

Karnataka Taxation Laws (Amendment) Act, 2005

11 of 2005

[31 March 2005]

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An Act further to amend certain taxation laws in force in the State of Karnataka. Whereas it is expedient to amend certain taxation laws for the purposes hereinafter appearing; Be it enacted by the Karnataka State Legislature in the fifty-sixth year of the Republic of India, as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Karnataka Taxation Laws (Amendment) Act, 2005.
- (2) It shall come into force with effect from the first day of April, 2005.

2. Amendment Of Mysore Act Ix Of 1932 :-

In the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), in section 3-A, before the explanation, the following proviso shall be and shall be deemed to have been inserted from the first day of

April, 2004, namely,-

"Provided that the licensees shall be liable to pay the composition amounts notified for the period commencing from the first day of April, 2004 only till the commencement of the Karnataka Taxation Laws (Second Amendment) Act, 2004 (Karnataka Act No.26 of 2004)."

3. Amendment Of Karnataka Act 25 Of 1957 :-

In the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957),-

(1) in Section 12-B, in sub-section (2), for the words "two per cent", the words "one and a quarter per cent" shall be substituted.

(2) in Section 13, in sub-section (2), in clause (ii), for the words "two per cent", the words "one and a quarter per cent" shall be substituted.

(3) in Section 18-AA, in sub-section (2),

(i) in clause (ii), for the words "two and one half per cent", the words "one and a quarter per cent" shall be substituted.

(ii) the following explanation shall be and shall deemed always to have been inserted, namely,-

"Explanation.- For the purpose of this sub-section, non-payment during any period during which recovery of any amount due under this Section is stayed by an order of any authority or Court in any appeal or other proceedings disputing such amount, shall be deemed to be a 'default', unless such appeal or other proceeding is allowed by such Authority."

(4) in Section 23, in sub-section (1),

(i) for the words "one hundred and twenty days", the words "one hundred and eighty days" shall be substituted;

(ii) in the proviso, for the words "one hundred and twenty days", the words "one hundred and eighty days" shall be substituted.

(5) in the Fifth Schedule, after the entries relating to serial number 52, the following shall be and shall be deemed to have been inserted from the first day of August, 2004, namely,-

"53. Transfer of the right to use feature films."

4. Amendment Of Karnataka Act No.30 Of 1958 :-

In the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958),-

(1) in Section 3, in sub-section (1-A), the following proviso shall be inserted, namely,-

"Provided that no tax shall be levied in the case of admission to a

circus."

(2) in Section 4, in sub-section (1),-

(i) in the table,-

(a) in the entries relating serial number (a), in column (3), for the words "Eighty five rupees", the words "Forty three rupees" shall be substituted;

(b) in the entries relating to serial number (b), in column (3), for the words "One hundred and ten rupees", the words "Fifty five rupees" shall be substituted;

(c) in the entries relating to serial number (c), in column (3) for the words "One hundred and thirty five rupees", the words "Sixty eight rupees" shall be substituted;

(d) in the entries relating to serial number (d), for the words "Two hundred and thirty five rupees", the words "One hundred and eighteen rupees" shall be substituted.

(ii) in the first proviso,-

(a) in the entries relating to serial number (a), in column (3), for the words "Thirty five rupees", the words "Eighteen rupees" shall be substituted;

(b) in the entries relating to serial number (b), in column (3), for the words "Sixty rupees", the words "Thirty rupees" shall be substituted;

(c) in the entries relating to serial number (c), in column (3), for the words "Seventy five rupees", the words "Thirty eight rupees" shall be substituted;

(d) in the entries relating to serial number (d), in column(3), for the words "Ninety five rupees", the words "Forty eight rupees" shall be substituted.

(iii) in the second proviso,-

(a) in the entries relating to serial number (a), in column (3), for the words "Eighty rupees", the words "Forty rupees" shall be substituted;

(b) in the entries relating to serial number (b), in column (3), for the words "Ninety rupees", the words "Forty five rupees" shall be substituted;

(c) in the entries relating to serial number (c), in column (3), for the words "One hundred rupees", the words "Fifty rupees" shall be substituted.

(iv) in the third proviso,-

(a) in the entries relating to serial number (a), in column (3), for the words "Twenty five rupees", the words "Thirteen rupees" shall be substituted;

(b) in the entries relating to serial number (b), in column (3), for the words "Fifty rupees", the words "Twenty five rupees" shall be substituted;

(c) in the entries relating to serial number (c), in column (3), for the words "Seventy five rupees", the words "Thirty eight rupees" shall be substituted.

(3) in Section 4-A, in sub-section (1), in the table,-

(i) in the entries relating to serial number (a), in column (3), for the words "Ten per cent", the words "Five per cent" shall be substituted;

(ii) in the entries relating to serial number (b), in column (3), for the words "Seventeen and half per cent", the words "Ten per cent" shall be substituted;

(iii) in the entries relating to serial number (c), in column (3), for the words "Twenty five per cent", the words "Fifteen per cent" shall be substituted.

(4) in Section 6-A, for sub-section (4), the following shall be substituted, namely,-

"(4) In making an assessment under sub-section (3), if the prescribed authority is satisfied that the correct amount of tax payable under sub-section (1-A) was not paid by the proprietor either due to willful mis-statement or suppression of facts, it may direct the proprietor to pay, in addition to the tax assessed, a penalty,-

(i) equal to the amount of difference between the tax assessed and the tax paid under sub-section (1-A), where such assessment is made for the first time in any financial year; and

(ii) equal to double the amount of difference between the tax assessed and the tax paid under sub-section (1-A), while making any subsequent assessment during such financial year."

(5) in Section 9, in sub-section (2), for clause (ii), the following shall be substituted, namely,-

"(ii) the proprietor liable to pay such tax under this Act shall be liable to pay an interest equal to one and a quarter per cent of the amount of tax remaining unpaid for each month after the expiry of the time prescribed under sub-section (1)."

5. Amendment Of Act No.35 Of 1976 :-

In the Karnataka Tax on Professions Trades, Callings and Employments Act, 1976 (Karnataka Act No.35 of 1976),-

(1) in Section 10, in sub-section (1), the following proviso shall be

inserted, namely,-

"Provided that a person liable to be enrolled shall be deemed to have enrolled for the purpose of payment of tax under this Act, notwithstanding that he has failed to do so."

(2) in Section 11,

(i) in sub-section (2), for the words "two per cent", the words "one and a quarter per cent" shall be substituted

(ii) in sub-section (3), after the words "enrolled person", the words "or a person liable to be enrolled" shall be inserted;

(3) in the Schedule, for the entries relating to serial number (2), the following shall be substituted, namely,-

"(2) Legal practitioners including Solicitors and Notaries Public:-

(a) in the Bangalore Urban Agglomeration where standing in the profession is-

(I) less than 10 years Nil

(II) 10 years or more but less than 20 years Rs 1500 per annum

(iii) 20 years or more Rs 2500 per annum

(b) In any other area in the State is-

(I) less than 10 years Nil

(II) 10 years or more but less than 20 years Rs 1000 per annum

(III) 20 years or more Rs 1500 per annum"

6. Amendment Of Karnataka Act No.27 Of 1979 :-

In the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979),-

(1) in Section 2, in sub-section (A), in clause (2), after the words and figures "Karnataka Sales Tax Act, 1957", the words "or this Act by the Government or the Commissioner" shall be inserted.

(2) in Section 3-BB, in sub-section (2),

(i) in clause (ii), for the words "two and one half per cent", the words "one and a quarter per cent" shall be substituted;

(ii) after clause (iii), the following explanation shall be and shall be always deemed to have been inserted, namely,-

"Explanation.- For the purpose of this sub-section, non-payment during any period during which recovery of any amount due under this Section is stayed by an order of any authority or Court in any appeal or other proceedings disputing such amount, shall be deemed to be a default, unless the appeal or other proceeding is allowed by such Authority."

(3) in Section 4,

(i) in sub-section (1), in clause (a), after the brackets, words and

figures "(Karnataka Act 25 of 1957)", the words, figures and brackets " or Section 22 of the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004)" shall be inserted.

(ii) in sub-section (3), after the brackets, words and figures "(Karnataka Act 25 of 1957)", the words, figures and brackets "or the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004)" shall be inserted.

(4) after Section 4-A, the following shall be and shall deemed to have been inserted from the First day of April, 1995, namely,-

"4-B Levy of tax.-

(1) Notwithstanding anything contained in Section 3, there shall be levied and collected a tax on the purchase value of a motor vehicle an entry of which is effected into a local area for use or sale therein and which is liable for registration or assignment of a new registration mark in the State under the Motor Vehicles Act, 1988, at such rate as may be fixed retrospectively or prospectively by the State Government by notification but not exceeding the rates specified in respect of motor vehicles under the Karnataka Sales Tax Act, 1957:

Provided that, no tax shall be levied and collected in respect of a motor vehicle which is registered in any Union Territory or any other State under the Motor Vehicles Act, 1988 fifteen months prior to the date on which a new registration mark is assigned in the State under the said Act.

(2) The tax levied under the section shall be paid by the importer in such manner and within such time as may be prescribed.

4-BB. Reduction of tax liability.-

(1) Where a person liable to pay tax under this Act becomes liable to pay tax under the Karnataka Sales Tax Act, 1957 on the sale or purchase of such motor vehicles, then his liability under the Karnataka Sales Tax Act, 1957 shall be reduced to the extent of the tax paid under this Act on such motor vehicle.

(2) Where the liability to pay tax under this Act is in respect of motor vehicle subjected to tax under the Karnataka Sales Tax Act, 1957, then, the tax payable under this Act shall be reduced by an amount of tax already paid under the Karnataka Sales Tax Act, 1957 on such motor vehicle subject to production of proof.

(3) The amount of tax leviable under this Act shall, subject to such conditions as may be prescribed, be reduced to the extent of the amount of tax paid, if any, under the law relating to General Sales Tax or Central Sales Tax as may be in force in any other State or Union Territory by an importer who not being a dealer in motor

vehicles had purchased the motor vehicle for his own use in that State."

(5) in Section 4-B as so inserted, in sub-section (1), after the words and figures "Karnataka Sales Tax Act, 1957", the words and figures "or the Karnataka Value Added Tax Act, 2003", shall be inserted.

(6) in Section 4-BB as so inserted, in sub-section (1), after the words and figures "Karnataka Sales Tax Act, 1957", in the two places where it occurs, the words, figures and brackets "or the Karnataka Value Added Tax Act, 2003" shall be inserted.

(7) in Section 7, in sub-section(1), in the proviso, after the words, figures and brackets, "Karnataka Sales Tax Act 1957 (Karnataka Act 25 of 1957) ", the words, figures and brackets "or the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004)" shall be inserted.

(8) in Section 8, in sub-section (2),

(i) in clause (ii), for the words "two per cent", the words "one and a quarter per cent" shall be substituted;

(ii) the explanation shall be renumbered as "Explanation I";

(iii) after explanation I, as so renumbered, the following shall be and shall deemed always to have been inserted, namely,-

"Explanation II.- For the purpose of this sub-section, non-payment during any period during which recovery of any amount due under the Act is stayed by an order of any authority or Court in any appeal or other proceedings disputing such amount, shall be deemed to be a 'default, unless such appeal or other proceeding is allowed by such Authority"

(9) in Section 12, after sub-section (1), the following shall be inserted, namely,-

"(2) Notwithstanding anything contained in sub-section (1), the State Government or the Commissioner may, by notification, authorise officers to exercise powers and discharge duties and perform functions under this Act in respect of such area and such dealer or classes of dealers, or such cases or classes of cases as may be specified in the notification."

(10) in section 15-A, in sub-section (1),

(i) for the words "sixty days", the words " one hundred and twenty days" shall be substituted;

(ii) in the proviso, for the words " sixty days", the words " one hundred and twenty days" shall be substituted.

(11) in Section 18-A,

(i) in sub-section (1), after brackets and words "(hereinafter

referred to as the "Sales Tax Act")", the words, figures and brackets "or the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004) (hereinafter referred to as the "Value Added Tax Act")" shall be inserted.

(ii) in sub-section (2), after the words "Sales Tax Act", the words and figures "or sub-section (2) of Section 53 of the Value Added Tax Act " shall be inserted.

(iii) in sub-section (2-A), after the words and figures "Karnataka Sales Tax Act, 1957", the words and figures "or sub-section (2) of Section 53 of the Value Added Tax Act " shall be inserted.

(iv) in sub-section (3),

(a) after the words "Sales Tax Act", the words and figures "or sub-section (12) of Section 53 of the Value Added Tax Act " shall be inserted;

(b) in clause (a), after the words "Sales Tax Act", the words and figures " or clause (d) of sub-section (2) of Section 53 of the Value Added Tax Act" shall be inserted.

(v) in sub-section (4), after the words "Sales Tax Act", the words "or Section 53 of the Value Added Tax Act " shall be inserted.

7. Amendment Of Karnataka Act No.4 Of 2004 :-

In the Karnataka Tax on Lotteries Act, 2004 (Karnataka Act 4 of 2004), in Section 2, in clause (5), after the words "appointed for selling lottery tickets in the State on its behalf by such Government or Country where such Government or Country is not directly selling lottery tickets in the State", the words "selling, in the State, lottery tickets of such Government or Country where such Government or Country is not directly selling lottery tickets in the State, whether appointed in this behalf or not" shall be and shall be deemed to have been always inserted.

8. Amendment Of Karnataka Act No.29 Of 2004 :-

In the Karnataka Special Tax on Entry of Certain Goods Act, 2004 (Karnataka Act 29 of 2004),-

(1) in Section 2,

(i) in sub-section (1),

(a) in clause (b), in sub-clause (i), after the words "Karnataka Sales Tax Act", the words "or any officer empowered to make an assessment under this Act by the Government or the Commissioner" shall be inserted;

(b) in clause (b), for sub-clause (ii), the following shall be

substituted, namely,-

"(ii) in the case of an importer, other than a dealer, the officer-in-charge of the check post, established under the Karnataka Sales Tax Act or the Karnataka Value Added Tax Act through which the notified goods are brought into the State or the Officer who intercepts the goods vehicles while transporting the notified goods if it is intercepted in places other than check post, or the Assistant Commissioner of Commercial Tax appointed under the Karnataka Sales Tax Act having jurisdiction over the area or the officer authorised under this Act to perform his function in respect of the area, in which such importer ordinarily resides;"

(c) after clause (h), the following shall be inserted, namely,-

"(h-1) "Karnataka Value Added Tax Act" means the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004);"

(d) in clause (k), after the words "Union Territory", the words " but does not include the Central Government or the Government of Karnataka" shall be inserted.

(ii) in sub-section (2), after the brackets, words and figures "(Karnataka Act 25 of 1957)", the words, figures and brackets "or the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004)" shall be inserted.

(2) in Section 3, in sub-section (1), after the words "Karnataka Sales Tax Act", wherever they occur, the words "or the Karnataka Value Added Tax Act" shall be inserted.

(3) in Section 4, in sub-section (1), after the words " Karnataka Sales Tax Act" in the three places they occur, the words "or the Karnataka Value Added Tax Act" shall be inserted.

(4) in Section 6, after sub-section (2), the following shall be inserted, namely,-

"(3) Notwithstanding anything contained in sub-section (1), the State Government or the Commissioner may, by notification, authorise officers to exercise powers and discharge duties and perform functions under this Act, in respect of such area and such dealer or classes of dealers, or such cases or classes of cases as may be specified in the notification."

9. Amendment Of Karnataka Act No.32 Of 2004 :-

In the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004),-

(1) Section 5, shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section

shall be inserted, namely,-

"(2) Notwithstanding anything contained in this Act, the Government may, in such circumstances and subject to such conditions as may be specified, by notification, and subject to such rules as may be prescribed, exempt the whole or any part of the tax payable for any period on sales of goods made to or made by a new industrial unit, in respect of which the Government has already notified exemption of tax under the provisions of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), and such exemption on purchases or sales shall be by way of refund of tax collected on purchases or sales made by such industrial unit."

(2) in Section 15, in sub-section (1), for the words "per annum as may be prescribed", the words "per annum as may be notified by the Government" shall be substituted.

(3) in Section 22, in sub-section (3), the words and punctuation mark "and every dealer executing a works contract whose receipts or amounts receivable by way of consideration towards work executed exceed fifteen thousand rupees in any one month after the date from which the tax shall be levied," shall be omitted.

(4) in Section 37, in sub-section (1), for the words "two per cent", the words "one and a quarter per cent" shall be substituted.

(5) in Section 47,

(i) in sub-section (2), in clause (b), for the words "two per cent", the words "one and a quarter per cent" shall be substituted;

(ii) after sub-section (4), the following shall be inserted, namely,-

"(5) For the purpose of sub-section (2), non-payment during any period during which recovery of any amount due under this Section is stayed by an order of any authority or Court in any appeal or other proceedings disputing such amount, shall be deemed to be a 'default', unless the appeal or other proceeding is allowed by such Authority."

(6) in Section 65,

(i) in sub-section (1), for the words "one hundred and twenty days", the words "one hundred and eighty days", shall be substituted;

(ii) in sub-section (2), for the words "one hundred and twenty days", the words "one hundred and eighty days", shall be substituted.

(7) in Section 66, in sub-section (1), after the words and figures "Section 64", the words and figure "or a dealer aggrieved by the order of the Authority under Section 60" shall be inserted.

(8) in the First Schedule, after the entries relating to serial number

48, the following shall be inserted, namely,-

"49. Avalakki (Beaten Rice) and Mandakki (Parched or puffed rice).

50. Bread and bun.

51. Pappads.

52. Seeds."

(9) in the Third Schedule,

(i) in entries relating to serial number 13, in column (2), for the words "Bread and bun", the word "Tea" shall be substituted;

(ii) in the entries relating to serial number 16, after the words "fertilizer mixtures", the words "including gypsum" shall be inserted;

(iii) in the entries relating to serial number 39, in column (2), for the words "Leaf plates and cups other than those falling under First Schedule", the words "Lime, lime stone, products of lime, dolomite and other white washing materials" shall be substituted;

(iv) in the entries relating to serial number 41, in column (2), for the words "Mandakki (Parched or puffed rice) and Avalakki (Beaten Rice)", the words "Medicinal and pharmaceutical preparations" shall be substituted;

(v) in the entries relating to serial number 56, in column (2), for the words "Seeds", the words "Mixed PVC stabilizer" shall be substituted;

(vi) for the entries relating to serial number 78, the words and figures, "pulses other than those specified in serial No. 20" shall be substituted.

(vii) the entries relating to Serial Numbers 79, 80 and 81 shall be omitted.

10. Validation Of Assessments Etc :-

(1) Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority to the contrary, anything done or any action taken or purporting to have been done or taken (including any notices or orders issued and all proceedings held for the levy, assessment and collection of tax or amount purported to have been collected by way of tax in relation to such levy, assessment and collection) under the provisions of the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979) (hereinafter referred to as the said Act) before the commencement of the Karnataka Taxation Laws (Amendment) Act, 2005 (hereinafter referred to as the Amendment Act) shall be and shall be deemed to be valid and effective as if such levy,

assessment or collection or action or thing had been made, taken or done under the said Act, as amended by clause (4) of Section 6 of the Amendment Act and accordingly,-

(a) all acts, proceedings or things taken or done by any authority in connection with levy, assessment or collection of such tax shall, for all purposes be deemed to be, and to have always been taken or done in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any Court of Tribunal or before any authority for the refund of any such tax; and

(c) no Court shall enforce any decree or order directing the refund of any such tax.

(2) Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority to the contrary, anything done or any action taken or purporting to have been done or taken (including any notices or orders issued and all proceedings held for the levy, assessment and collection of tax or amount purported to have been collected by way of tax in relation to such levy, assessment and collection) under the provisions of the Karnataka Tax on Lotteries Act, 2004 (Karnataka Act 4 of 2004) (hereinafter referred to as the said Act) before the commencement of the Karnataka Taxation Laws (Amendment) Act, 2005 (hereinafter referred to as the Amendment Act) shall be and shall be deemed to be valid and effective as if such levy, assessment or collection or action or thing had been made, taken or done under the said Act, as amended by Section 7 of the Amendment Act and accordingly,-

(a) all acts, proceedings or things taken or done by any authority in connection with levy, assessment or collection of such tax shall, for all purposes be deemed to be, and to have always been taken or done in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any Court of Tribunal or before any authority for the refund of any such tax; and

(c) no Court shall enforce any decree or order directing the refund of any such tax.