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**Karnataka Taxation Laws (Amendment) Act, 2009****7 of 2009****[18 March 2009]****CONTENTS**

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**Karnataka Taxation Laws (Amendment) Act, 2009****7 of 2009****[18 March 2009]**

An Act further to amend certain taxation laws in force in the State of Karnataka. Whereas it is expedient further to amend certain taxation laws for the purposes hereinafter appearing; Be it enacted by the Karnataka State Legislature in the Sixtieth 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, 2009.
- (2) It shall come into force with effect from the First day of April, 2009.

**2. Amendment Of Mysore Act IX Of 1932 :-**

In the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932),-

- (1) for section 6, the following shall be substituted, namely:-

"6. Betting Tax.-

- (1) There shall be levied and collected a tax, referred to as the Betting Tax, on the bets made by backers in an enclosure set apart by the licensee in accordance with the provisions of Mysore Race Courses Licensing Act, 1952 (Mysore Act No. VIII of 1952) through a licensed bookmaker on any race, whether run on the same race

course or on any other race course either within the State or outside the State, at a rate not exceeding fifty thousand rupees for each day of a race meeting as may be specified by the State Government by a notification.

(2) The betting tax levied under sub-section (1) shall be paid by every licensed bookmaker."

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

"7. Payment of betting tax.-Every licensed bookmaker shall pay the betting tax levied under section 6, in the manner and within such time along with a return in such form and manner as may be prescribed."

### **3. Amendment Of Karnataka Act 30 Of 1958 :-**

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

(1) in Section 3,-

(a) in sub-section (1), in clause (b), for the figures and words "40 per cent", the figures and words "30 per cent" shall be substituted;

(b) in sub-section (1-A), after the proviso, the following proviso shall be inserted, namely:-

"Provided further that admission to a game or sport involving proprietary teams, that is played for prize moneys and organized on commercial basis shall not be exempted from tax under the first proviso.";

(2) in section 4-G, after the words "amounts received", the words "or receivable" shall be inserted;

(3) in section 6-A, after sub-section (4), the following shall be inserted, namely:-

"(5) No assessment under this section for any prescribed period shall be made after a period of one year on the date on which the return under sub-section (1) for that prescribed period is submitted by a proprietor.

Provided that the assessment proceedings relating to any prescribed period ending before the commencement of the Karnataka Taxation Laws (Amendment) Act, 2009 in respect of which a return under sub-section (1) has been submitted before such commencement, shall be completed within a period of one year on the date of such commencement:

Provided further that the Commissioner may direct assessment of cases on random basis.

Provided also that nothing in this sub-section limiting the time

within which assessment may be made, shall apply to an assessment made in consequence of, or to give effect to, any findings, directions or orders made under section 8-B, 8-C, 8-D or 8-E or any judgment or order made by any Court.

(6) In computing the period of limitation for assessment under this section,-

(a) the time during which the proceedings for assessment in question have been deferred on account of any stay order granted by any Court or any other authority shall be excluded;

(b) the time during which the assessment has been deferred in any case or clause of cases by the Joint Commissioner for reasons to be recorded in writing shall be excluded.

(7) Where an assessment under this section is not concluded within the time specified in sub-section (5), the complimentary tickets and payment for admissions declared by a proprietor in his return shall be deemed to have been assessed for that prescribed period on the basis of said return and provisions of this Act relating to assessment of escaped complimentary ticket or payment for admission to any entertainment, payment and recovery, appeal and revision shall mutatis mutandis apply to such deemed assessment.

(8) Notwithstanding anything contained in this section, the Government may notify, subject to such conditions as may be specified, that assessment of any specified class of proprietors for any prescribed period shall be deemed to have been made on the basis of the return submitted under sub-section (1) without requiring presence of the proprietor or production of accounts and other documents by the proprietor." ;

(4) after section 8-E, the following shall be inserted, namely:-

"8-F. Revision by High Court in certain cases.-

(1) Within one hundred and eighty days from the date on which an order under sub-section (5) or (7) or (8) of Section 8-E was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either failed to decide or decided erroneously any question of law.

(2) The High Court may admit a petition preferred after the period of one hundred and eighty days aforesaid if it is satisfied that the petitioner has sufficient cause for not preferring the petition within that period.

(3) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, when it is preferred by any person other than an officer empowered by the Government under

sub-section (1) of Section 8-E, be accompanied by a fee of one hundred rupees.

(4) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

(5) The High Court shall not dismiss any petition unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(6) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Appellate Tribunal under clause (a) with its opinion on questions of law raised, the latter shall amend the order passed by it in conformity with such opinion.

(7) Before passing an order under sub-section (6) the High Court may, if it considers necessary so to do remit the petition to the Appellate Tribunal and direct it to return the petition with its finding on any specific question or issue.

(8) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case.

(9) If as a result of the petition, any change becomes necessary in such assessment, the High Court may authorize the prescribed authority to amend the assessment and the prescribed authority shall amend the assessment accordingly and thereupon the amount overpaid by the person concerned shall be refunded to him without interest or the additional amount of tax due from him shall be collected in accordance with provisions of this Act, as the case may be.

(10) (a) The High Court may, on the application of either party to the petition, review any order passed by it under sub-section (6) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be preferred within such time and in such manner as may be prescribed, and shall where it is preferred by any person other than an officer empowered by the

Government under sub-section (1) of Section 8-E be accompanied by a fee of one hundred rupees.

(11) (a) With a view to rectifying any mistake apparent from the record, the High Court may, at any time within five years from the date of the order passed by it under sub-section (6), amend such order.

(b) The High Court shall not pass an order under this sub-section without giving both parties affected by the order a reasonable opportunity of being heard.

(12) In respect of every petition preferred under sub-section (1) or (10), the costs shall be in the discretion of the High Court."

#### **4. Amendment Of Act 35 Of 1976 :-**

In the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 (Karnataka Act 35 of 1976),-

(1) in section 5, after sub-section (4), the following shall be inserted, namely:-"(5) Where an employer or a person liable for registration or enrolment has failed to apply for such registration or enrolment within the time specified, the assessing authority shall, after giving him a reasonable opportunity of being heard, impose a penalty of one thousand rupees in the case of an employer and five hundred rupees in the case of any other person." ;

(2) in section 6-A, after sub-section (3), the following shall be inserted, namely:-

"(4) Where an employer has failed to furnish a statement in the prescribed form or failed to pay the tax due on any statement furnished as required under the Act, the assessing authority shall, after giving him a reasonable opportunity of being heard, impose a penalty of two hundred and fifty rupees.";

(3) in section 7,-

(a) for sub-section (1), the following shall be substituted, namely:-

"(1) Notwithstanding anything contained in sub-section (2) as it existed prior to commencement of the Karnataka Taxation Laws(Amendment) Act, 2009, every employer shall be deemed to have been assessed to tax based on the return filed by him under section 6 for any year commencing from the first day of April, 2008, except in cases where the Commissioner may notify the employer of any requirement of production of accounts before the assessing authority in support of a return filed for any year and such authority shall proceed to assess such dealer,-

(a) on the basis of the return filed where he is satisfied that the

return filed is correct and complete, or

(b) to the best of its judgment, where the return filed appears to be incorrect or incomplete, after giving the employer an opportunity of showing cause against such assessment in writing." ;

(b) for sub-section (2), the following shall be substituted, namely:-

"(2) Notwithstanding anything contained in this section as it existed prior to commencement of the Karnataka Taxation Laws (Amendment) Act, 2009, the Government may notify, subject to such conditions as may be specified, that assessment of any specified class of employers for any year shall be deemed to have been made on the basis of the return submitted under sub-section (1) without requiring the presence of the employer or production of accounts and other documents by the employer." ;

(4) in section 21, after the words "Any authority", the words "or any officer authorised by the Commissioner either generally or specifically" shall be inserted;

(5) in section 26, in sub-section (1), after the words "assessing authority", the words "or the officer authorised under section 21" shall be inserted;

(6) in the Schedule, in serial number 1, in column (2),-

(a) the entries relating to item (b) and the corresponding entries in column (3) shall be omitted;

(b) the entries relating to item (c) and the corresponding entries in column (3) shall be omitted.

## **5. Amendment Of Karnataka Act 22 Of 1979 :-**

In the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979),-

(1) in section 3, for sub-section (1), the following shall be substituted, namely:-

"3. Levy and collection of tax on luxury provided in a hotel.-

(1) Subject to the provisions of this Act, there shall be levied and collected a tax on the luxury provided in a hotel in respect of every room (to be known as 'Luxury Tax') at the following rates, namely:-

<b>Serial Number</b>	<b>Charges</b>	<b>Rate of tax</b>
1	Where the charges for lodging per room per day are not less than five hundred rupees but not more than one thousand rupees	Four per cent of such charges
2	Where the charges for lodging per room per day are more than one thousand rupees but not more than two thousand rupees	Six per cent of such charges

3	Where the charges for lodging per room per day are more than two thousand rupees	Ten per cent of such charges
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Provided that where charges for lodging are payable otherwise than on daily basis, then, for the purposes of determining the tax liability under this section, the charges shall be computed as for a day, based on the period of lodging for which the charges are payable.

Provided further that where any charges for lodging are paid by any person who is a member of the Foreign Diplomatic Mission in India, other than such foreign diplomatic mission as may be notified then such person shall be exempt from payment of tax. " ;

(2) in section 3-B, for the words "twenty per cent", the words "ten per cent" shall be substituted;

(3) in section 3-C, for the words "twenty per cent", the words "ten per cent" shall be substituted;

(4) in section 4, for sub-section (3), the following shall be substituted, namely:-"(3) Where luxury provided in a hotel to any person is charged at a concessional rate, then the tax on such luxury, shall be levied and collected on such lower charges where such lower charges are allowed as a result of any discount allowed in general or is in accordance with the terms of a contract or agreement entered into in a particular case and also where such discount allowed is published in tariff cards or displayed or disclosed in writing, in any manner for information." ;

(5) in section 12-A, for the words "specified class of hotels", the words "specified class of hotels, marriage halls, clubs and hospitals" shall be substituted.