

## **Madhya Pradesh Vat (Amendment) Act, 2009**

**[20 July 2009]**

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## **Madhya Pradesh Vat (Amendment) Act, 2009**

**[20 July 2009]**

An Act further to amend the Madhya Pradesh VAT Act, 2002. Be it enacted by the Madhya Pradesh Legislature in the Sixtieth year of the Republic of India as follows:

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

- (1) This Act may be called the Madhya Pradesh VAT (Amendment) Act, 2009.
- (2) It shall come into force on such date as the State Government may by notification appoint.

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

In Section 2 of the Madhya Pradesh VAT Act, 2002 (No. 20 of 2002) (hereinafter referred to as the Principal Act),-

(i) after clause (c) of explanation to clause (u), the following clause shall be inserted, namely,-

"(d) Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place, when the goods are transferred from a unit of a dealer to the another unit of the same dealer.";

(ii) for clause (y), the following clause shall be substituted, namely,-

"(y) Tax paid goods in relation to goods specified in part III of Schedule II and the goods notified under Section 9-A, on which tax is payable under Section 9 means any such goods which have been purchased by a dealer from a registered dealer inside the State of Madhya Pradesh within the meaning of Section 4 of the Central Sales Tax Act, 1956 (No. 74 of 1956)".

### **3. Amendment Of Section 3 :-**

In Section 3 of the Principal Act,-

(i) in sub-section (1), the clause (a) shall be renumbered as clause (b) and before clause (b) as so renumbered, the following clause (a) shall be inserted, namely,-

"(a) Director of Commercial Tax";

(ii) in sub-section (2) for the words "The Commissioner of Commercial Tax and the Additional Commissioner of Commercial Tax", the words "The Commissioner of Commercial Tax, the Director of Commercial Tax and the Additional Commissioner of Commercial Tax" shall be substituted; and

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

"(3) The Commissioner of Commercial Tax, the Director of Commercial Tax and the Additional Commissioner of Commercial Tax shall exercise all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act throughout the State and for this purpose any reference to the Commissioner in this Act, shall be construed as a reference to the Director of Commercial Tax and the Additional Commissioner of Commercial Tax".

### **4. Insertion Of Section 9-A :-**

After Section 9 of the Principal Act, the following section shall be inserted, namely,-

"Sec. 9-A: Levy of tax by weight, volume, measurement or unit on certain goods

Notwithstanding anything contained in Section 9, the State Government may, by notification, fix the amount of tax payable on the sale or purchase of certain goods or a class of goods in respect of a specified area or whole of the State, on the basis of weight, volume, measurement or unit, and subject to such terms and conditions as may be notified."

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

In Section 10 of the Principal Act, in sub-section (1), for the words "from a registered dealer who has opted for composition of tax under Section 11", the words "from a registered dealer who has opted for composition of tax under Section 11 or from a registered dealer in the circumstance in which no tax under Section 9 is payable by the registered dealer on the sale price of such goods" shall be substituted.

#### **6. Insertion Of Section 10-A :-**

After Section 10 of the Principal Act, the following section shall be inserted, namely,-

"Sec. 10-A: Levy of purchase tax on certain goods

(1) Notwithstanding anything to the contrary contained in this Act, every dealer who in course of his business purchases goods as may be notified by the State Government, shall liable to pay tax at the rate of four percent on the purchase price of the notified goods.

(2) No tax under this section shall be levied in respect of the purchases made from a registered dealer by whom tax under this section is payable.

(3) No tax under this section shall be levied in respect of any year on a dealer, if his aggregate of purchase prices of the goods notified does not exceed rupees five crore in that year."

#### **7. Amendment Of Section 11-A :-**

In Section 11-A of the Principal Act, in sub-section (1), in clause (a) for the figure and word "30 days", the figure and word "60 days" shall be substituted.

#### **8. Amendment Of Section 14 :-**

In Section 14 of the Principal Act,-

(i) in sub-section (1), after clause (d), the following clause shall be inserted, namely,-

"(e) Notwithstanding anything contained in clause (a), where a dealer, who is a builder and developer carrying on the business of constructing residential and / or commercial buildings, makes an application for grant of a registration certificate under clause (a) of sub-section (2) of Section 17 after the prescribed period but before 31st March, 2008, he shall, in respect of goods specified in Schedule II other than those specified in Part III of the said Schedule, purchased on or after date of liability, by him within the State of Madhya Pradesh from a registered dealer after payment to him input tax, claim or be allowed input tax rebate of the amount of such tax in accordance with the provisions of clause (a) above.";

(ii) after sub-section (1), the following sub-section shall be inserted, namely,-

"(1A) Subject to such restrictions and conditions as may be prescribed, where a registered dealer purchases natural gas as specified in Part III of Schedule II within the State of Madhya Pradesh from another such dealer after payment to him input tax and consumes the natural gas so purchased in generation of electrical energy, he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate of the amount of such input tax which is in excess of 5 percent of the purchase price net of input tax of such natural gas.";

(iii) in sub-section (3), for the bracket and figure "(1)", the bracket figures, word and letter "(1) and (1A)" shall be substituted;

(iv) in sub-section (4), for clause (v), the following clauses shall be substituted, namely,-

"(v) for sale or supply to the Central Government or State Government; or

(vi) natural gas consumed in generation of electrical energy."

(v) after clause (vi) of sub-section (6), the following clauses shall be inserted, namely,-

"(vii) in respect of goods, the amount of bill, invoice or cash memorandum of which exceeds rupees forty thousand any payment of which has not been made by crossed cheque;

(viii) in respect of goods, the amount of tax included in bill, invoice or cash memorandum of which exceeds rupees one thousand and it has not been authenticated in accordance with the provision of sub-section (1-A) of Section 40.

(ix) in respect of goods notified under Section 9-A."

## **9. Substitution Of Section 16 :-**

For Section 16 of the Principal Act, the following section shall be substituted, namely,-

"Sec. 16: Tax free goods

No tax under Section 9 or Section 10, as the case may be, shall be payable on the sale or purchase of goods specified in Schedule I, subject to the conditions and exceptions, if any, set out in the corresponding entry in the third column thereof."

## **10. Amendment Of Section 17 :-**

In Section 17 of the Principal Act,-

(i) in sub-section (6) and (11), for the figure "19", the figure "20" shall be substituted;

(ii) after sub-section (11), the following sub-section shall be inserted, namely,-

"(11-A) Where registration certificate of a dealer is cancelled under clause (e) of sub-section (10) for non filing of returns, the dealer may within thirty days from the date of communication of cancellation order apply to the Commissioner for reinstatement of registration certificate with a fee of rupees two thousand and if the Commissioner is satisfied that the dealer has furnished all due returns along with payment of tax payable as also interest, if any, the Commissioner may reinstate the registration certificate effective from the date from which it was cancelled."

## **11. Amendment Of Section 20-A :-**

In Section 20-A of the Principal Act, after sub-section (1), the following sub-section shall be inserted, namely,-

"(1A) Notwithstanding anything to the contrary contained in sub-section (1), a registered dealer who has not furnished the returns and/or the audit report in respect of a year, furnishes returns with proof of payment of tax as also interest, if any, according to such returns and/or audit report with a penalty as specified in sub-section (5) of Section 39, if any payable, before the compliance of requirements made in the notice issued under the provisions of sub-section (6) of Section 19, the returns furnished by such dealer for that year shall be accepted and his assessment shall be deemed to have been made for the purpose of sub-section (1) of Section 20."

## **12. Amendment Of Section 24 :-**

In Section 24 of the Principal Act, in sub-section (11),-

(i) in clause (b),-

(a) the sub-clauses (i) to (v) shall be renumbered as (ii) to (vi) and before sub-clause (ii) so renumbered, the following new sub-clause (i) shall be inserted, namely,-

"(i) the Appellate Board shall have and exercise all the powers and perform all the duties of the Board of Revenue under the Madhya Pradesh Land Revenue Code, 1959 (No. 20 of 1959)";

(b) in sub-clause (iii), for the words "an Additional Commissioner of Commercial Tax", the words "a Director of Commercial Tax and an Additional Commissioner of Commercial Tax" shall be substituted;

(c) in sub-clause (v), for the words "the Assistant or a Deputy Collector", the words "Sub Divisional Officer" shall be substituted;

(ii) after clause (d), the following new clause (e) shall be inserted, namely,-

"(e) Save as provided in sub-clauses (i) to (v) of clause (b), no order passed or proceeding initiated in exercise of the powers conferred by sub-clause (vi) of clause (b) shall be called into question in any Revenue Court and save as provided in sub-clauses (i) to (v) of clause (b), no appeal or application for review or revision shall lie against any such order or proceeding before any Revenue Officer."

## **13. Amendment Of Section 39 :-**

In Section 39 of the Principal Act, after sub-section (4), the following sub-section shall be inserted, namely,-

"(5) If a registered dealer fails to furnish the report as required under sub-section (1) in respect of a year within the time prescribed, the Commissioner may, after giving such dealer an opportunity of being heard, direct him to pay by way of penalty a sum equal to 0.1 percent of the turnover in the year or rupees ten thousand, whichever is less."

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

In Section 46 of the Principal Act,-

(i) after sub-section (5), the following explanation shall be inserted, namely,-

"Explanation: For the purpose of this sub-section admitted tax and other amount means the tax and other amount due under this Act

on the turnover of sales or purchases, or both as the case may be, admitted by the appellant in the returns filed by him or at any stage in any proceedings under this Act, whichever is higher."

(ii) in sub-section (8),-

(a) in sub-clause (i) of clause (a), for the words "but shall not remand the case", the words "but shall not remand the case, if the order appealed against is not an ex parte order" shall be substituted;

(b) after clause (a), the following proviso shall be inserted, namely,-  
"Provided that if the appeal under sub-section (1) is in respect of an order of reassessment or re-imposition of penalty in pursuance of any direction given in appeal or revision, the Appellate Authority may pass an order in accordance with the provisions of sub-clause (i)."

#### **15. Amendment Of Section 47 :-**

In Section 47 of the Principal Act, in sub-section (5), for the words "or any Additional Commissioner of Commercial Tax", the words "or the Director of Commercial Tax or any Additional Commissioner of Commercial Tax" shall be substituted.

#### **16. Amendment Of Section 57 :-**

In Section 57 of the Principal Act,-

(i) after proviso to sub-section (2), the following proviso shall be inserted, namely,-

"Provided further that if the transporter transporting goods by a road on which check post or barrier is not established, furnishes the documents including declaration form specified in clause (a) at the nearest Commercial Tax Office, immediately after entry into the State of Madhya Pradesh or before exit from the State, he shall be deemed to have complied with the requirement made under clause (b).";

(ii) in sub-section (8), for the words "ten times" and "eight times", the words "seven times" and "five times" shall respectively be substituted.

#### **17. Amendment Of Schedule I :-**

In Schedule I to the Principal Act,-

(i) against serial number 32, in column (2), for the words "Tender green coconut", the words "Coconut including tender green

coconut", shall be substituted;

(ii) serial number 50 and entries relating thereto shall be omitted;

(iii) for serial number 71 and entries relating thereto, the following serial number and entries relating thereto shall be substituted, namely,-

"71. Renewable energy devices or equipments, including their parts, that is to say -

1. Flat plate solar collectors
2. Concentrating and pipe type solar collectors
3. Solar cookers
4. Solar water heaters
5. Solar crop driers and systems
6. Solar air / gas / fluid heating system
7. Solar refrigeration, cold storages and air conditioning system
8. Solar stills and desalination systems
9. Solar pumps based on solar thermal and solar photo-voltaic conversion
10. Solar power generating system
11. Solar photo-voltaic modules and panels for water pumping and other applications
12. Windmills and any specially designed devices which run on windmills
13. Any special devices including electricity generators and pumps running on wind energy
14. Bio-gas engines and bio-gas plant and accessories and equipments connected therewith for utilising energy from bio-gas
15. Agricultural and municipal waste conversion devices producing energy from bio mass
16. Equipments for utilising ocean waves
17. Hydrams or hydraulic ram or similar other devices using energy derived from flowing or stored up water
18. Solar cells
19. Solar lanterns and lamps.

(iv) after serial number 76, the following serial numbers and entries relating thereto shall be inserted, namely,-

"77 Atta chakki

78 Bagasse

79 Feeding bottles and nipples

80 Kerosene wick stove and kerosene pressure stove

81 Raw potato chips, sewain and finger (made by small industries)

82 Sabudana

83 Wet dates"



## **18. Amendment Of Schedule Ii :-**

In Schedule II to the Principal Act,-

(i) in Part II,-

(a) against serial numbers 1, 2, 3 and 4 in column (3) for the figure "4", the figure "5" shall be substituted;

(b) for serial number 5 and entries relating thereto, the following serial number and entries relating thereto shall be substituted, namely,-

"5. (a) All types of yarn (other than cotton yarn, cotton and silk yarn in hank), yarn waste and sewing thread 5

(b) Cotton yarn (other than cotton yarn in hank) 4"

(c) against serial numbers 5-A, 5-B, 5-C, 6, 7, 8, and 9, in column (3), for the figure "4", the figure "5" shall be substituted;

(d) serial number 10 and entries relating thereto shall be omitted;

(e) against serial numbers 11, 12, 13 and 14, in column (3), for the figure "4", the figure "5" shall be substituted;

(f) after serial number 14, the following serial number and entries relating thereto shall be inserted, namely,-

"14A. Bidi 5"

(g) against serial numbers 15, 16, 17, 18, 19, 19-A, 20, 21, 22, 23, 24, 24-A, 25, 26, 28 and 29, in column (3) for the figure "4", the figure "5" shall be substituted;

(h) against serial number 30, in column (2), in item (vii), for the word "Oilseeds", the words "Oilseeds other than coconut" shall be substituted;

(i) against serial numbers 30-A, 30-B, 31, 31-A, 32 and 33 in column (3), for the figure "4", the figure "5" shall be substituted;

(j) for serial number 34 and entries relating thereto, the following serial number and entries relating thereto shall be substituted, namely,-

"34 (a) Fabric other than those specified in Schedule I which is a declared goods 4

(b) Fabrics other than those specified in Schedule I which is not a declared goods 5"

(k) serial number 35 and entries relating thereto shall be omitted;

(l) against serial numbers 36, 36-A, 37, 38, 39, 40, 41, 42, 42-A, 43, 44 and 45, in column (3), for the figure "4", the figure "5" shall be substituted;

(m) against serial number 46,-

(a) in column (2), the words "kerosene wick stove, kerosene pressure stove" shall be omitted;

- (b) in column (3), for the figure "4", the figure "5" shall be substituted;
- (n) against serial numbers 47, 49 and 50, in column (3), for the figure "4", the figure "5" shall be substituted;
- (o) against serial number 51,-
  - (1) in column (2),-
  - (i) in the heading for the words "telephone, cellular hand set and parts thereof, teleprinter and wireless equipment", the word "teleprinter" shall be substituted;
  - (ii) in item (12), sub-item (i) and (ii) shall be omitted.
- (2) in column (3), for the figure "4", the figure "5" shall be substituted;
- (p) against serial numbers 52, 54, 55, 57, 58, 59, 61, 62 and 63, in column (3), for the figure "4", the figure "5" shall be substituted;
- (q) for serial number 64 and entries relating thereto, the following serial number and entries relating thereto shall be substituted, namely,-

"64 Pipes of all varieties including G.I. pipes, C.I. pipes, ductile pipes and PVC pipes, conduit pipes and fittings thereof (other than declared goods) 5"
- (r) against serial numbers 65, 65-A, 65-B, 66, 66-A, 67, 68, 69, 70 and 71, in column (3) for the figure "4" the figure "5" shall be substituted;
- (s) serial number 72 and entries relating thereto shall be omitted;
- (t) against serial number 73 and 74, in column (3), for the figure "4" the figure "5" shall be substituted;
- (u) against serial number 76,-
  - (1) in column (2), the words "and atta chakki" shall be omitted;
  - (2) in column (3), for the figure "4", the figure "5" shall be substituted;
- (v) against serial numbers 76-A, 77, 78, 79, 80, 81, 82, 83, 84-A, 85, 86, 88, 89, 90, 91, 92, 94 and 95 in column (3), for the figure "4", the figure "5" shall be substituted;
- (w) serial number 96 and entries relating thereto shall be omitted;
- (x) against serial numbers 97, 98, 99, 100, 101, 102, 103, 104, 105, 107 and 108, in column (3), for the figure "4" the figure "5" shall be substituted;
- (y) serial number 108-A and entries relating thereto shall be omitted;
- (z) against serial numbers 109, in column (3), for the figure "4" the figure "5" shall be substituted; and
- (za) against serial number 110,-

(1) in column (2), in item (5), the words "and sabudana" shall be omitted;

(2) in column (3), for the figure "4", the figure "5" shall be substituted;

(ii) in Part III,-

(a) against serial number 8, in column (3), for the figure "4", the figure "5" shall be substituted;

(b) against serial number 9, in column (2), for the words "motor car", the words "motor vehicle" shall be substituted.

By Order and in the name of Governor of Madhya Pradesh,

Rakesh Yadav,

Additional Secretary,

Govt. of Madhya Pradesh,

Commercial Taxes Department.