

Madhya Pradesh Vanijyik Kar (Sanshodhan) Adhiniyam, 2003

32 of 2003

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(Received the assent of the Governor on the 26th September 2003, assent first published in the "Madhya Pradesh Gazette (Extra -- ordinary)" dated the 30th September 2003.) An Act further to amend the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 Be it enacted by the Madhya Pradesh Legislature in the Fifty-fourth year of the Republic of India as follows:-

1. Short Title and Commencement :-

(1) This Act may be called the Madhya Pradesh Vanijyik Kar (Sanshodhan) Adhiniyam, 2003. (2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Insertion of new Section 24-A :-

After Section 24 of the Madhya Pradesh Vanijyik Kar Adhiniyam 1994 (No.5 of 1995) (hereinafter referred to as the Principal Act), the following section shall be inserted, namely:- "24-A Furnishing of guarantee by the dealers,--(1) Notwithstanding anything

contained in section 22 and 23 the Commissioner, before issuing a permanent registration certificate, shall require the dealer, who is a company registered under the Companies Act, 1956 (No. 1 of 1956), to furnish personal/corporate guarantee of the promoters for proper realisation of tax or any other sum payable under this Act, in such form and in such manner as may be prescribed. (2) Where a company registered under section 22 or section 23 and liable to pay tax under the Act ordinarily at the rate or rupees twelve thousand per quarter or rupees forty eight thousand per annum or above, fails to furnish returns under section 26 in time or fails to pay the tax payable according to such returns or fails to furnish any returns or fails to pay tax payable under the Act, the Commissioner may require to furnish personal/corporate guarantee of the promoters of such company for proper realisation of tax or any other sum payable under this Act, in such form and in such manner as may be prescribed." Explanation, - For the purpose of this section (1) the expression promoter means -- (i) who subscribes to the Memorandum of Article of Association, or (ii) who holds 20 percent or more of the share capital directly or indirectly or in the name of his/her relatives, and (2) in the case of a corporate body is a subsidiary or holding company of that body and holds 20 percent or more of the share capital. (3) The expression relatives shall have the same meaning as assigned to it in Companies Act, 1956 (No.1 of 1956) or Income Tax Act, 1961 (No.43 of 1961).

3. Amendment of Section 26 :-

In Section 26 of the Principal Act, in sub-section (4),- (i) in clause (a) for the words "at the rate of two percent per month" the words and figure "at such rate as may be notified which shall not be less than 0.5 percent but shall not exceed 1.5 percent per month" shall be substituted; (ii) in clause (b) for the words "a sum equal to two percent per month" the words and figure "a sum equal to such rate as may be notified which shall not be less than 0.5 percent but shall not exceed 1.5 percent per month" shall be substituted.

4. Amendment of Section 27 :-

In Section 27 of the Principal Act, in sub-section (2), in clause (a), after sub-clause (ii) the following sub-clause shall be inserted, namely:- (iii) who is not covered under clause (i) or clause(ii), the State Government may by notification specify the limit of yearly gross turnover and thereupon, subject to such restrictions and conditions as may be specified in the notification such dealer shall also be eligible for summary assessment under this section.";

5. Amendment of Section 32 :-

In Section 32 of the Principal Act, in sub-section (7), for the words "two percent per month" the words and figure" at such rate as may be notified which shall not be less than 0.5 percent but shall not exceed 1.5 percent per month" shall be substituted.

6. Amendment of Section 45 :-

In Section 45 of the Principal Act, in sub-section (6), after clause (e), the following clause shall be inserted, namely:- "(ee) Subject to such restriction and conditions and in such manner as may be prescribed, a dealer, on whom a penalty has been imposed under clause (c), may opt to pay a lump sum amount which shall be fifty percent of the amount of penalty imposed under the said clause. Once the dealer has exercised the option and has paid the lump-sum amount, he shall not have any right to challenge the order of penalty in any forum. The balance amount of the penalty shall stand waived.";

7. Amendment of section 45-A :-

In Section 45-A of the Principal Act,- (i) in sub-section (10), for the words "ten times" the figure and words "3.5 times" shall be substituted; (ii) in the proviso to sub-section (12), for the words "half the amount of penalty specified in the notice" the words "three times of the amount of the tax" shall be substituted; (iii) after sub-section (18), the following sub-section shall be inserted, namely:- "(19) Subject to such restrictions and conditions and in such manner as may be prescribed, a transporter, on whom a penalty has been imposed under sub-section (12), may opt to pay lump sum amount which shall be fifty percent of the amount of penalty imposed under the said sub-section. Once the transporter has exercised the option and has paid the lump-sum amount, he shall not have any right to challenge the order of penalty in any forum. The balance amount of the penalty shall stand waived.";

8. Amendment of Section 45-D :-

In Section 45-D of the Principal Act, after sub-section (1), the following sub-section shall be inserted, namely:- "(1-A) If the transporter transports the goods by a road on which check post or barrier is not established, the declaration specified in sub-section (1) shall be submitted at the nearest check post or the Commercial Tax Office, immediately after the entry of the goods into the State of Madhya Pradesh.",

9. Amendment of Section 61 :-

In Section 61 of the Principal Act, for sub-section (6) the following sub-section shall be substituted, namely,- "(6) Subject to such procedure as may be prescribed and after such further inquiry as it may think fit, the Appellate Authority shall dispose of every appeal within one calendar year from the date of filing of such appeal. In disposing of such appeal,- (a) the Appellate Deputy Commissioner may confirm, reduce, enhance or annul the assessment of tax or imposition of penalty or both but shall not remand the case to the officer against whose order the appeal has been filed. (b) The Appellate Board may,- (i) confirm reduce, enhance or annul the assessment of tax or imposition of penalty or both, or (ii) set aside the assessment or the imposition of penalty or both and direct the officer whose order of assessment or imposition of penalty has been appealed against to make a fresh assessment or re-impose penalty, after making such enquiry as it may direct; or (iii) pass such order as it may deem fit. (6-A) Notwithstanding any thing contained in sub-section (6) of section 61 of this Act the appeals pending on the date of commencement of the Madhya Pradesh Vanijyik Kar (Sanshodhan) Adhniyam, 2003 shall be disposed of by the Appellate Board within one calendar year from the date of the Commencement of the said Adhniyam."

10. Amendment of Section 62 :-

In Section 62 of the Principal Act, in sub-section (1) for the words, "within six months from the date of filling of the application for revision" the words "within six month starting from the first day of the month following the month in which the application for revision has been filed" shall be substituted.

11. Amendment of Section 69 :-

In Section 69 of the Principal Act,- (i) in sub-section (2), for the words "shall not be less than three times but shall not exceed five times of the tax evaded", the words and figure "shall not be less than three times but shall not exceed 3.5 times of the tax evaded" shall be substituted. (ii) after sub-section (3) the following sub-section shall be inserted, namely,- "(4) Subject to such restrictions and conditions and in such manner as may be prescribed, a dealer, on whom a penalty has been imposed under sub-section (2), may opt to pay lump sum amount which shall be fifty percent of the amount of penalty imposed under the said sub-section. Once the dealer has exercised the option and has paid the lump-sum amount, he shall not have any right to challenge the order of penalty in any forum. The balance amount of the penalty shall

stand waived".

12. Substitution of "Appellate Board" for the word "Tribunal" through out the Act :-

Through out the Principal Act, for the word "Tribunal", whenever it occurs, the words "Appellate Board" shall be substituted.