

Bihar Taxation Law (Amendment And Validation) Act, 1993

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Bihar Taxation Law (Amendment And Validation) Act, 1993

An Act to amend the provisions of the Bihar Finance Act, 1981. BE it enacted by the Legislature of State of Bihar in the Forty-fourth Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Bihar Taxation Law (Amendment and Validation) Act, 1993. 2. It extends to the whole of the State of Bihar. 3. It shall come into force at once, save except section 7, which shall be deemed to have come into force on the 30th day of January, 1990.

2. Amendment Of Section 17 Of Bihar Act 5, 1981 :-

In sub-section (5) of section 17 of Bihar Finance Act, 1981 (Bihar Act 5, 1981) (hereinafter referred to as the said Act), the "full stop" after the proviso shall be substituted by a "semicolon" and the following new proviso shall be added, thereafter, namely:- "Provided further that a proceeding initiated under this sub-section shall be completed within a period of one year from the date of initiation."

3. Amendment Of Section 19 Of The Bihar Act 5, 1981 :-

In clause (b) of sub-section (1) of section 19 of the said Act, for the words "six years" the words "eight years" shall be substituted and shall be always be deemed to have been substituted.

4. Amendment Of Section 24 Of Bihar Act 5, 1981 :-

In section 24 of the said Act, for the words "eight years" the words

"four years" shall be substituted.

5. Amendment Of Section 25-A Of Bihar Act 5, 1981 :-

In the said Act for section 25-A the following shall be substituted and shall always be deemed to have been substituted, namely:-

"25-A. Advance recovery of tax - (1) Notwithstanding anything contained in section 26, every person responsible for making any payment of sale price or any amount purporting to be the full or part payment of the sale price or any payment in discharge of any liability on account of valuable consideration payable in respect of transfer of property in goods, whether as goods or in some other form, involved in the execution of a works contract shall be lawfully competent to deduct an amount at the rate or rates specified by the State Government in a notification published in the Official Gazette, purporting to be a part or full amount of tax payable on the sale of such goods from every bill or invoice raised by the works contractor as payable by the person: Provided that no such payment or discharge of any such bill or invoice raised by a works contractor shall be made without deduction referred to in sub-section (1): Provided further that the rate or rates to be specified by the State Government under sub-section (1) shall not exceed four per centum. Explanation. - Person in this section includes all officers and authorities of the Central or State Government or of a Company, Corporation, Board, Authority, Co-operative Societies, undertaking on any other body constituted or formed under any Act and of any firm or association of persons and organisation. (2) The amount deducted under sub-section (1) shall be adjusted against the amount of tax finally assessed or determined as being payable by the concerned works contractor and any amount deducted in excess of the tax so assessed or determined shall be refunded in accordance with the provisions of the Act. (3) The deduction referred to in sub-section (1) shall be made in the manner prescribed. (4) The person making the deduction shall issue a deduction certificate in the prescribed manner and form containing all particulars required to be mentioned therein to the works contractor or person from whose bill or invoice such deduction has been made. (5) If any person contravenes any or all of the provisions of sub-sections (1), (2), (3) and (4), the prescribed authority shall after giving a reasonable opportunity of being heard, by order in writing direct, that such person shall pay by way of penalty, a sum not exceeding twice the amount of tax deducted or deductible under sub-section (1). (6) The provisions of section 27

of recovery of any amount of tax due from a dealer shall, mutatis mutandis, apply for recovery of any amount of tax deducted and or any penalty imposed under this section but not deposited into Government treasury. (7) Notwithstanding any judgment, decree or order of any Court, Tribunal or Authority any deduction made purporting to be part or full amount of tax payable on the sale of goods from any bill or invoice raised by the works contractor by any person on or after 1st April, 1984 shall be adjusted against the amount of tax finally assessed or determined as being payable by the concerned works contractor and any amount deducted in excess to amounts so assessed or determined shall be refunded in accordance with the provisions of the Act.

6. Amendment Of Section 31 Of Bihar Act 5, 1981 :-

In section 81 of the said Act - (i) For sub-section (2a) the following shall be substituted and shall always be deemed to have been substituted, namely - "(2a) A person transporting goods shall carry a declaration in such form as may be prescribed by the Commissioner supported by a cash memo or bill in case the movement is as a result of sale or a challan in case the movement is otherwise than as a result of sale, in respect of goods which is being transported on a goods carrier, vehicle or a vessel or is otherwise in transit or in transit storage and shall produce such cash memo or bill or challan as the case may be, along with the aforesaid form of declaration on demand before the prescribed authority: Provided that the Commissioner, by notification in this respect may prescribe a form of declaration or adopt a form of declaration or permit prescribed for the purpose of sections 34 and 35 of this part and he may also prescribe in the said notification the manner in which such declaration or permit shall be utilised for verification and assessment of tax payable under this part: Provided further that the Commissioner may exempt any person or dealer or class of registered dealers from the requirement of this sub-section." (ii) For sub-section (2b) the following shall be substituted and shall always be deemed to have been so substituted, namely:- "(2b) The prescribed authority may in order to verify that the transportation of goods is being made in accordance with the provisions of sub-section (2a) intercept, detain and may search any carrier, vehicle or vessel and may also search the warehouse or godown or any other such place of transit storage, where goods are kept in course of transportation, and, if the said authority is satisfied on such verification and search that

the transportation of goods is being made in contravention of the provisions of sub-section (2a) or in a manner which is likely to lead to evasion of tax payable, he may, notwithstanding anything contained in this part, seize the goods or the carrier or vehicle or vessel along with the goods and documents relating to the goods and the carrier, vehicle or vessel."

7. Amendment Of Section 60-A Of The Bihar Act 5, 1981 :-

In the said Act after sub-section (6) of section 60-A the following new sub-section shall be added, namely:- "(7)(a) Notwithstanding anything contained in any Act or entry (7) of Government Resolution No. 4725, dated 3rd May 1990 or any notification or in rule 4 of the Bihar Sales Tax Supplementary (Deferment of Tax) Rules, 1990 framed to give effect to the provisions of section 23-A of the Bihar Finance Act, 1981 as amended by the Bihar Taxation Law (Amendment and Validation) Act, 1990 Flour Mill in entry (7) of clause (ii) of rule 4 of the aforesaid Rules shall include and shall always be deemed to have included Roller Flour Mill and no Roller Flour Mill shall be entitled for availing the facility of deferred payment of sales tax in accordance with the provisions of section 23-A and the aforesaid Rules. (b) Notwithstanding to the contrary in any judgment, decree or order of any Court, Tribunal or Authority, no Roller Flour Mill going into production on or after 1st April 1989 shall be entitled to defer or retain any amount of sales tax collected or realised and payable under the Act on sales made on the ground that Flour Mill in the aforesaid Government resolution or the Supplementary Rules did not include Roller Flour Mill. (c) No suit or any other proceeding shall be maintained in any Court, Tribunal or Authority for deferment of sales tax payable by a Roller Flour Mill. (d) No suit or any other proceedings shall be maintained or continued in any Court, Tribunal or Authority for refund of tax already paid and no enforcement shall be made by any Court, Tribunal or Authority of any decree or order directing refund of any such amount which has been paid up by a Roller Flour Mill."

8. Repeal And Savings :-

(1) The Bihar Taxation Law (Amendment and Validation) Ordinance, 1993 (Bihar Ordinance No. 22, 1993) is hereby repealed. (2) Notwithstanding such repeal any action taken or anything done in the exercise of any powers conferred by or under sub-section (3) of the said Ordinance shall be deemed to have been taken or done in the exercise of power conferred by or under this

Act as if this Act was in force on the day on which such thing or action was done or taken. (3)(a) Notwithstanding anything contained in the Bihar Taxation Law (Amendment and Validation) Ordinance, 1993 (Bihar Ordinance No. 22 of 1993) or this Act any proceedings pending under section 17 of Part I of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) prior to coming into force of the said Ordinance shall as the case may be initiated continued, completed and disposed of in accordance with the provision of section 24 of Part 1 of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as in force immediately before coming into force of the aforesaid Ordinance as if the said Ordinance or this Act had not come into force. (b) If any proceeding under section 17 of the Bihar Finance Act, 1981 (Bihar Act No. 5 of 1981) has been completed or disposal of taking the same as barred by limitation under section 2 of 4 of the aforesaid Ordinance, then such proceedings shall be re-opened and completed and disposed of in accordance with the provision of clause (a).