

## **Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1968**

**8 of 1968**

**[29 March 1968]**

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## **Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1968**

**8 of 1968**

**[29 March 1968]**

An Act further to amend the Bombay Provincial Municipal Corporations Act, 1949. It is hereby enacted in the Nineteenth Year of the Republic of India as follows:-

### **1. Short Title And Commencement :-**

(1) This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1968.

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### **2. Amendment Of Section 2 Of Bom. Lix Of 1949 :-**

In section 2 of the Bombay Provincial Municipal Corporations Act, 1949(Bom. LIX of 1949) (hereinafter referred to as "the principal Act"),-

(1) after clause (8), the following clause shall be inserted, namely:-

"(8A) "Civil Appellate Court" means in the case of the City of Ahmedabad, the High Court and in the case of any other City, the District Court having jurisdiction in the District in which the City is situate;"

(2) after clause (11), the following clause shall be inserted, namely:-

"(11A) "Criminal Appellate Court" means in the case of the City of Ahmedabad, the High Court and in the case of any other City, the Sessions Court having jurisdiction in the Sessions Division in which the City is situate;"

(3) after clause (25), the following clause shall be inserted, namely:-

"(25A) "hotel" includes an eating house or any premises where the public or any section of the public are supplied for consumption meals, drinks or any eatables on payment of price;"

(4) after clause (28), the following clause shall be inserted, namely:-

"(28A) "industrial premises" means premises including the precincts thereof in any part of which a manufacturing process is being carried on or is ordinarily carried on;

Explanation.-"manufacturing process" includes producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods;"

(5) in clause (29), for the words "in the City of Ahmedabad the Judge of the Court of Small Causes" the words "in the City of Ahmedabad, the Chief Judge of the Court of Small Causes or such other Judge of the Court as the Chief Judge may appoint in this behalf" shall be substituted;

(6) for clause (54), the following clause shall be substituted, namely:-

"(54) "rateable value" means the annual letting value of any building or land whether fixed with reference to any given premises or otherwise in accordance with the provisions of this Act and the rules for the purpose of assessment to property taxes and "annual letting value" means the annual rent for which any building or land, exclusive of furniture or machinery contained or situate therein or thereon might reasonably be expected to let from year to year with reference to its use, and shall include all payments made or agreed

to be made to the owner by a person (other than the owner) occupying the building or land on account of occupation, taxes, insurance or other charges incidental thereto;"

(7) after clause (55), the following clause shall be inserted, namely:-

"(55A) "relevant Small Cause Courts Act" means in the case of the City of Ahmedabad the Presidency Small Cause Courts Act, 1882 and in the case of any other City, the Provincial Small Cause Courts Act, 1887;"

### **3. Insertion Of New Section 110A In Bom. Lix Of 1949 :-**

After section 110 of the principal Act, the following new section shall be inserted, namely:-

"110A. Corporation may take advances from banks and grant mortgages.--

(1) Notwithstanding anything contained in sections 109 and 110, the Corporation may, with the previous sanction of the State Government and on such terms and conditions as the State Government may impose, take from any bank or banks, credit on cash account to be opened and kept with such bank or banks in the name of the Corporation for a sum as may be fixed by the State Government from time to time on the security of all or any of the taxes which the Corporation is authorised to levy for the purpose of this Act.

(2) The Corporation may also with the previous sanction of the State Government and on such terms and conditions as the State Government may lay down, mortgage any lands or property vesting in or belonging to the Corporation in security of the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon."

### **4. Section 4 :-**

### **5. Amendment Of Section 133 Of Bom. Lix Of 1949 :-**

In section 133 of the principal Act, in sub-section (1), for the words, figures and letters "annually in two half yearly instalments payable by the 30th day of September and the 31st day of March in every year" the words, figures and letters "annually by the 31st day of March in every year" shall be substituted.

### **6. Amendment Of Section 137 Of Bom. Lix Of 1949 :-**

In section 137 of the principal Act, in sub-section (1), for the words "or other large premises" the words "industrial premises or other large premises" shall be substituted.

## **7. Insertion Of New Section 152A In Bom Lix Of 1949 :-**

In the principal Act, in Chapter XI, after section 152, the following section shall be inserted, namely:-

"152A. Assessment, levy etc. of property taxes in the City of Ahmedabad for past years in respect of certain properties.--

(1) In the City of Ahmedabad if in respect of premises included in the assessment book relating to Special Property Section, the levy, assessment, collection or recovery of any of the property taxes for any official year preceding the official year commencing on the 1st April, 1968 is affected by a decree or order of a court on the ground that the determination of the rateable value of the premises on the basis of rental value per foot of the floor area was not according to law, or that sub-rules (2) and (3) of rule 7 of the rules contained in Chapter VIII of Schedule A to this Act were invalid, then it shall be lawful for the Municipal Corporation of the City of Ahmedabad to assess or reassess in respect of such premises any such property tax for any such official year at the rates applicable for that year in accordance with the provisions of this Act and the rules as amended by the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1968(Guj. 8 of 1968), as if the said Act had been in force during the year for which any such tax is to be assessed or reassessed; and accordingly the rateable value of lands and buildings in such premises may be fixed and any such tax when assessed or reassessed may be levied, collected and recovered by the said Corporation and the provisions of this Act and the rules shall so far as may be apply to such levy, collection and recovery and the fixation of rateable value and the assessment or reassessment, levy, collection and recovery of any such tax, under this section shall be valid and shall not be called in question on the ground that the same were in any way inconsistent with the provisions of this Act and the rules as in force prior to the commencement of the said Act:

Provided that if in respect of any such premises the amount of tax assessed or reassessed for any year in accordance, with the provisions of this section exceeds the amount of tax which but for the decree or order of the court as aforesaid could have been assessed for that year in respect of the premises, then the amount

of tax to be levied for that year in respect of the premises in accordance with the provisions of this section shall be an amount arrived at after deducting from the amount of tax so assessed or reassessed such amount as may be equal to the amount as so in excess.

(2) Where any such property tax in respect of any such premises is assessed or reassessed under sub-section (1) for any official year and in respect of the same premises, the property tax for that year has already been collected or recovered, then the amount of tax so collected or recovered shall be taken into account in determining the amount of tax to be levied and collected under sub-section (1) and if the amount already collected or recovered exceeds the amount to be so levied and collected, the excess shall be refunded in accordance with the rules."

#### **8. Amendment Of Chapter Xxvi Of Bom. Lix Of 1949 :-**

In Chapter XXVI of the principal Act,-

(1) in the heading below the Chapter, for the words "District Judge" the words "Appellate Courts" shall be substituted;

(2) for the words "District Court" wherever they occur, the words "Civil Appellate Court" shall be substituted;

(3) for the words "Sessions Court" wherever they occur, the words "Criminal Appellate Court" shall be substituted;

(4) for the words and figures "the Provincial Small Cause Courts Act, 1887" wherever they occur, the words "the relevant Small Cause Courts Act" shall be substituted.

#### **9. Amendment Of Section 436 Of Bom. Lix Of 1949 :-**

In section 436 of the principal Act, in sub-section (2), for the words "District Judge" the words "Civil Appellate Courts" shall be substituted.

#### **10. Insertion Of Section 436A In Bom. Lix Of 1949 :-**

After section 436 of the principal Act, the following section shall be inserted and shall be deemed always to have been inserted, namely:-

"436A. Rule of construction in respect of Magistrate for City of Ahmedabad.--The references in this Act to a Magistrate of the First Class or Magistrate shall in relation to the City of Ahmedabad be construed as references to a Magistrate appointed under section 14

of the Ahmedabad City Courts Act, 1961(Guj. XIX of 1961).".

### **11. Amendment Of Appendix Iv To Bom. Lix Of 1949 :-**

In Appendix IV to the principal Act, in Part I, after paragraph 6A, the following paragraph shall be inserted, namely:-

"6B. Saving in respect of Gujarat Local Fund Audit Act, 1963.--The provisions of the Gujarat Local Fund Audit Act, 1963(Guj. XLIX of 1963) shall continue to apply in respect of the audit of the accounts of the said Municipality for the period upto the date immediately preceding the appointed day and for all other matters connected with, or arising out of such audit as if this Act had not come into operation:

Provided that all references in the Gujarat Local Fund Audit Act, 1963, to the President of the local authority or to the local authority shall be deemed to be references to the Commissioner.".

### **12. Amendment Of Chapter Viii Of Schedule A To Bom. Lix Of 1949 :-**

In Schedule A to the principal Act, in Chapter VIII,-

(1) In rule 5,-

(i) in sub-rule (1), after the words "which has been vacant is reoccupied" the words "or when the user of any building is changed" shall be inserted;

(ii) in sub-rule (2), the following shall be added at the end, namely:-

"and where the user has been changed from the date of such change".

(2) for rule 7, the following rule shall be substituted, namely:-

"7. Rateable value how to be determined.--(1) In respect of industrial premises and in respect of any other premises, which the Commissioner may decide to treat as one property having regard to the nature of the premises and the use or uses to which they are put or are capable of being put the rateable value of the buildings and land comprised in such premises shall be determined premises-wise.

(2) For the purpose of fixing the rateable value, different parts of any premises may be valued according to their use.

(3) In order to fix the rateable value of any building or land or premises assessable to a property tax there shall be deducted from the amount of the annual rent for which such building, land or premises might reasonably be expected to let from year to year a

sum equal to ten per cent of the said annual rent and the said deduction shall be in lieu of all allowances for repairs or on any other account whatever.";

(3) in rule 8, after the words "or land" wherever they occur, the words "or premises" shall be added;

(4) in rule 9-

(i) in clause (a), for the words "buildings and land" the words "buildings or lands or as the case may be premises" shall be substituted;

(ii) in clause (b), for the words "building and land" the words "building or land or as the case may be premises" shall be substituted;

(iii) in clauses (c) and (d), after the words "or land" the words "or as the case may be, premises" shall be inserted:

(iv) in clause (e)-

(a) for the words "and the period" the words "and either the period" shall be substituted;

(b) for the words "and in the case of any such entry which is complained against when such complaint has been disposed of in accordance with the provision hereinafter contained" the words "or the complaint if any, made against any entry has been disposed of in accordance with the provisions hereinafter contained" shall be substituted;

(c) after the words "or land" the words "or premises" shall be inserted;

(d) in clause (f), after the words "or land" where they occur at two places, the words "or premises" shall be inserted;

(5) in rule 10-

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

"(1) The assessment book may, if the Commissioner thinks fit, be divided into sections with reference to such purposes as the Commissioner may determine and each section may be given a name or number as the Commissioner may determine.";

(ii) for sub-rule (2), the following shall be substituted, namely:-

"(2) The sections of the assessment-book shall collectively constitute the assessment book.";

(6) in rule 11, after the words "or land" wherever they occur the words "or premises" shall be inserted:

(7) in rule 13,-

(i) in sub-rule (1)-

(a) for the words "in any ward assessment-book" the words "in the

assessment-book or any section thereof shall be substituted;

(b) for the words "where the ward assessment-book" the words "where the assessment-book or the section" shall be substituted;

(ii) in sub-rule (2), for the words "throughout the ward" the words "in the City" shall be substituted;

(8) in rule 14, in sub-rule (1), for the words "to take extracts from" the words "to take extracts of any entry from" shall be substituted;

(9) in rule 15, in sub-rule (1), for the words "ward assessment-book" the words "assessment-book" shall be substituted;

(10) in rule 16, in sub-rule (1), after the words "for the payment of property taxes" the words "or against any entry indicating the use of any building or land or premises" shall be inserted:

(11) for rule 19, the following rule shall be substituted, namely:-

"19, Entries in assessment book to be conclusive evidence.--Entries required by clause (e) of rule 9 shall be made on the disposal of the complaint, if any, and thereupon the entries so made in the assessment-book, subject to such alterations as may thereafter be made therein under rule 5 or 20, shall be conclusive evidence as to the amount of the respective property tax leviable on the respective building, land or premises in the official year to which the assessment-book relates.";

(12) in rule 20, in clause (d) of sub-rule (1), after the words "or building" the words "or premises" shall be inserted;

(13) after rule 21, the following rules shall be inserted, namely:-

"21A. Assessment etc. of tax in the event of failure to give notice under rule 5--Whenever it is noticed by the Commissioner that a new building has been erected or a building has been rebuilt or enlarged or any building which was vacant has been reoccupied or the user of any building has been changed and that the person primarily liable for the property taxes on such building has failed to give notice as required by sub-rule (1) of rule 5, the Commissioner may, within a period of one year from the date on which the aforesaid relevant facts came to his notice, proceed to fix or refix the rateable value of such building and assess or reassess the property taxes on such building in accordance with the provisions of this Act and these rules with reference to the period commencing from the year during which the building was newly erected or the building was rebuilt or enlarged or was reoccupied or the change of user took place and accordingly the taxes so assessed may be levied, collected and recovered and the provisions of this Act and these rules shall so far as may be apply to such levy collection and recovery.



21B. Circumstances in which assessment-book may be prepared, completed etc. after the expiry of year to which it relates.-- Nothing in the foregoing provisions of this Chapter shall affect the preparation and completion of the assessment-book or of any part thereof or of any entry therein after the expiry of the year to which it relates, if such preparation or completion was not possible before the expiry of the year on account of any order of a court or any other competent authority, and the levy, collection and recovery of any tax based on such assessment-book, part or as the case may be entry shall not be called in question merely on the ground that the assessment-book, part, or, as the case may be, entry was not prepared or completed during the year to which it related."

**13. Amendment Of Forms G Hand I Of Schedule A To Bom. Lix Of 1949 :-**

In Schedule A to the principal Act, in Forms G, H and I, for the words and brackets "for the half-year (or quarter)" the words and brackets "for the year (or half year)" shall be substituted.