
Himachal Pradesh General Sales Tax (Amendment) Act, 1978

CONTENTS

1. Short Title And Commencement
2. Amendment Of Section 2
3. Amendment Of Section 6
4. Amendment Of Section 21
5. Amendment Of Section 22
6. Amendment Of Section 35
7. Amendment Of Section 43
8. Omission Of Schedule D

Himachal Pradesh General Sales Tax (Amendment) Act, 1978

"Doubts have arisen as to the continuance of the Finance (Revenue & Economic Affairs) Department (Commercial Taxes Section) Notification No. F. 5(26) FD(CT) 65-I dated 6th day of March, 1965 (See 1965 16 S.T.C. Statutes 32.), levying sales tax on medicines, drugs and pharmaceutical preparations of all sorts at the rate of 4%. Though this notification was replaced by Finance (Revenue and Economic Affairs) Department (Commercial Taxes Section) Notification No. F. 5(155) FD(CT) 65-IV dated 2nd day of November, 1965 (See 1966 17 S.T.C. Statutes 7.), levying sales tax on these goods at the rate of 6% during the period commencing on the 2nd day of November, 1965, and ending on the 7th day of March, 1969, and this subsequent notification was also superseded by Finance Department (Commercial Taxes Section) Notification No. F. 5(16) FD(CT) 69-2 dated the 8th day of March, 1969 (See 1969 23 S.T.C. Statutes 47.), levying taxes on the said goods at the rate of 7% during the period commencing on the 8th day of March, 1969, and ending on the 8th day of March, 1976, some dealers collected taxes at the rates of 6% and 7% respectively under these notifications but have paid the tax at the rate of 4% on the said goods on the ground that notification of the 6th day of March, 1965 (See 1965 16 S.T.C. Statutes 32.), had not yet been rescinded. It was, therefore, expedient to clarify the law and validate the assessment and collection of tax on the said goods

so as to prevent such dealers from usurping the amount of tax collected on behalf of the State, at the rate of 6% and 7% under the said notifications. As revenues of the State were affected such legislation was considered immediately necessary. Accordingly the Governor promulgated on the 8th day of September, 1976, the Rajasthan Sales Tax (Amendment) Ordinance, 1976 (See page 128 supra.). Opportunity was also taken to provide for exemption of tax in some cases with retrospective effect to enable the State Government to exercise this power in public interest and on certain conditions and fees to be specified by notification. 2. The amending Bill seeks to replace this Ordinance by an Act of the State Legislature." MEMORANDUM OF DELEGATED LEGISLATION "Clause 2 of the Bill when enacted would empower the State Government to exempt retrospectively from any tax the sale or purchase of any goods or class of goods or any person or class of persons in public interest and on conditions and fees to be specified by it by notification in the official Gazette. 2. As the power is to be exercised in public interest and on specified conditions delegation is not excessive but is normal in character."

1. Short Title And Commencement :-

- (1) This Act may be called the Himachal Pradesh General Sales Tax (Amendment) Act, 1978.
- (2) It shall come into force at once.

2. Amendment Of Section 2 :-

In clause (e) of section 2 of the Himachal Pradesh General Sales Tax Act, 1968 (hereinafter called the principal Act), the words "property other than newspapers, actionable" shall be inserted in-between the words "movable" and "claims".

3. Amendment Of Section 6 :-

In section 6 of the principal Act, the following amendments shall be made, namely:-

- (a) in the second proviso to sub-section (1), the sign and words, "and such tax shall be leviable and payable at the stage of sale or purchase, as the case may be, and under the circumstances specified against such goods in Schedule D" shall be omitted;
- (b) in sub-section (2) and in sub-clause (ii) of clause (a) of sub-section (3), for the words and signs "Schedules C and D", the word

and sign "Schedule C" shall be substituted; and

(c) for paragraph (b) of sub-clause (v) of clause (a) of sub-section (3), the following shall be substituted:-

"(b) which are referred to under section 14 of the Central Sales Tax Act, 1956, and are sold during the year in the course of inter-State trade or commerce or in the course of export out of the territory of India:"

4. Amendment Of Section 21 :-

At the end, but before the sign ".", of sub-section (2) of section 21 of the principal Act, the following words shall be added:-

"and includes a retired gazetted officer of the Himachal Pradesh Excise and Taxation Department who has an experience of working as assessing authority, appellate authority or revisional authority under this Act for a minimum period of five years, in one or more of the aforesaid capacities; provided a period of one year has elapsed since the date of his retirement from Government service."

5. Amendment Of Section 22 :-

After the words "Excise and Taxation officer of the district" but before the word "seeking" occurring in proviso to sub-section (6) of section 22 of the principal Act, the words "or the Assistant Excise and Taxation Officer-in-charge of the district or barrier", shall be inserted.

6. Amendment Of Section 35 :-

For sub-section (2) of section 35 of the principal Act, the following sub-section (2) shall be substituted, namely:-

"(2) Any officer-in-charge of the check post or barrier or any other officer not below the rank of an Assistant Excise and Taxation Officer appointed under sub-section (1) of section 3 or such other officer as the State Government may, by notification, appoint, may after affording to the person concerned a reasonable opportunity of being heard, impose the penalty mentioned in sub-section (1):

Provided that the officer-in-charge of a check-post or a barrier shall exercise such powers only at such check posts or barriers."

7. Amendment Of Section 43 :-

In section 43, and its heading, of the principal Act, the words and sign "or Schedule D" wherever these occur, and the words and

commas ", as the case may be," shall be deleted.

8. Omission Of Schedule D :-

Schedule D appended to the principal Act, shall be omitted.