

Bihar Finance Act, 2007

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Bihar Finance Act, 2007

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To amend the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the Bihar Taxation on Luxuries in Hotel Act, 1988 (Act 5 of 1988) and the Bihar Electricity Duty Act, 1948 (Act 36 of 1948), the Bihar Entertainment Tax Act, 1948 (Bihar Act XXXV of 1948), Amendment of the Bihar Motor Vehicles Taxation Act, 1994 and to enact the Bihar Tax on Advertisements Act, 2007. Be it enacted by the Legislature of the State of Bihar in the fifty-eighth year of the Republic of India as follows:- 1. Assented by the Governor on 30.3.2007 and Published in Bihar Gazette (Ext. Ord), dated 31.3.2007.

PART 1 AMENDMENT OF THE BIHAR VALUE ADDED TAX ACT, 2005

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Bihar Finance Act, 2007.
- (2) It shall extend to the whole of the State of Bihar.
- (3) It shall come into force at once.

2. Amendment Of Section 2 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

(1) After sub-section (i) of Section 2 of Act 27 of 2005 a new sub section (ii) shall be inserted in the following way, namely:-

(ii) "digital signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of Section 3 of the Information Technology Act, 2000 (Act 21 of 2000);

Explanation.-For the purpose of this sub-section the word "subscriber" shall have the meaning assigned to it in clause (zg) of sub-section (1) of Section 2 of the Information Technology Act, 2000 (Act 21 of 2000).

(2) After sub-section (k) of Section 2 of Act 27 of 2005 a new sub-section (ka) shall be inserted in the following way, namely:-

(ka) "document" shall have the meaning assigned to it in Section 29 of the Indian Penal Code, 1860 (45 of 1860);

(3) After the so inserted sub-section (ka) of Section 2 of Act 27 of

2005, a new sub-section (kb) shall be inserted in the following way, namely:-

(kb) "electronic form" shall have the meaning assigned to it in clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000 (Act 21 of 2000);

(4) After the so inserted sub-section (kb) of Section 2 of Act 27 of 2005, a new sub-section (kc) shall be inserted in the following way, namely:-

(kc) "electronic record" shall have the meaning assigned to it in Section 29A of the Indian Penal Code, 1860 (45 of 1860);

3. Amendment Of Section 3 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

After sub-section (8) of Section 3 of Act 27 of 2005, a new sub section (9) shall be inserted in the following way, namely:-

"(9) Notwithstanding contained in sub-section (4), every dealer who has become liable to pay tax under sub-section (1), sub-section (2) or sub-section (3), shall, subject to sub-section (5), cease to be so liable for any period which follows the expiry of twelve consecutive months during which his gross turnover has failed to exceed the taxable quantum specified in sub-section (3)."

4. Insertion Of A New Section 3Aa After Section 3A Of Act 27 Of 2005 :-

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

"3AA. Additional tax.-

(1) Notwithstanding anything contained in this Act, every dealer whose gross turnover exceeds rupees two hundred and fifty crores shall, on sales or purchases of such goods as the State Government may, by notification published in the official Gazette specify, also pay additional tax, in addition to the tax payable by him, at such rate, not exceeding four per centum of the aggregate value, as may be fixed by the State Government in the said notification.

Explanation.-For the purposes of this sub-section, the expression "aggregate value" shall mean the aggregate value (excluding the tax paid or payable under this Act) of the sales, of the goods so notified, at the first point in a series of sales within the State.

(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 additional tax.

(3) Notwithstanding anything to the contrary contained in this Act, every dealer liable to pay additional tax shall be entitled to collect the amount of this additional tax."

5. Amendment Of Section 16 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

(1) After the words "any goods mentioned in clauses (a), (b) and (d) of", of clause (c) of sub-section (1) of Section 16 of Act 27 of 2005, the words "sub section (1) of" shall be inserted.

(2) The first proviso to sub-section (1) of Section 16 shall be substituted in the following way, namely:-

"Provided that if the claim for input tax credit under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) for any month exceeds the output tax for the same month, such excess shall be carried forward for adjustment against the output tax of subsequent months, not being a month later than the last month of the financial year, and any amount of input tax that remains unadjusted in terms of the return under sub-section (3) of Section 24 shall be refunded, subject to the provision of Sections 68, 69 and 71 of this Act, within three months following the month in which the return required under sub section (3) of Section 24 and the report under sub-section (2) of Section 54, if required, is furnished:"

(3) The words "not exceeding thirty-six months from the date of their acquisition" in the second proviso to sub-section (1) of Section 16 of Act 27 of 2005 shall be substituted by the words "not exceeding two financial years from the year of their acquisition".

(4) After sub-section (1) of Section 16 of Act 27 of 2005, a new sub-section (1A) shall be inserted in the following way, namely:-

"(1A) Notwithstanding any thing contained in the first proviso to sub section (1), the dealer may, at his option, choose to carry forward the unadjusted amount of input tax credit in respect of a financial year for adjustment against the output tax of subsequent months of the following financial year:

Provided that, upon exercise of the option as aforesaid by the dealer, no refund of any unadjusted input tax credit shall be made during the course of such financial year.

Explanation.-If a dealer carries forward the unadjusted input tax credit in respect of the financial year for adjustment against the output tax of the subsequent month of the following financial year, he shall be deemed, for the purpose of this sub-section, to have

exercised the option."

(5) The full stop at the end of clause (e) of sub-section (3) of Section 16 Act 27 of 2005 shall be substituted by a semi colon and the word "or" shall be inserted after the semi colon thus substituted.

(6) After clause (e) of sub-section (3) of Section 16 of Act 27 of 2005 a new clause (f) shall be inserted in the following way, namely:-

"(f) in respect of inputs, to be specified by the State Government in a notification, which have been sold at a price lower than their purchase price in accordance with a price control mechanism effected either by the Central Government or the State Government."

6. Amendment Of Section 19 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

After the second proviso to sub-section (2) of Section 19 of Act 27 of 2005 a new proviso shall be inserted in the following way, namely:-

"Provided also that if the dealer applies for grant of certificate of registration in the prescribed manner and that the application is duly filled in, as aforesaid, he shall be deemed to be in possession of a valid certificate of registration, from the date so applied, for the purposes of exercising all rights and performing all duties or bearing all liabilities under this Act or the rules made there under."

7. Amendment Of Section 20 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

After sub-section (2) of Section 20 of Act 27 of 2005, two new sub sections (3) and (4) shall be inserted in the following way, namely:-

"(3) Notwithstanding anything contained in sub-section (1) or sub section (2), the certificate of registration granted to a dealer who, during any period of twelve consecutive months, has neither deposited any sum by way of tax nor furnished any return required by the Act, may be cancelled by the prescribed authority in the manner prescribed.

(4) The cancellation of the certificate of registration under sub-section (3) shall be without prejudice to any action which is, or may be taken, under Section 24, or Section 27 or Section 31 or Section 81."

8. Amendment Of Section 24 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

- (1) Sub-section (2) of Section 24 of the said Act shall be deleted.
- (2) The explanation to sub-section (3) of Section 24 of Act 27 of 2005 shall be substituted in the following way, namely:-
"Explanation.-In this sub-section, "due date" means-
- (a) the 31st day of December of the year following the year to which such return relates in the case of the following classes of dealers:
 - (i) a company within the meaning of the Companies Act, 1956, or
 - (ii) a person, other than a company, whose accounts are required, under this Act or under any other law, to be audited or where the report of an accountant is required to be furnished under Section 54;
 - (b) the 31st day of July of the year following the year to which such return relates, in any other case."
- (3) The word "abstract" in sub-section (4) of Section 24 of Act 27 of 2005 shall be deleted.
- (4) The word "abstract" in sub-section (5) of Section 24 of Act 27 of 2005 shall be deleted.
- (5) After the words "or sub-section (2)" in sub-section (6) of Section 24 of Act 27 of 2005 the words "or sub-section (4)" shall be inserted.
- (6) After the words "or sub-section (2)" in sub-section (6) of Section 24 of Act 27 of 2005, the words "or sub-section (3)" shall be inserted.
- (7) The words "under sub-section (2)" in sub-section (7) of Section 24 of Act 27 of 2005 shall be substituted by the words "or sub-section (4)".

9. Amendment Of Section 25 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

The words "clauses (a) to (d) of" in clause (b) of sub-section (2) of Section 25 of Act 27 of 2005 shall be deleted.

10. Amendment Of Section 26 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

Sub-section (1) of Section 26 of Act (Act 27 of 2005) shall be substituted in the following way, namely:-

"(1) Without prejudice to the provisions of Section 25 but subject

to the provisions of Section 32, the tax due in respect of a financial year from every registered dealer who has furnished the returns and statements mentioned in Section 24, before the expiry of the due date within the meaning of sub section (3) of Section 24 or the date extended under sub-section (6) of Section 24, shall be deemed to have been assessed."

11. Amendment Of Section 32 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

Clause (b) of sub-section (1) of Section 32 of Act 27 of 2005 shall be substituted in the following way, namely:-

"(b) has furnished incorrect statement of his turnover or incorrect particulars of his sales or purchases in the return furnished under sub-section (1) of Section 24 or in the quarterly statement under sub-section (4) of Section 24 or in the annual return under sub-section (3) of Section 24; or"

12. Amendment Of Section 35 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

(1) The full stop after the words and figure "Section 24" in clause (f) of sub-section (1) of Section 35 of Act 27 of 2005 shall be substituted by a semicolon.

(2) After clause (f) of sub-section (1) of Section 35 of Act 27 of 2005 a new clause (g) shall be inserted in the following way, namely:-

"(g) sale of goods to organizations specified in Schedule V to this Act."

13. Amendment Of Section 53 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

(1) Clause (b) of sub-section (5) of Section 53 of Act 27 of 2005 shall be substituted in the following way, namely:-

"(b) the name and complete address of the selling dealer;"

(2) After clause (b) of sub-section (5) of Section 53 of Act 27 of 2005 the following new clauses (bb), (bc) and (bd) shall be inserted in the following way, namely:-

"(bb) the Taxpayer Identification Number of the selling dealer if registered;

(bc) nature of purchaser (whether consumer or a dealer not registered under the Act);

(bd) name and address of the purchaser in case of sale to a dealer;"

14. Amendment Of Section 54 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

(1) Sub-section (1) of Section 54 of Act 27 of 2005 shall be substituted in the following way, namely:-

"(1) Every dealer whose gross turnover exceeds forty lakh rupees shall, for the purposes of this Act, get his annual accounts audited by an accountant before the due date within the meaning of the Explanation to sub-section (3) of Section 24 of this Act."

(2) Sub-section (2) of Section 54 of Act 27 of 2005 shall be substituted in the following way, namely:-

"(2) Every dealer referred to in sub-section (1) shall obtain, by the date specified in that sub-section, a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and a true copy of such report shall be furnished by such dealer to the prescribed authority, on or before the due date within the meaning of the Explanation to sub-section (3) of Section 24 of this Act.

Explanation.-For the purposes of this section, "accountant" means a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 and includes a person who, by virtue of the provisions of sub-section (2) of Section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of companies registered in any State:

Provided that the Commissioner may, by a notification and for specific reasons to be recorded in writing, extend the date of furnishing such report for a period not exceeding three months from the due date."

15. Amendment Of Section 55 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

After sub-section (b) of Section 55 of Act 27 of 2005, a new sub section (c) shall be inserted in the following way, namely:-

"(c) if any person referred to in sub-section (a) contravenes the provisions of this section, the prescribed authority shall, after giving the person an opportunity of being heard, direct him to pay by way of penalty a sum equivalent to one thousand rupees."

16. Amendment Of Section 81 Of The Bihar Value Added

Tax Act, 2005 (Act 27 Of 2005) :-

The words "five thousand rupees" in sub-section (5) of Section 31 of Act 27 of 2005 shall be substituted by the words "fifty thousand rupees".

17. Amendment Of Section 93 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

After clause (o) of sub-section (2) of Section 93 of Act 27 of 2005, a new clause (oa) shall be inserted in the following way, namely:-

"(oa) The manner in which the certificate of registration shall be cancelled under sub-section (3) of Section 20;"

18. Amendment Of Section 98 Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) :-

(1) The colon before the proviso to sub-section (1) of Section 98 of Act 27 of 2005 shall be substituted by a full stop.

(2) The proviso to sub-section (1) of Section 98 of Act 27 of 2005 shall be deleted.

PART 2 AMENDMENT OF THE BIHAR TAXATION ON LUXURIES IN HOTEL ACT, 1988

19. Amendment Of Section 2 Of The Bihar Taxation On Luxuries In Hotel Act, 1988 (Act 5 Of 1988) :-

Sub-section (h) of Section 2 of Act 5 of 1988 shall be substituted in the following way, namely:-

(h) "Luxuries" means such amenities as are provided in a Hotel to occupants of such rooms or suites of rooms therein as carry a rent of rupees five hundred or more per day.

20. Amendment Of Section 3 Of The Bihar Taxation On Luxuries In Hotel Act, 1988 (Act 5 Of 1988) :-

Section 3 of Act 5 of 1988 shall be substituted in the following way, namely:-

"3. Levy of Tax.-

(1) The tax on luxuries shall be levied and paid by the proprietor at the rate specified in sub-section (2) on the rent of such room or suits of rooms provided with luxuries as carry a rent of rupees five hundred or more per day.

(2) The rate of tax shall be 5 percent of the rent of such room or suit of rooms provided with luxuries as carry a rent of rupees five hundred or more per day but less than rupees one thousand per day and 10 percent of the rent of such room or suit of rooms provided with luxuries as carry a rent of rupees one thousand or more per day."

21. Insertion Of A New Section 3Aa, After Section 3A Of The Bihar Taxation On Luxuries In Hotel Act, 1988 (Act 5 Of 1988) :-

After Section 3A of Act 5 of 1988 a new Section 3AA shall be inserted in the following way, namely:-

"3AA. Compounding of Tax.-Notwithstanding anything to the contrary contained in this Act, the State Government may, subject to such conditions and restrictions as it may prescribe by a notification, permit a proprietor of a hotel or class or description of hotels to pay a fixed amount in lieu of the tax payable under this Act."

PART 3 AMENDMENT OF THE BIHAR ELECTRICITY DUTY ACT, 1948

22. Amendment Of Section 4 Of The Bihar Electricity Duty Act, 1948 (Act 36 Of 1948) :-

(1) The words "to the consumer" in sub-section (1) of Section 4 of Act 36 of 1948 shall be deleted.

(2) The words "to the consumer" in sub-section (2) of Section 4 of Act 36 of 1948 shall be substituted by the words "by him".

* Incorporated in Vol-IV Pg. 609-610.

23. Insertion Of A New Section 4A, After Section 4 Of The Bihar Electricity Duty Act, 1948 (Act 36 Of 1948) :-

After Section 4 of Act 36 of 1948 a new Section 4A shall be inserted in the following way, namely:-

"4A. Point or points in a series of sales at which duty shall be levied.-

(1) Subject to the provisions of sub-section (2), the duty under the Act shall be levied at each point in a series of sales of energy in the State of Bihar.

(2) The amount of duty paid at each preceeding stage of sale shall be adjusted against the amount of duty payable at each

subsequent stage of sale in the manner prescribed:

Provided that if the sale of energy at any subsequent points is not leviable to duty under sub-section (2) of Section 3, the liability, in respect of any subsequent period, of the preceeding seller shall stand reduced, in the manner prescribed, to the extent of the duty paid by him in respect of such subsequent sale of energy as is not leviable to duty under sub-section (2) of Section 3."

PART 4 AMENDMENT OF THE BIHAR ENTERTAINMENT TAX ACT, 1948

24. Amendment Of Section 2 Of The Bihar Entertainment Tax Act, 1948 (Bihar Act Xxxv Of 1948) :-

(1) After the words, "Cable television network" in sub section (d) of Section 2 of Bihar Act XXXV of 1948, the words "and programmes relayed by an entertainment provider" shall be inserted.

(2) After sub-section (e) of Section 2 of Bihar Act XXXV of 1948 a new sub section (ee) shall be inserted in the following way, namely:-

(ee) "entertainment provider" means a person who transmits or re transmits programmes or channels through a satellite by a set of closed transmission paths and associated signal generation for reception of multiple users, commonly known as Direct to Home Service (DTH), but does not include a cable operator;

** Incorporated in Vol-IV Pg. 900.

25. Insertion Of A New Section 3Aaa After Section 3Aa Of The Bihar Entertainment Tax Act, 1948 (Bihar Act Xxxv Of 1948) :-

After Section 3AA of Bihar Act XXXV of 1948 a new Section 3AAA shall be inserted in the following way, namely:-

"3AAA. Notwithstanding anything contained in the Act, there shall be levied, and paid by an entertainment provider to the State Government, a tax not exceeding the rate specified in Section 3AA, but not below the rate specified in that section, in respect of the entertainment provided by him, as may be prescribed by the State Government."

PART 5 ENACTMENT OF THE BIHAR TAX ON ADVERTISEMENTS ACT, 2007

26. Enactment Of The Bihar Tax On Advertisements Act,

2007 :-

The Bihar Tax on Advertisements Act, 2007 shall be enacted in the following way, namely:-

"The Bihar Tax on Advertisements Act, 2007

An Act to provide for levy of tax on advertisements other than advertisements published in newspapers and broadcast by radio or on television.

27. Definitions :-

In this Act unless there is anything repugnant in the subject or context:-

(a) "advertisement" includes any erection, fixation, announcement, display, exhibition, publication or communication of an object, matter or thing, whether made temporarily or retained in any manner with a view to attract public attention, for furtherance of any trade, commerce or service, offered, but excludes advertisements published in a newspaper or broadcast by radio or television and any advertisements exhibited or broadcast by any political party;

(b) "advertising agent" means a person who carries on the business of making advertisement on behalf of other persons for cash or deferred payment or other valuable consideration and includes a society, a club, an association, an undivided Hindu family, a firm, company or a corporation and any department of Government carrying on such business of advertisement;

Explanation.-The proprietor of a cinema house or any other place of entertainment who exhibits advertisement by means of cinema slides, film trailers or films on behalf of other persons for cash or deferred payment or other valuable consideration who makes an advertisement to promote his own business shall be deemed to be an advertisement agent for the purpose of this Act.

(c) "newspapers" includes any printed periodical work containing public news or comments on public news;

(d) "month" means a month of the Gregorian Calendar;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "registered advertiser" means an advertiser or advertising agent in possession of a valid certificate of registration granted under the provisions of this Act;

(g) "value of advertisement" means cash or deferred payment or any other valuable consideration received or receivable by an

advertising agent in respect of advertisements made by him.

28. Charge Of Tax :-

Subject to the other provisions of the Act, every advertising agent shall pay on every advertisement made by him, a tax at such rate, not exceeding twelve per centum of the value of advertisements made by him, as the State Government may specify by a notification published in the Official Gazette:

Provided that different rates may be specified in respect of different categories of advertisements:

Provided further that no such tax shall be levied on any advertisement which is not a sky-sign and which-

- (a) is exhibited within the window of any building; or
- (b) relates to the trade or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale to be held upon or in the same; or
- (c) relates to the name of the land or building upon or over which the advertisement is exhibited, or to the name of owner or occupier of such land or building.

Explanation.-The expression "sky-sign" in this section means any advertisement, supported on or attached to any post, pole, standard framework or other support wholly or in part upon any land, building, wall or structure including any moveable board on which, or any part of which is visible against the sky from some point of any public place and includes all and every part of any such post, pole, standard framework or other similar device employed wholly or in part for the purpose of any advertisement upon or over any land, building or structure upon or over any public place, which is open to the use of public whether actually used or enjoyed or not as such by the public but shall not include-

- (a) any flagstaff, pole, vane or weathercock unless adopted, or used wholly or in part for the purpose of any advertisement, or
- (b) any advertisement relating to the name of the land or building upon or over which the advertisement is exhibited or to the name of the owner or occupier of such land or building; or
- (c) any notice of land or building to be sold, or let, placed upon such land or building.

29. Exemption :-

The State Government may, by notification and subject to such

conditions or restrictions, if any, as it may think fit to impose, exempt, from the levy of tax payable under Section 3, any person or class of persons or any advertisement or class of advertisements.

30. Collection Of Tax By A Person Liable To Pay Tax Under This Act :-

A person, who is liable to pay tax under this Act for any advertisement done on behalf of other person for payment or for any other valuable consideration, may recover the amount of tax payable by him from such other person in respect of advertisement done on his behalf.

31. Registration :-

(1) No person liable to pay tax under Section 3 of this Act shall make an advertisement unless he has obtained and is in possession of a valid certificate of registration.

(2) Every person, referred to in sub-section (1), shall apply for the grant of certificate of registration to the prescribed authority in the prescribed manner and the prescribed authority, shall, after verifying that the application has been duly filled in, grant certificate of registration in the manner as may be prescribed.

32. Returns :-

(1) Every registered advertiser shall furnish to the prescribed authority, a true and complete return in respect of all his transactions relating to advertisements made by him or on his behalf during each quarter, on or before the end of the month following the end of the quarter.

(2) If a registered advertiser fails to furnish the return within the time specified under sub-section (1), the prescribed authority shall, after giving such a registered advertiser an opportunity of being heard in the manner prescribed, impose a penalty at the rate of three hundred rupees for every month of such failure.

(3) Any penalty levied under this section shall be without prejudice to any action, which is, or may be, taken under Section 9.

33. Payment Of Tax :-

(1) Every person liable to pay tax under this Act 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.

(2) If a person liable to pay tax under this Act fails to pay the amount of tax payable according to the provisions of sub-section (1), such person shall be liable to pay interest, in respect of tax payable under sub-section (1), at the rate of one and a-half per cent per month of the amount due from the date the tax so payable had become due to the date of its payment.

Explanation.-For the purpose of this sub-section-

(a) Where the period of default in payment of tax covers a period less than a month, the interest payable on such tax in respect of such period shall be computed proportionately;

(b) "Month" shall mean thirty days.

(3) Any interest levied under this section shall be without prejudice to any action, which is, or may be, taken under Section 9.

34. Offences :-

(1) Whoever-

(a) while being liable to pay tax under Section 3 contravenes the provisions of Section 6; or

(b) fails to furnish a return required under Section 7; or

(c) collects tax in excess of the amount to which he is entitled under Section 5; or

(d) fails to make payment of tax as required under Section 8; or

(e) obstructs any officer making inspection, search or seizure; or

(f) aids or abets any person in the commission of any offence specified in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) shall, on conviction, be punished with imprisonment, or either description, for a term which shall not be less than one month but which may extend to three months and with fine not exceeding one thousand rupees.

35. Compounding Of Offences :-

(1) The Commissioner may, either before or after institution of proceedings under Section 9, accept from a person charged with an offence under Section 9 or under any rule made under this Act by way of compounding of the offence, a sum not exceeding ten thousand rupees and where the offence charged was likely to cause or caused evasion of any amount of tax payable under this Act, a sum not exceeding three times of such amount, whichever is higher.

(2) On payment of such sum as may be determined by the Commissioner no further proceeding shall be taken against the person in respect of such offence.

36. Applicability Of The Provisions Of The Bihar Value Added Tax Act, 2005 (Act 27 Of 2005) And Rules Made Thereunder :-

Subject to other provisions of this Act and Rules framed thereunder the authority empowered to assess, reassess, collect and enforce payment of tax, interest and penalty payable by a dealer under the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall assess, reassess, collect and enforce payment of tax, interest and penalty payable under this Act and for this purpose they may exercise all or any of the powers assigned to them under the said Act and Rules made thereunder for the time being in force including the provisions relating to returns, assessment, escaped assessment, recovery of tax, interest and penalty, special mode of recovery, maintenance of accounts, inspection, search and seizure, liability in representative character, refund, appeal, revision and reviews, compounding offences and other miscellaneous matters and the provisions of the said Act shall mutatis mutandis apply accordingly.

37. Power To Make Rules :-

(1) The State Government may make rules not inconsistent with the provisions of this Act for-

(i) All matters expressly required or allowed by this Act to be prescribed generally for carrying out the purposes of this Act and regulating the procedure to be followed, forms to be adopted and fees to be paid in connection with proceeding under this Act and all other matters ancillary or incidental thereto;

(ii) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the State Government necessary for giving effect to the purposes of this Act.

(2) Any rule made under this section may provide that the contravention thereof shall be punishable with fine which may extend to five thousand rupees and where the contravention is continuing one, with a further fine which may extend to one hundred rupees per day for every day during which such contravention continues.

(3) Every rule made under this Act shall be laid, as soon as may be

after it is made, before each House of State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is laid or the session immediately following both the Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect as the case may be so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

38. Repeal And Savings :-

All provisions relating to levy of tax on advertisement other than advertisements published in newspapers under the Bihar Finance Act, 1981 (Act 5 of 1981) or any other enactment in force, at the time of commencement of this Act shall stand repealed:

Provided that nothing in this repeal shall affect or be deemed to affect-

(i) any right, title, obligation or liability already required, accrued or incurred for anything done or suffered, in respect of the period immediately preceding this appeal;

(ii) any legal proceeding or remedy whether initiated or availed of before or after this repeal, in respect of any such right, title, obligation or liability;

(iii) the levy, assessment or recovery of any tax or the imposition or recovery of any penalty, in respect of such period, under the provisions of such enactments and all proceedings under them in respect of all matters aforesaid shall be initiated and disposed of, or continued and disposed of, as the case may be, as if this Act had not been enforced."

PART 6 AMENDMENT IN THE BIHAR MOTOR VEHICLES TAXATION ACT, 1994

39. Amendment In Sub-Section (1) Of Section 7 Of The Bihar Motor Vehicles Taxation Act, 1994 :-

The following amendment shall be made in sub section (1) of Section 7 of the said Act.-

In sub-section (1) the words "or vehicle of Omni bus category with seating capacity of six to twelve for private use" shall be inserted after words "on personalized vehicles" and before words "one time tax for the whole life".

40. Amendment In Proviso To Section 12 Of The Bihar Motor Vehicles Taxation Act, 1994 :-

The following amendment shall be made in proviso to Section 12 of the said Act.-

In the proviso the words and digit "and Rs. 10,000 (Ten thousand) for three-wheelers and Rs. 25,000 (twenty five thousand) for Light Motor Vehicles" shall be inserted after words and digit "exceeds Rs. 50,000 (fifty thousand)" and before word "authority".

41. Amendment In Hindi Version Of Sub-Section (2) Of Section 15 Of The Bihar Motor Vehicles Taxation Act, 1994 :-

The following amendment shall be made in Hindi version of sub-section (2) of Section 15 of the said Act.-

In sub-section (2) of Section 15 words "by notification" shall be added after words "number of days" and before word "specify".

In sub-section (2) of Section 15 words "from date of notification" used after word "specify" and before words "for a fixed period" shall be deleted