictions and in respect of such goods as may be specified in the notification, permit any class of registered dealers, being an importer or a manufacturer, to pay, in lieu of the tax payable by him, tax at the rate specified in Section 14 on the maximum retail price of such goods in the manner prescribed.

(b) Where a dealer has purchased any goods,-

(i) from an importer or a manufacturer upon payment of tax on the maximum retail price of such goods; or

(ii) from another registered dealer where tax on the maximum retail price of such goods was paid in Bihar on an earlier occasion, subsequent sales of the same goods in the State of Bihar shall not be levied to tax, if the dealer making the subsequent sale produces before the prescribed authority the original copy of the cash memo, or invoice or bill issued to him and files a true and complete declaration in the form and in the manner prescribed."

6. Amendment In Section 24 Of The Act :-

(1) In sub-section (1) of Section 24 of the said Act, the words "for each month, on or before the end of the next following month" shall be substituted by the words "for each quarter, on or before the end of the month following the end of the quarter".

(2) The words "monthly return" in sub-section (1) shall be substituted by the words "quarterly return",

(3) Clause (a) of sub-section (9) shall be substituted in the following way, namely:-

"(a) Every dealer, other than a dealer permitted to pay tax under Section 15, shall deposit the tax payable in respect of every month on or before the fifteenth day of the following month in such manner as may be prescribed and shall furnish the proof of payment in the form and manner prescribed."

7. Amendment In Section 25 Of The Act :-

(1) The word "and" after the semicolon in clause (c) of sub-section (1) of Section 25 of the said Act shall be deleted.

(2) The full stop after the words "if any" in clause (d) of sub-section (1) of Section 25 of the said Act shall be substituted by a semicolon and the word "and" shall be inserted after the semicolon

thus substituted.

(3) After clause (d) of sub-section (1) of Section 25 of the said Act a new clause (e) shall be inserted in the following way, namely:-

"(e) the deductions claimed therein are substantiated in the manner and form prescribed under the Act or under any other law for the time being in force."

8. Amendment In The Section 40 Of The Act :-

In sub-section (1) of Section 40 of the said Act, after the words "sale price in respect of sales or supplies of taxable goods" the words, "exceeding rupees two lacs fifty thousand during a year" shall be deleted.

9. Amendment In Section 59 Of The Act :-

(1) In the Explanation to sub section (3) of Section 59 of the said Act, the word "sub-section," after the words "for the purposes of this" shall be substituted by the word "section".

(2) In Explanation (ii) of sub-section (3) of Section 59 of the said Act, the words "other than a rail-head, or a post office," after the words "or person in charge of a place of loading or unloading of goods" shall be deleted.

10. Insertion Of Section 73A After Section 73 Of The Act :-

After Section 73 of the said Act, a new Section, 73A, shall be added in the following way, namely:

"73A. Miscellaneous revision- Subject to the provisions of Section 73, any order, other than an order passed by the Commissioner or orders against which an appeal has been provided under Section 72, passed under this Act or the rules made there under may, on application, be revised;

(4) by the Joint Commissioner (Administration), if the said order has been passed by an authority not above the rank of Deputy Commissioner;

(5) by the Commissioner, if the said order has been passed by an authority not above the rank of Joint Commissioner;

(6) by the Tribunal, if the said order has been passed by the Commissioner."

11. Amendment In Section 74 Of The Act :-

In Section 74 of the said Act, the words "in so far as" after the

words "erroneous" shall be substituted by the word, "or".

12. Amendment In Section 81 Of The Act :-

(1) In sub-section (1) of Section 81 of the said Act the words "for a term which shall not be less than three months but which may extend to six months" shall be substituted by the words, "for a term which shall not be less than one month but which may extend to three months".

(2) In sub-section (2) of Section 81 of the said Act the words "for a term which shall not be less than six months but which may extend to one year" shall be substituted by the words, "for a term which shall not be less than three months but which may extend to six months".

(3) In sub-section (3) of Section 81 of the said Act the words "for a term which shall not be less than one year but which may extend to three years" shall be substituted by the words, "for a term which shall not be less than six months but which may extend to one year".

13. Amendment In Section 93 Of The Act :-

(1) In sub-section (1) of Section 93 of the said Act, after the words, "the State Government may," the words "subject to the condition of previous publication," shall be deleted.

(2) After sub-section (4) of Section 93 of the said Act, two new sub-sections, (5) and (6), shall be added in the following way, namely:

"(5) The amendment made in Section 93 of the said Act shall be deemed to be, and to always have been, for all purposes, as validly and effectively in force at all material times.

(6) Any action taken or anything done or purported to have been taken or done under the Act and notifications issued and rules made there under shall be deemed to be and to have always been, for all purposes, as validly and effectively, taken or done as if the Act as amended by this Act had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree, or order of any court, or tribunal or other authority,

(a) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for the refund of any amount received or realized by way of any tax, interest or penalty;

(b) no court, tribunal or other authority shall enforce any decree or order directing the refund of any amount received or realized by way of such tax, interest or penalty.

14. Amendment In Section 94 Of The Act :-

After the proviso to sub-section (2) of Section 94 of the said Act a new proviso shall be inserted in the following way, namely:

"Provided further that the tax due under the Bihar Finance Act, 1981 as it stood before its repeal by this Act, from such category of registered dealers who, in respect of any year, have filed the returns required by the Bihar Finance Act, 1981 as it stood before its repeal by this Act and no assessment in respect of that year has been made before the commencement of this Act, shall be deemed to have been assessed if the tax for the year according to such returns does not exceed two lac and fifty thousand rupees and no proceeding under Section 20 or Section 33 of the Bihar Finance Act, 1981 is pending against the dealer as on the 30th day of June, 2005."

15. Amendment In Section 96 Of The Act :-

In clause (c) of sub-section (4) of Section 96 of the said Act, a coma shall be inserted after the words "the proceedings for the assessment of the dealer for that year shall" and after the coma thus inserted the words "subject to the provisions of the second proviso to subsection (2) of Section 94", shall be added.