

## **Madhya Pradesh General Sales Tax (Amendment And Validation) Act, 1970**

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## **Madhya Pradesh General Sales Tax (Amendment And Validation) Act, 1970**

An Act further to amend the Madhya Pradesh General Sales Tax Act, 1958, and to validate certain proceedings thereunder. BE it enacted by the Madhya Pradesh Legislature in the Twentieth Year of the Republic of India as follows:-

### **1. Short Title :-**

This Act may be called the Madhya Pradesh General Sales Tax (Amendment and Validation) Act, 1970.

### **2. Amendment Of Section 2 :-**

In section 2 of the Madhya Pradesh General Sales Tax Act, 1958 (2 of 1959), (hereinafter referred to as the Principal Act), for clause (j), the following clause shall be substituted, namely:-

"(j) Manufacture includes any process or manner of producing, collecting, extracting, preparing or making any goods, and in respect of trees which have been severed from the land or which have been felled, also the process of lopping the branches, cutting

the trunks or converting them into logs, poles or ballies of any other articles of wood, but does not include such manufactures or manufacturing processes as may be prescribed;"

### **3. Amendment To Section 8 :-**

In sub-section (i) of section 8 of the Principal Act, for the words "in course of inter-State trade or commerce", the words "in course of inter-State trade or commerce or in course of export out of the territory of India" shall be substituted.

### **4. Amendment Of Section 18 :-**

In section 18 of the Principal Act, after sub-section (7), the following sub-section shall be inserted, namely:-

"(8) The assessment shall be made under this section -

(i) in respect of a registered dealer, within a period of five calendar years from the end of the period for which assessment is to be made; and

(ii) in respect of a dealer who has failed to apply for registration, within a period of five calendar years from the commencement of proceedings under sub-section (6):

Provided that -

(a) where a fresh assessment has to be made to give effect to any finding or direction contained in any order under section 38, 39 or 44, or to any order of the High Court or the Supreme Court such assessment shall be made within a period of three calendar years from the date of order containing such finding or direction or the order of the High Court or the Supreme Court, as the case may be;

(b) where assessment proceedings are pending on the date of commencement of the Madhya Pradesh General Sales Tax (Amendment and Validation) Act, 1969, such assessment shall be made within a period of three calendar years from the date of such commencement or within the period within which such assessment is required to be made in accordance with any other provision of this section, whichever is later; and

(c) nothing contained in this sub-section shall apply to proceedings initiated under section 19 or any proceedings other than assessment of tax that may be instituted under any other provisions of this Act."

### **5. Amendment Of Section 20 :-**

In section 20 of the Principal Act, -

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

"(1) Nothing contained in section 18-A or section 19 or sub-section (1-a) of section 52 limiting the time within which any assessment or re-assessment may be made, shall apply to an assessment or re-assessment made in consequence of, or to give effect to, any finding or direction contained in an order under section 38, 39 or 44.";

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

"(3) Where any turnover or a part thereof of any dealer has been assessed to tax under this Act or under any of the Acts repealed by section 52 of this Act (hereinafter referred to as the repealed Acts) and not under the Central Sales Tax Act, 1956 (No. 74 of 1956) or vice versa, but subsequently as a result of any order passed under section 38 or section 39 or section 44 of this Act or under the corresponding provisions of any of the repealed Acts or of an order passed by any civil or any other competent court, it is held to be assessable under the Central Sales Tax Act, 1956 (No. 74 of 1956), or under this Act or under any of the repealed Acts, as the case may be, then, in consequence of such order or to give effect to any finding or direction contained in such order, such turnover or part thereof, shall, irrespective of the fact that the order previously passed in the other case under the Central Sales Tax Act, 1956 (No. 74 of 1956) or under this Act or under any of the repealed Acts, as the case may be, h

as become final, be assessed or re-assessed to tax, as the case may be, at any time within five years from the date of such order, under the relevant Act, notwithstanding anything contained in section 18, section 18-A, section 19 or section 52 of this Act or of the corresponding provisions in the relevant repealed Act, limiting the time within which any assessment or re-assessment may be made."

## **6. Amendment Of Section 22 :-**

In section 22 of the Principal Act, -

(a) for the proviso to sub-section (4), the following proviso shall be substituted, namely:-

"Provided that the Commissioner may, for reasons to be recorded in writing, -

(i) grant further time to such dealer; or

(ii) allow him to pay the tax together with any penalty incurred, by instalments;

(b) for sub-section (5), the following sub-section shall be substituted, namely:-

"(5) If any amount of tax or any other amount due under this Act or any of the Acts repealed by section 52 remains unpaid on the expiry of the period prescribed for the payment thereof by or under this Act or on the expiry of the period specified in any notice of demand or order issued or made under this Act or the rules made thereunder for the payment thereof, shall be recoverable as an arrear of land revenue."

## **7. Insertion Of New Section 36-B :-**

After section 36-A of the Principal Act, the following section shall be inserted, namely:-

"36-B. Control on clearing and forwarding agents to prevent or check evasion of tax - The State Government may, if it is satisfied that it is necessary so to do with a view to prevent or check evasion of tax under this Act in any place or places in the State, direct that -

(i) every clearing and forwarding agent who during the course of his business handles documents of title to goods or transports goods or despatches or takes delivery of goods and who has his place of business at such places as may be notified by the State Government shall send an intimation about his business in the prescribed form to the prescribed authority in the prescribed manner before the prescribed date; and

(ii) every such clearing and forwarding agent shall maintain a register in such form and containing such particulars of his business as may be prescribed which shall be open to inspection by the Commissioner."

## **8. Amendment Of Section 43 :-**

In section 43 of the Principal Act, the word "deliberately" shall be omitted.

## **9. Amendment Of Section 46 :-**

In sub-section (l) of section 46 of the Principal Act, after clause (k), the following clause shall be added, namely:-

"(l) fails to send the intimation required by clause (i) of section 36-

B;

(m) fails to maintain a register in accordance with the provisions of clause (ii) of section 36-B or refuses or fails to produce the same when required to do so under the said clause."

#### **10. Amendment Of Section 51 :-**

In sub-section (2) of section 51 of the Principal Act, -

(i) for clause (a), the following clause shall be substituted, namely:-

"(a) all matters which under any provision of this Act, are expressly required to be or may be prescribed under this Act;";

(ii) after clause (q), the following clause shall be added, namely:-

"(qq) (i) the form in which the authority to whom, the manner in which and the date before which the intimation under clause (i) of section 36-B shall be sent; and

(ii) the form in which, the register under clause (ii) of section 36-B shall be maintained and the particulars which such a register shall contain."

#### **11. Amendment Made By Sections 2 And 5(Ii) To Have Retrospective Effect :-**

The amendment made by section 2 and clause (ii) of section 5 shall be deemed to have formed part of the Principal Act from the commencement thereof.

#### **12. Validation Of Certain Proceedings :-**

Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or any other competent authority, all taxes levied or collected or purporting to have been levied or collected before the 1st December, 1969, after deciding that in respect of trees which have been severed from the land or which have been felled, the further processes of lopping the branches or cutting the trunks of such trees or converting them into logs, poles or "ballies" or any other article of wood amount to a process of manufacture shall, for all purposes, be deemed to be and to have always been validly levied or collected in accordance with law as if the amendment made in the Principal Act by section 2 of this Act had been in force at all material times when such tax was levied or collected and accordingly, -

(a) all acts, proceedings or things done or taken by any authority,

officer or person in connection with the levy or collection of such tax shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any court or before any authority whatsoever for the refund of any tax so paid; and

(c) no court shall enforce any decree or order directing the refund of any tax so paid.

### **13. Repeal :-**

The Madhya Pradesh General Sales Tax (Amendment and Validation) Ordinance, 1969 (No. 20 of 1969) is hereby repealed.

The Statement of Objects and Reasons appended to the Madhya Pradesh General Sales Tax (Amendment and Validation) Bill, 1969 (Madhya Pradesh Gazette, Extraordinary, dated 28th December, 1969, page 3020.), runs as follows:

"In Miscellaneous Civil Case No. 88 of 1964, Mohanlal Vishram v. Commissioner of Sales Tax, Madhya Pradesh (See 1969 24 S.T.C. 101), the Madhya Pradesh High Court held that the felling of standing timber trees, cutting them and converting them into ballies did not amount to a process of "manufacture". As this decision would have seriously affected the revenue of the State, it was proposed to amend the definition of the expression "manufacture" with retrospective effect.

2. It was also proposed to amend sections 8 and 18 suitably with a view -

(i) to afford some facilities to the business community in export trade outside India; and

(ii) to provide a specified period within which assessment shall be completed.

3. Opportunity was also availed of to make certain amendments to some other relevant provisions of the Act, to strengthen the tax collecting machinery and to prevent the evasion of tax by dealers.

4. As the matter was urgent and the Vidhan Sabha was not in session, the Madhya Pradesh General Sales Tax (Amendment and Validation) Ordinance, 1969 (No. 20 of 1969), was promulgated for the purpose. It is now proposed to replace the said Ordinance by an Act of the Legislature.

5. Hence this Bill."