

Madhya Pradesh General Sales Tax (Second Amendment) Act, 1976

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Madhya Pradesh General Sales Tax (Second Amendment) Act, 1976

An Act further to amend the Madhya Pradesh General Sales Tax Act, 1958. BE it enacted by the Madhya Pradesh Legislature in the Twenty-seventh Year of the Republic of India as follows:-

1. Short Title And Commencement :-

(1) This Act may be called the Madhya Pradesh General Sales Tax (Second Amendment) Act, 1976.

(2) It shall be deemed to have come into force on the 1st day of September, 1976.

2. Amendment Of Section 2 :-

For clause (o) of section 2 of the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) (hereinafter referred to as the principal Act), the following clause shall be substituted, namely:-

"(o) sale price means the amount payable to a dealer as valuable consideration for the sale of any goods less any sum allowed as

cash discount according to ordinary trade practice but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof other than the cost of freight or delivery or the cost of installation when such cost is separately charged and the expression purchase price shall be construed accordingly;

Explanation. - Where goods are sold together with packing material or container, then notwithstanding anything contained in this Act the sale price of such goods shall be inclusive of the price or the cost or value of such packing material or container, whether such price or cost or value is charged separately or not, as if such packing material or container were the parts of the goods sold;".

3. Insertion Of New Section 7-B :-

After section 7-A of the principal Act, the following section shall be inserted, namely:-

"7-B. Levy of turnover tax. - (1) Subject to the provisions of sub-sections (2) and (3), every dealer liable to pay the tax under section 4 or section 7 or section 14-A shall also be liable to pay a turnover tax in respect of goods mentioned in Schedule IV at the rate mentioned in the corresponding entry in column (3) of the said schedule, -

(i) where he is liable to pay tax under section 4, on the taxable turnover of such goods;

(ii) where he is liable to pay tax under section 7 or section 14-A, on the purchase price of such goods on which tax is liable to be paid under section 7 or section 14-A, as the case may be:

Provided that turnover tax shall not be payable by a dealer in respect of goods covered by a licence held by him under section 13.

(2) The rate of turnover tax in respect of raw material for manufacture of other goods for sale in the State of Madhya Pradesh or in the course of inter-State trade or commerce or in the course of export out of the territory of India shall, subject to such conditions and restrictions as may be prescribed be -

(i) if the rate mentioned in Schedule IV is lower than one half of one per cent, such lower rate;

(ii) if the rate mentioned in Schedule IV is one half of one per cent or more, the rate one half of one per cent:

Provided that where any raw material purchased by a registered dealer is utilised by him for any purpose other than a purpose specified in this sub-section such dealer shall be liable to pay as tax

an amount equal to the difference between the amount of turnover tax on the sale price of such raw material at the full rate mentioned in column (3) of Schedule IV and the amount of turnover tax payable under clause (i):

Provided further that such difference shall not be payable by a registered dealer where any raw material purchased by him under this sub-section is sold by him subject to such restrictions and conditions as may be prescribed, to another registered dealer for the purpose of this sub-section.

(3) Nothing in this section shall apply to the sales of any goods made by the Forest Department of the State Government or any of the offices under that department:

Provided that where any goods purchased by any registered dealer from the Forest Department or any of the offices under that department are used by him as a raw material for the manufacture of other goods for sale in the State of Madhya Pradesh or in the course of inter-State trade or commerce or in the course of export out of the territory of India, the dealer shall be entitled, in such manner as may be prescribed, to a set-off of an amount equal to the difference between the turnover tax payable at the full rate on such goods as mentioned in Schedule IV and the turnover tax payable on raw material at the rate specified in sub-section (2).

(4) The proceeds of the turnover tax under this section shall first be credited to the Consolidated Fund of the State in such manner as may be prescribed and the State Government may, at the commencement of each financial year, if the Legislative Assembly by appropriation made by law in this behalf so provides, withdraw from and out of the proceeds so credited to the Consolidated Fund of the State an amount equivalent to sixty per centum of the said proceeds after deducting therefrom such sum of money on account of collection charges as it may think fit and place the same to the credit of a separate fund to be called the Madhya Pradesh Octroi Compensation Fund.

(5) Any sum credited into the said Fund under sub-section (4) shall be an expenditure charged on the Consolidated Fund of the State of Madhya Pradesh.

(6) From and out of the Madhya Pradesh Octroi Compensation Fund, there shall be paid every year subject to such rules as may be made in this behalf, a grant-in-aid of ninety-five per centum to all urban local authorities in the State and of five per centum to such other local authorities in the State, as the State Government may, by notification, specify.

Explanation. - In this sub-section urban local authorities mean Municipal Corporations, Municipal Councils, Notified Area Committees, Town Committees and Special Area Development Authorities constituted under the Madhya Pradesh Municipal Corporations Act, 1956 (No. 23 of 1956), the Madhya Pradesh Municipalities Act, 1961 (No. 37 of 1961), the Bhopal State Town Area Act, 1954 (No. XIV of 1954) or the Madhya Pradesh Nagar Tatha Gram Nivesh Adhiniyam, 1973 (No. 23 of 1973), as the case may be."

4. Substitution Of New Section For Section 12 :-

For section 12 of the principal Act, the following section shall be substituted, namely:-

"12. Saving - The State Government may, by notification, exempt whether prospectively or retrospectively, in whole or in part, any class of dealers or any goods or class of goods from the payment of tax under this Act for such period and subject to such restrictions and conditions as may be specified in the notification."

5. Amendment Of Section 13 :-

In section 13 of the principal Act, -

- (a) sub-section (1-A) shall be omitted;
- (b) in sub-section (2), the words, figure and letter "or sub-section (1-A)" shall be omitted; and
- (c) in sub-section (3), the words and figure "or Schedule IV" shall be omitted.

6. Amendment Of Section 16-B :-

In sub-section (1) of section 16-B of the principal Act, for the words "rupees seven thousand five hundred", the words "rupees ten thousand" shall be substituted.

7. Amendment Of Section 17 :-

For clause (b) of sub-section (3) of section 17 of the principal Act, the following clause shall be substituted, namely:-

"(b) a registered dealer fails without sufficient cause to pay the amount of tax in the manner prescribed under sub-section (2) of section 22 or to furnish his return under sub-section (1) or revised return under sub-section (2) for any period in the manner and by the date prescribed thereunder or while furnishing the return fails

to furnish along with the return, the proof of payment as required by sub-section (1-A); or".

8. Insertion Of New Section 18-B :-

After section 18-A of the principal Act, the following section shall be inserted, namely:-

"18-B. Set-off in certain cases- (1) Where a dealer liable to pay turnover tax under section 7-B is subjected at the hands of a Cantonment Board to tax on entry of goods into a local area comprised within the limits of a cantonment for sale, use or consumption therein, whether before or after the commencement of the Madhya Pradesh General Sales Tax (Second Amendment) Act, 1976, such dealer shall be entitled to a set-off in the prescribed manner of an amount equal to either sixty-eight per centum of the turnover tax payable in relation to such goods under that section or the tax actually paid by him to the Cantonment Board, whichever is less.

(2) The set-off under sub-section (1) shall be granted to the dealer on production of proof to the satisfaction of the assessing authority that such tax on entry of goods into the local area has been paid."

9. Amendment Of Section 46 :-

In section 46 of the principal Act, for clause (i), the following clause shall be substituted, namely:-

"(i) obstructs any officer making an inspection or a search or a seizure under section 29 or section 29-C; or".

10. Amendment Of Section 51 :-

In section 51 of the principal Act, -

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

"Provided that where the State Government considers it necessary to bring the rules into force at once, it may make such rules without previous publication.";

(ii) in sub-section (2), -

(a) after clause (b), the following clauses shall be inserted, namely:-

"(bb) restrictions and conditions subject to which turnover tax on raw material at lower rate or difference of tax shall be payable under sub-section (2) of section 7-B;

(bbb) the manner in which a dealer shall be entitled to a set-off under sub-section (3) of section 7-B;";

(b) after clause (hh), the following clause shall be inserted, namely:-

"(hhh) the manner in which the dealer shall be entitled to a set-off under section 18-B;".

11. Amendment Of Schedule Ii :-

In Schedule II to the principal Act, -

(i) in Part III, for entry 16, the following entry shall be substituted, namely:-

"16. Sugarcane 3 per cent."; and

(ii) in Part IV, after entry 5, the following entry shall be added, namely:-

"6. Goods for use as containers and packing 4 per cent.

materials, that is to say, -

(i) gunny bags and hessian;

(ii) jute twine;

(iii) cardboard boxes and cartons;

(iv) empty tins and empty barrels;

(v) wooden boxes (khokhas) and tin boxes;

(vi) empty bottles and corks;

(vii) polythene packing materials;

(viii) paper labels;

(ix) tin seals;

(x) paper bags;

(xi) wooden frames;

(xii) paper cones."

12. Substitution Of New Schedule For Schedule Iv :-

For Schedule IV to the principal Act, the following schedule shall be substituted, namely:-

"SCHEDULE IV

(See section 7-B)

Serial Description of goods Rate of tax No.

(1) (2) (3)

Part I

1. Bullion and specie..... 1/2 per cent.

2. Fertilisers other than powdered bones... 1/2 per cent.

3. Oilcakes... 1/2 per cent.

4. All kinds of grains, cereals and rice

- (excluding those exempted under entry 3 of Schedule I) in all their forms and their flour including atta, maids and suji except when sold in sealed containers... 1 per cent.
5. Firewood and charcoal... 1 per cent.
6. Kerosene oil... 1 per cent.
7. Irrigation pumps and irrigation pumpsets (i.e., pumps used for lifting water from wells, rivers or watercourses, etc., commonly known as centrifugal pumps)... 1 per cent.
8. Tractors and its trailers... 1 per cent.
9. (a) Motor vehicles, including chassis of motor vehicles, motor bodies, motor tyres and tubes and spare parts and accessories of motor vehicles... 1 per cent.
- (b) Batteries excluding celts, mentioned in entry 30 of Part II of Schedule II... 1 per cent.
- (c) Motor cycles and motor cycle combinations, motor scooters, motorettes, autorikshaws and tyres, tubes, spare parts and accessories thereof... 1 per cent.
10. Pesticides... 1 1/2 per cent.
11. All kinds of whole and broken pulses, by-products of whole pulses such as chuni, etc., and flour of broken pulses, such as besan, etc.... 1 1/2 per cent.
12. Vegetable and edible oils except goods specified in entry 16 and that exempted vide entry 36 of Schedule I... 1 1/2 per cent.
13. Cattle feed and poultry feed... 1 1/2 per cent.
14. Petrol... 1 1/2 per cent.
15. Gold ornaments and silver ornaments of personal use... 1 1/2 per cent.
16. Pure ghee, hydrogenated vegetable oil, vegetable ghee and vanaspati ghee... 2 per cent.
17. Drugs and medicines... 2 per cent.
18. Toilet soaps, washing soaps and all kinds of detergents... 2 per cent.
19. Matches... 2 per cent.
20. Stationery goods, that is to say, goods notified by Government as stationery goods... 2 per cent.
21. (i) Light diesel oil... 2 per cent.
- (ii) High speed diesel oil... 2 per cent.
- (iii) Aviation spirit and aviation

turbine fuel... 2 per cent.

(iv) Motor spirit other than that mentioned in entry 14 and this entry... 2 per cent.

(v) All kinds of petroleum products and mineral oil other than kerosene oil... 2 per cent.

(vi) Lubricants... 2 per cent.

Part II

22. All goods other than, -

(a) declared goods

(b) goods included in Schedule I

(c) goods included in Part I of the schedule... 2 1/2 per cent."

13. Removal Of Difficulty :-

If any difficulty arises in giving effect to the provisions of this Act in consequence of abolition of octroi tax imposed by the local authorities and levy of turnover tax under section 7-B of the principal Act, for reimbursing the local authorities of the loss caused by such abolition, the State Government may, by an order notified in Gazette, make such provision not inconsistent with this Act as appear to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of one year from the 1st May, 1976.

14. Repeal Of Madhya Pradesh Act No. 39 Of 1961 (See 1962 13 S.T.C. Statutes 18.) And Ordinance No. 5 Of 1976 (See 1976 37 S.T.C. Statutes 131. :-

(1) As from the date specified in sub-section (2) of section 1, -

(1) the Madhya Pradesh Sugarcane (Purchase Tax) Act, 1961 (No. 39 of 1961 (See 1962 13 S.T.C. Statutes 18.)); and

(2) the Madhya Pradesh General Sales Tax (Second Amendment) Ordinance, 1976 (No. 5 of 1976) (See 1976 37 S.T.C. Statutes 131.)

shall stand repealed.

The Statement of Objects and Reasons appended to the Madhya Pradesh General Sales Tax (Second Amendment) Bill, 1976 (Madhya Pradesh Gazette, Extraordinary No. 228, dated 6th September, 1976, page 2722.), runs as follows:

"The Madhya Pradesh General Sales Tax (Amendment) Ordinance, 1976 (See 1976 37 S.T.C. Statutes 131.), was promulgated consequent upon the abolition of octroi with a view to raising the

resources to compensate the local bodies for the loss of their revenues. The turnover tax which was being levied under a separate enactment was made leviable under the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959), at a higher rate. It is now proposed to replace the said Ordinance with the following modifications with a view to afford certain relief to dealers as well as consumers, -

(a) conversion of multi-point turnover tax to single point turnover tax;

(b) modification of uniform rate of 1.25 per cent to different rates as specified in schedule for more even distribution of incidence of tax;

(c) provision for concessional rate of tax on raw materials used in the manufacture of goods in the State of Madhya Pradesh.

2. Opportunity has also been taken to introduce a few urgent amendments in some other sections of the principal Act, -

(a) reduction of rate of tax on packing material from 8 per cent to 4 per cent when sold separately and equal to the contents when sold along with it;

(b) repeal of the Madhya Pradesh Sugarcane (Purchase Tax) Act, 1961 (No. 39 of 1961) (See 1962 13 S.T.C. Statutes 18.) and introduction of entry 16 in Part III of Schedule II for sugarcane the rate of tax being 3 per cent.

(c) penalty provision in section 17(3) for non-payment of monthly tax on due date.

3. It is now proposed to replace the said Ordinance by an Act of the State Legislature with modifications aforementioned.

4. Hence this Bill."