

Himachal Pradesh General Sales Tax (Amendment) Act, 2000

CONTENTS

1. Short Title And Commencement
2. Amendment Of Section 2
3. Amendment Of Section 4
4. Amendment Of Section 6
5. Amendment Of Section 8
6. Insertion Of Section 8-A
7. Insertion Of Sections 10-A, 10-B And 10-C
8. Amendment Of Section 12
9. Amendment Of Section 12-A
10. Amendment Section 14
11. Insertion Of Section 14-A
12. Amendment Of Section 19
13. Amendment Of Section 22
14. Amendment Of Section 42
15. Amendment Of Section 42-C
16. Amendment Of Schedule "A"
17. Amendment Of Schedule "B"

Himachal Pradesh General Sales Tax (Amendment) Act, 2000

An Act further to amend the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968). BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-first Year of the Republic of India, as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Himachal Pradesh General Sales Tax (Amendment) Act, 2000.
- (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 :-

In section 2 of the Himachal Pradesh General Sales Tax Act, 1968 (hereinafter called the "principal Act"), -

- (i) after clause (aa), the following clause (aaa) shall be inserted,

namely:-

"(aaa) casual dealer means any person who carries on (whether regularly or otherwise) occasional transaction of business of buying, selling, supplying or distributing the goods whether for cash or deferred payment, or for commission, remuneration or other valuable consideration;"

(ii) after clause (e), the following clause (ee) shall be inserted, namely:-

"(ee) motor spirit means any inflammable hydrocarbon including any mixture of hydrocarbons or any liquid containing hydrocarbon, which is ordinarily used for providing reasonably efficient motive power for any form of motor vehicle;" and

(iii) after clause (m), the following clause (mm) shall be added, namely:-

"(mm) vehicle includes any carriage or conveyance used on land or in water or air;.

3. Amendment Of Section 4 :-

In section 4 of the Principal Act, -

(i) sub-section (4) shall be omitted; and

(ii) in sub-section (6), in clause (c), for the figures "1,00,000", the figures "2,00,000", shall be substituted.

4. Amendment Of Section 6 :-

In section 6 of the principal Act, in sub-section (1), -

(i) in first proviso, for the words, figures and sign "except on items 25, 34 and 36 thereof on which a tax at the rate not exceeding 30 paise in a rupee and on item 37 thereof on which a tax at the rate not exceeding 100 paise in a rupee shall be levied", the words, figures and sign

"except on -

(a) items 25, 34 and 36 thereof on which a tax at the rate not exceeding 30 paise in a rupee;

(b) item 37 thereof on which a tax at the rate not exceeding 100 paise in a rupee;

(c) items 38, 39, 40 and 41 thereof on which a tax at the rate not exceeding 20 paise in a rupee, shall be levied." shall be substituted; and

(ii) after the first proviso, the following proviso shall be inserted, namely:-

"Provided further that the State Government may, for the purposes

item 25, issue notification retrospectively with effect from the 1st day of April, 2000."

5. Amendment Of Section 8 :-

In section 8 of the principal Act, -

(i) in sub-section (1), after second proviso, the following proviso shall be added, namely:-

"Provided further that in the case of a casual dealer, on payment of a fee of Rs. 50, the Assessing Authority or the Officer, In-charge of the check-post or barrier or any other officer inspecting the goods at any other place, may dispense with the requirement of a valid certificate of registration under this section."

(ii) in sub-sections (4) and (5), for the words "prescribed authority" wherever these occur, the words "Assessing Authority" shall be substituted" and

(iii) in sub-section (6), -

(a) clause (b) shall be omitted; and

(b) for the words "Prescribed authority", the words "Assessing Authority" shall be substituted."

6. Insertion Of Section 8-A :-

After section 8 of the principal Act, the following section 8-A shall be inserted, namely:-

"8-A. Renewal of registration certificate. - Notwithstanding anything contained in this Act, every registered dealer or class of registered dealers holding registration certificate on a date to be notified by the State Government, shall get the registration certificate renewed within such period and on payment of such fee, as may be prescribed."

7. Insertion Of Sections 10-A, 10-B And 10-C :-

After section 10, the following sections 10-A, 10-B and 10-C shall be inserted, namely:-

"10-A. No dealer in motor spirit to trade without a licence. - Notwithstanding the provisions of registration under section 8, no person shall carry on the business as dealer in motor spirit unless he is in possession of a valid licence granted/renewed under section 10-B of this Act.

10-B. Grant of licence.-

(1) Except as provided in this section, a licence required under

section 10-A shall be granted to any person applying therefor in the prescribed form to the Assessing Authority on payment of a fee as may be prescribed.

(2) Every such licence shall be in the prescribed form and shall be valid without renewal only up to the thirty-first day of March following the date on which it is granted, but may be renewed annually on payment of a fee as may be prescribed.

(3) The grant or renewal of a licence may be refused if any previous licence of the applicant or of any person with whom the applicant has been working as a partner has been cancelled or if the applicant or any person with whom he has been working as a partner has been convicted of any offence relating to motor spirit or if the Assessing Authority is satisfied that the application has been made only for the purpose of enabling any person to carry on business as a dealer in motor spirit without a licence.

(4) No licence under this Act, except in the case of a licence for the sale of powerine or diesel oil, shall be granted to any person who does not hold a licence for the storage of dangerous petroleum under the Petroleum Act, 1934, and if any such licence granted under that Act is cancelled, suspended or is not renewed, any licence granted under this Act to the holder thereof shall be deemed to be cancelled, suspended, or not renewed, as the case may be.

(5) If an application for the renewal of a licence under this Act is made within such time before its expiry as may be prescribed by the Government, the holder of the licence shall be deemed to be in possession of a valid licence until the licence is renewed or until he is informed that the renewal of the licence has been refused.

10-C. Suspension or cancellation and restoration of a licence.-

(1) The Assessing Authority may, after giving the licensee an opportunity of being heard, suspend or cancel a licence for breach of any of the conditions thereof which may be prescribed as the conditions subject to which a licence is granted.

(2) A licensee shall not be entitled to any compensation for the suspension or cancellation of his licence under sub-section (1) of this section.

(3) A licence cancelled or suspended under this section may be restored by the Assessing Authority on payment of such fee as may be prescribed."

8. Amendment Of Section 12 :-

In section 12 of the principal Act, for sub-section (6), the following shall be substituted, namely:-

"(6)(a) if a dealer fails to furnish the returns by the prescribed date as required under sub-section (3), the dealer shall be liable to pay, by way of penalty, a sum equal to Rs. 25 per day for delay in furnishing the return up to 10 days, whereafter the penalty shall be Rs. 50 per day till the default continues; and

(b) if a dealer fails without sufficient cause to comply with the requirements of the provisions of sub-section (4), the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after giving such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty, a sum which shall not be less than ten per centum, but which shall not exceed one-and-a-half times of the amount of tax to which he is assessed or is liable to be assessed under section 14 in addition to the amount of tax to which he is assessed or is liable to be assessed."

9. Amendment Of Section 12-A :-

In section 12-A of the principal Act, for sub-section (1), the following shall be substituted, namely:-

"(1) Notwithstanding anything contrary contained in section 13, every person making any payment or discharge of any liability on account of valuable consideration payable -

(a) for the transfer of property in goods, whether as goods or in some other form, involved in the execution of works contract, and

(b) for the transfer of property in goods on account of sale of such goods made to the Government of India or to any State Government, shall deduct an amount not exceeding four per centum, as may be prescribed, purporting to be a part or full of the tax payable on such sales, from the bills or invoices raised by the works contractor or by the dealer selling such goods, as payable by the person:

Provided that no deduction of such amount shall be made in respect of any transfer of property in goods, the turnover of which is deductible, from the dealers gross turnover, under sub-section (3) of section 6 of the Act:

Provided further that no such payment or discharge of any bill raised by the works contractor or dealer selling such goods shall be made without deductions:

Provided further that if the State Government is satisfied that it is necessary to do so in the interest of the State revenue, it may

notify the names/posts of such persons who shall be competent persons to make such deduction."

10. Amendment Section 14 :-

In section 14 of the principal Act, in sub-section (1-A), for the words "twenty-five", the word "fifty" shall be substituted.

11. Insertion Of Section 14-A :-

After section 14 of the principal Act, the following section 14-A shall be inserted, namely:-

"14-A. Assessment of a casual dealer- (1) A casual dealer, who is registered under this Act, shall be assessed like any other registered dealer under section 14.

(2) A casual dealer who is not registered shall, immediately on completion of transaction of sale or purchase for which he is liable to pay tax, report to the Assessing Authority having jurisdiction with reference to the place of such transaction or to the Officer in-charge of the nearest check-post or barrier, the amount of sale or purchase price and the tax payable thereon and shall deposit the amount of tax with such Assessing Authority or such in-charge of the check-post or barrier within such time and in such manner as such authority or in-charge may direct:

Provided that if a casual dealer desires voluntarily to pay the tax in advance in respect of the goods which such dealer intends to sell or purchase, he may pay the amount of tax on the sale or purchase value of such goods enhanced by ten per cent to the Assessing Authority or the Officer in-charge of the nearest cheek-post or barrier.

(3) Where a casual dealer fails to make a report as required in sub-section (2), the Assessing Authority having jurisdiction or Excise and Taxation Officer, in-charge of the nearest check-post or barrier may require such casual dealer to make a report of the sale or purchase price and the tax due, failing which such Assessing Authority or such in-charge of the cheek-post or barrier may assess to the best of its judgment the amount of tax due and direct the casual dealer to pay the amount of tax within such time and in such manner as it may direct.

(4) Where a casual dealer fails to pay the tax as directed by the Assessing Authority or the Excise and Taxation Officer, in-charge of the check-post or barrier under sub-sections (2) and (3), the goods belonging to such casual dealer shall be detained until the tax is

paid or adequate security for payment of tax is furnished."

12. Amendment Of Section 19 :-

In section 19 of the principal Act, -

- (a) in sub-section (2), in clause (a), for the words "twenty-five", the words "two hundred" shall be substituted; and
- (b) in sub-section (3), for the words "five hundred", the words "five thousand" shall be substituted.

13. Amendment Of Section 22 :-

In section 22 of the principal Act, in sub-section (4), after the words "prescribed of the", and before the words "goods carried", the word "taxable" shall be inserted.

14. Amendment Of Section 42 :-

In section 42 of the principal Act, in sub-section (1), for the words "in the interest of", the words and sign "in public interest, in respect", shall be substituted.

15. Amendment Of Section 42-C :-

- In section 42-C of the principal Act, sub-section (1) shall be omitted.

16. Amendment Of Schedule "A" :-

In Schedule "A" to the principal Act, -

(a) for item No. 25, the following shall be and shall always be deemed to have been substituted with effect from the first day of April, 2000:-

"25. Liquor (country liquor, foreign liquor and Indian made foreign liquor including beer but excluding Indian made cider and wines)"; and

(b) after item No. 37, the following items Nos. 38, 39, 40, 41 and 42 shall be added, namely:-

"38. Narcotics.

39. Molasses.

40. Rectified spirit.

41. Motor spirit including aviation turbine fuel but excluding diesel.

42. Diesel."

17. Amendment Of Schedule "B" :-

In Schedule "B" to the principal Act, items Nos. 20 and 25 shall be omitted.