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**Bihar Value Added Tax (Amendment) Act, 2011****027 of 2005****CONTENTS**

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**Bihar Value Added Tax (Amendment) Act, 2011****027 of 2005**

An Act BE it enacted by the Legislature of the State of Bihar in the sixty-second year of the Republic of India as follows:-

**1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Bihar Value Added Tax (Amendment) Act, 2011.
- (2) It shall extend to the whole of the State of Bihar.
- (3) It shall come into force with effect from the date of notification.

**2. Amendment To Section 24 :-**

- (1) The first proviso to sub-Section (6) of Section 24 of Act 27 of 2005, shall be substituted by the following, namely-

"Provided that the Commissioner may, in extraordinary situations such as disasters and in respect of dealers in general or of a specific area, for specific reasons to be recorded in writing, extend the date of filling the returns or statements specified in sub-Section (1) or sub-Section (3) or sub-Section (4) or sub-Section (4A) in respect of

any period, beyond the stipulated date by a general or specific order and such extension shall not exceed a period of three months:"

Provided that the state Government may extend the date of filing the return or the quarterly return beyond the stipulated date by six months but not beyond three months at a time.

(2) Sub-Section (8) of Section-24 of Act 27 of 2005 shall be substituted by the following, namely-

"(8) (a) If a dealer fails to furnish the return within the time specified under sub-Section (1) or sub-Section (3) or sub-Section (4A) or the quarterly statement under sub-Section (4), or, as the case may be, within the date extended under sub-Section (6), he shall be liable to pay, by way of fine-

(i) a sum of seven hundred and fifty rupees for each month, or part thereof, of the delay for the first six months of the delay; and (ii) a sum of one thousand rupees for each month, or part thereof, of the delay for each subsequent month of the delay.

(b) The fine specified in clause (a) shall be paid by the concerned dealer, in the manner prescribed, before furnishing the return or the statement, as the case may be, specified in clause (a)."

(3) Sub-Section (9A) of Section-24 of Act 27 of 2005 shall be deleted.

### **3. Amendment To Section-24A :-**

(1) The brackets and figure "(1)" shall be inserted before the words "Notwithstanding anything contained" in Section 24A of Act 27 of 2005.

(2) The following new sub-Section (2) shall be added in Section-24A of Act 27 of 2005, namely-

"(2) (a) Notwithstanding anything contained in sub-Section (1), the Commissioner may, in extraordinary situations such as disasters and in respect of dealers in general or of a specific area, for specific reasons to be recorded in writing, extend the date of filling the return specified in sub-Section (1) in respect of any period, beyond the stipulated date by a general or specific order and such extension shall not exceed a period of three months:

Provided that the State Government may, by a notification, extend the date for filing the return specified in sub-Section (1) beyond the stipulated date, by a period not exceeding six months."

(b) If a dealer fails to furnish the return within the time specified under sub-Section (1), or the date extended in clause (a), he shall

be liable to pay, by way of fine, a sum of five hundred rupees for each month, or part thereof, of the delay.

(c) The fine specified in clause (b) shall be paid by the concerned dealer, in the manner prescribed, before furnishing the return specified sub-Section (1)."

#### **4. Amendment To Section 25 :-**

(1) The words "or under any other law for the time being in force" in clause (e) of Sub- Section (1) of Section-25 of Act 27 of 2005 shall be deleted.

(2) Clause (f) of Sub-Section (1) of Section-25 of Act 27 of 2005 shall be deleted.

#### **5. Amendment To Section 27 :-**

(1) Sub-Section (1) of Section-27 of Act 27 of 2005 shall be substituted by the following, namely-

"(1) If a registered dealer fails to furnish before the due date specified under subsection (3) of section-24 the return specified under sub-Section (3) of Section-24, the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, asses to the best of its judgment, the amount of tax due from the dealer and interest, if any:

Provided that no such assessment shall be made in respect of a dealer who has been selected for detailed audit in terms of the provisions of sub-Section (2) of section-26:

Provided further that no proceeding for such assessment shall be initiated except after the expiry of the financial year following the year in respect of which the dealer has defaulted in furnishing the return specified under sub-Section (3) of Section-24:

Provided further also that a proceeding initiated under this sub-section shall be completed within a period of two years from the date of initiation."

#### **6. Amendment To Section 31 :-**

After clause (b) of sub-Section (2) of Section-31 of Act 27 of 2005, the following new clause (c) shall be added, namely-

"(c) No order shall be passed under this sub-Section without giving the dealer a reasonable opportunity of being heard."

#### **7. Amendment To Section 37 :-**

The words, brackets and figures "sub-section (1) of section-27" shall be inserted before the words, brackets and figures "sub-section (1) of section 31" in Section 37 of Act 27 of 2005.

#### **8. Amendment To Section 39 :-**

The words, "or fine payable" shall be inserted after the words "or penalty imposed" in clause (iv) of sub-Section (2) of Section-39 of Act 27 of 2005.

#### **9. Amendment To Section 52 :-**

(1) The words, figures and brackets "sub-section (1) and sub-Section (4) of" in sub-Section (1) of Section-52 of Act 27 of 2005 shall be substituted by the words, figures and brackets "sub-section (1) or sub-Section (1A) or sub-Section (4) of"

(2) The words, figures and brackets "sub-section (1) and sub-Section (4) of" in sub-Section (4) of Section-52 of Act 27 of 2005 shall be substituted by the words, figures and brackets "sub-section (1) or sub-Section (1A) or sub-Section (4) of"

#### **10. Amendment To Section 54 :-**

(1) Sub-Section (1) of Section-54 of Act 27 of 2005 shall be substituted by the following, namely-

"(1) Every specified dealer 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.

Explanation.- For the purposes of this sub-Section, the expression "specified dealer" shall mean-

(a) a Company within the meaning of the Companies Act, 1956; and

(b) a dealer other than a Company, as aforesaid, whose gross turnover exceeds one crore rupees."

(2) Sub-Section (4) of Section-54 of Act 27 of 2005 shall be substituted by the following, namely-

"(4) (a) If a dealer contravenes the provisions of sub-Section (2) or sub-Section (3), he shall be liable to pay, by way of fine, a sum of five thousand rupees for each month, or part thereof, of the delay, subject to a maximum of fifty thousand rupees."

(b) The fine specified in clause (a) shall be paid by the concerned dealer, in the manner prescribed, before furnishing the report or, as

the case maybe, the accounts and statements."

#### **11. Amendment To Section 56 :-**

The Explanation to section-56 of Act 27 of 2005 shall be substituted by the following, namely-

"Explanation.- For the purposes of this section it shall be deemed that goods have not been properly accounted for if,-

(a) in the case of a dealer, the goods have either not been entered in the books of accounts or they have been classified in a manner which is likely to lead to evasion of tax payable under the Act; and

(b) in the case of the owner of a warehouse, or a clearing, booking or forwarding agent, or a person engaged in the business of transporting goods, the goods have not been properly entered in such registers and accounts as may be prescribed under sub-Section (2) of Section-59;

and the expression "Proper accounting" shall be construed accordingly."

#### **12. Amendment To Section 72 :-**

In sub-Section (2) of section-72 of Act 27 of 2005, the words "twenty five percent" shall be substituted by the words "twenty percent"

#### **13. Amendment To Section 73 :-**

(1) In sub-Section (2) of section-73 of Act 27 of 2005, the words "twenty five percent" shall be substituted by the words "twenty percent"

(2) The following explanation shall be added to sub-Section (2) of section-73 of Act 27 of 2005, namely-

"Explanation.- For the purposes of this sub-Section, the expression "amount in dispute" shall mean the sum remaining after deducting from the tax assessed, the amount of tax deposited by the dealer in respect of the year to which the dispute relates."