

Karnataka Value Added Tax (Amendment) Act, 2008

[01 August 2008]

CONTENTS

1. Short Title And Commencement
2. Amendment Of Section 2
3. Amendment Of Section 10
4. Amendment Of Section 11
5. Amendment Of Section 15
6. Amendment Of Section 18-A
7. Amendment Of Section 29
8. Amendment Of Section 31
9. Amendment Of Section 38
10. Amendment Of Section 39
11. Amendment Of Section 45
12. Amendment Of Section 46
13. Insertion Of New Section 47-A
14. Amendment Of Section 52
15. Amendment Of Section 63
16. Amendment Of Section 72
17. Amendment Of Section 74
18. Amendment Of Section 76
19. Amendment Of Third Schedule
20. Amendment Of Sixth Schedule
21. Validation Of Inspection Proceedings, Etc

Karnataka Value Added Tax (Amendment) Act, 2008

[01 August 2008]

Whereas it is expedient further to amend the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004) for the purposes hereinafter appearing; Be it enacted by the Karnataka State Legislature in the fifty-ninth year of the Republic of India, as follows:-

1. Short Title And Commencement :-

- (1) This Act may be called the Karnataka Value Added Tax (Amendment) Act, 2008
- (2) It shall come into force with effect from the first day of August, 2008

2. Amendment Of Section 2 :-

In the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004) (hereinafter referred to as the principal Act), in section 2, in clause (12) in Explanation (4), in item (b), before the word "pepper", word and a comma "arecanut," shall be inserted.

3. Amendment Of Section 10 :-

In section 10 of the principal act, in sub-section (3), for the word and figure "Chapter V", the words "the Act" shall be and shall always be deemed to have been substituted.

4. Amendment Of Section 11 :-

In section 11 of the principal Act,-

(1) in sub-section (a), in clause (1), after the words "to sale", the words "or manufacture or processing or packing or storage" shall be and shall always be deemed to have been inserted;

(2) after sub-section (b), the following sub-section shall be deemed to have been inserted with effect from the first day of April, 2006, namely:-

"(c) Input tax shall not be deducted by any dealer executing a works contract who is claiming deduction on any amount paid or payable to any sub-contractor as the consideration for execution of part or whole of such works contract for him."

5. Amendment Of Section 15 :-

In section 15 of the principal Act,-

(1) in sub-section (4), for the words, brackets and figure "under sub-section (1)", the words "under this section" shall be deemed to have been substituted with effect from the first day of April, 2006.

(2) in sub-section (5), for the words, brackets and figures "sub-sections (1) and (4)", the words, brackets and figure "sub-section (1)" shall be deemed to have been substituted with effect from the first day of April, 2006.

6. Amendment Of Section 18-A :-

In section 18-A of the principal Act, in sub-section (4), after the words "pay the amount of tax so deducted by him", the words "after adjusting the amount of tax so deducted by him towards any net tax payable by him for the preceding month," shall be inserted.

7. Amendment Of Section 29 :-

In section 29 of the principal Act, for sub-section (3), the following shall be substituted, namely:-

"(3) A registered dealer,-

(a) selling non-taxable goods; or

(b) opting to pay tax by way of composition under section 15 and selling any goods; or

(c) permitted to pay tax under section 16 and selling any goods; in excess of the prescribed value, shall issue a bill of sale containing such particulars as may be prescribed."

8. Amendment Of Section 31 :-

In section 31 of the principal Act, sub-section (5) shall be omitted.

9. Amendment Of Section 38 :-

In section 38 of the principal act, in sub-section (5), in clause (a), after the words "Additional Commissioner", the word "issue" shall be deemed to have been inserted with effect from the first day of April, 2007.

10. Amendment Of Section 39 :-

In section 39 of the principal Act, in sub-section (1), in clause (a), for the figure and brackets "(6)", the figure and brackets "(5)" shall be deemed to have been substituted with effect from the first day of April, 2007.

11. Amendment Of Section 45 :-

In section 45 of the principal Act, after sub-section (7), the following shall be inserted, namely:-

"(8) the provisions of this section shall be mutatis mutandis apply for the recovery of dues, if any, from any other person."

12. Amendment Of Section 46 :-

In section 45 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

"(2-A) Where the business of a registered dealer is transferred as a whole on account of change in ownership, sale, merger, amalgamation, lease or transfer of the business to a joint venture,

on cancellation of registration, subject to such restrictions and conditions as may be prescribed, the dealer may opt to transfer any excess input tax that has not been adjusted by him or refunded to him, to the transferee."

13. Insertion Of New Section 47-A :-

After section 47 of the principal Act, the following new section shall be inserted, namely, :-

"47-A. Rounding off of tax, etc:-The amount of tax, penalty or any other amount payable and the amount of refund due, under this Act shall be rounded off to the nearest rupee and, for this purpose, Where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored."

14. Amendment Of Section 52 :-

In section 52 of the principal act, in sub-section (1), after the words "authorised by the Commissioner" the words "to exercise all or any of the powers specified below either generally or specifically" shall be and shall always be deemed to have been inserted.

15. Amendment Of Section 63 :-

In section 63 of the principal Act, in sub-section (1), after the word and figures "Section 62", the words, figures and letter "or the Joint Commissioner under section 63-A" shall be inserted.

16. Amendment Of Section 72 :-

In section 72 of the principal Act,-

(1) in sub-section (1),-

(a) for clause (a), the following shall be deemed to have been substituted with effect from the day of April, 2007, namely:-

"(a) a penalty of fifty rupees for each day of default and where such default is more than five days, such penalty,-

(i) shall not exceed two hundred and fifty rupees if the tax due is less than the said amount;

(ii) shall be calculated at fifty rupees per day not exceeding the amount of tax due, if the tax due is more than two hundred and fifty upees; and"

(b) for clause (b), he following shall be substituted, namely:-

"(b) a further penalty equal to,-

- (i) five percent of the amount of tax due or fifty rupees whichever is higher, if the default is not for more than ten days, and
- (ii) ten percent of the tax due, if the default is for more than ten days;"
- (2) in sub-section (2), after the words "actual liability to tax", the words "or his actual tax credit, as the case may be" shall be inserted;
- (3) in sub-section (3), after the word "penalty", the word "of" shall be deemed to have been inserted with effect from the first day of April, 2006.

17. Amendment Of Section 74 :-

In section 74 of the principal Act,-

- (1) In the heading, after the word "records", the words "and submission of audited statement of accounts"
- (2) after sub-section (3), the following sub-section shall be inserted, namely:-
- "(4) Any dealer who fails to submit within the time prescribed a copy of the audited statement of accounts, shall be liable to pay a penalty of five thousand rupees and a further penalty of fifty rupees per day for so long as the failure continues, after being given an opportunity of showing cause in writing against such imposition of penalty by the prescribed authority."

18. Amendment Of Section 76 :-

In section 76 of the principal Act, in sub-section (2), for the word "has", the word "as" shall be deemed to have been substituted with effect from the first day of April, 2006.

19. Amendment Of Third Schedule :-

In the third Schedule to the principal Act,-

- (1) for the entries relating to serial number 23, the following shall be substituted, namely:-
- "23. Chemical fertilizers, chemical fertilizer mixtures; bio-fertilizers, micro nutrients, gypsum, plant growth promoters and regulators; rodenticides, fungicides, weedicides and herbicides; insecticides or pesticides but excluding phenyl, liquid toilet cleaners, floor cleaners, mosquito coils, mosquito repellants and the like used for non-agricultural or non-horticultural purposes."
- (2) in the entries relating to serial number 47, after the word

"footwear", the punctuation mark and words"; plastic boxes, cases and crates for conveyance or packing of goods" shall be deemed to have been inserted during the period between the first day of May, 2005 and sixth day of June, 2005;

(3) in the entries relating to serial number 63, after the word "stabilizer", the punctuation mark and words ", plastic boxes, cases and crates for conveyance or packing of goods" shall be deemed to have been inserted with effect from the seventh day of June, 2005.

20. Amendment Of Sixth Schedule :-

In the Sixth Schedule to the principal Act, in the entries relating to serial number 6, after the word "processes", the words "including powder coating" shall be inserted.

21. Validation Of Inspection Proceedings, Etc :-

Notwithstanding anything contained in any judgment, degree 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 penalty) under the provisions of the principal Act, before the commencement of this Act shall be deemed to be valid and effective as if such action or thing has been done or taken under the principal Act, as amended by this Act, and accordingly,-

(a) all acts, proceedings or things taken or done by any authority in connection with entry, search and seizure in any case 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 or Tribunal or before any authority questioning the validity of such acts or proceedings; and

(c) no Court shall enforce any decree or order directing the refund of any tax or penalty collected pursuant to such acts or proceedings.