

Himachal Pradesh Tolls (Second Amendment) Act, 2002

16 of 2002

[09 October 2002]

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AN ACT further to amend the Himachal Pradesh Tolls Act, 1975 (Act No. 9 of 1975). BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-third Year of the Republic of India, as follows:-

1. Short Title And Commencement :-

(1) This Act may be called the Himachal Pradesh Tolls (Second Amendment) Act, 2002.

(2) It shall be deemed to have come into force on the 21st day of May, 2001.

2. Amendment Of Section 2 :-

In section 2 of the Himachal Pradesh Tolls Act, 1975 (Act No.9 of 1975) (hereinafter referred as the Principal Act), for the existing clause (d-a), the following shall be substituted, namely: -

"(d-a) "road infrastructure" means roads, tunnels, flyovers, bridges, underground roads, approach or link roads, of by-passes and include other services and facilities ancillary thereto;"

3. Amendment Of Section 3 :-

In section 3 of the principal Act, -

- (i) in sub-section (1), for the words "passing over", the words "for the use of" shall be substituted; and
- (ii) in sub-section (3) for the words "passing over", the word "using" shall be substituted.

4. Amendment Of Section 6 :-

For the existing section 6 of the principal Act, the following shall be substituted, namely: -

"6.Establishment of barriers.- The State Government may, from time to time, by notification in the Official Gazette, establish or remove barriers on any road for the purposes of this Act."

5. Validation :-

Notwithstanding anything contained to the contrary in the Himachal Pradesh Tolls Act, 1975 (hereinafter referred to as the "principal Act"), levy, collection or payment of toll or any action taken or anything done or purporting to have been taken or done under the provisions of the principal Act, at any time on or after the 21st May, 2001 but before the publication of the Himachal Pradesh Tolls (Second Amendment) Act, 2002 (hereinafter referred to as the "said Act"), shall be deemed to be valid and effective as if such levy, collection or payment or any action or anything had been taken or done under the provisions of the said Act and accordingly-

(i) the aforesaid toll levied, collected or paid or purporting to have been levied, collected or paid under the provisions of the principal Act, before the publication of the said Act shall and shall always be deemed to have been validly levied, collected or paid in accordance with the law;

(ii) no suit or other proceedings shall be maintained or continued in any court or before any authority for the refund of, and no enforcement shall be made by any court or authority of any decree or order directing the refund of any such aforesaid toll which has been collected or paid;

(iii) recoveries, if any, shall be made in accordance with the provisions of the principal Act as amended by the said Act, of all amounts which would have been collected thereunder as such aforesaid of the said Act had been in force all material time; and

(iv) any action taken or anything done (including any rule or order made, any barrier established or removed, notification issued or

directions given) under the principal Act, before the publication of the said Act, shall and shall always be deemed to have been validly taken or done in accordance with the provisions of the principal Act, as amended by the said Act.

(2) For the removal of doubts, it is hereby declared that-

(a) Nothing in sub-section (1) shall be construed as preventing any person-

(i) from questioning in accordance with the provisions of the said Act, the levy, collection or payment of the aforesaid toll; or

(ii) from claiming refund of the aforesaid toll paid by him in excess of the amount due from him under the provisions of the principal Act as amended by the said Act; and

(b) No act or omission on the part of any person, before the publication of the said Act, shall be punishable as an offence which would not have been so punishable if the said Act had not come into force.

6. Repeal Of Ordinance No. 1 Of 2002 And Savings :-

(1) The Himachal Pradesh Tolls (Second Amendment) Ordinance, 2002, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the repealed Ordinance, shall be deemed to have done or taken under the corresponding provisions of this Act.

Footnote:

1. As Assented To By The Governor of 9th October, 2002.