

Madhya Pradesh Vat (Amendment) Act, 2011

10 of 2011

[31 March 2011]

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An Act further to amend the Madhya Pradesh VAT Act, 2002. Be it enacted by the Madhya Pradesh Legislature in the Sixty-Second 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, 2011.

(2) (a) The provision of Section 3(ii) shall be deemed to have come into force from 1st April, 2010.

(b) The provision of Section 7 shall be deemed to have come into force from 1st August, 2009.

(c) The provision of Section 14 and clause (ii) and (iii) of Section 22 shall be deemed to have come into force from 1st April, 2006.

(d) The provision of clause (ii) of Section 23 shall come into force from such date as the State Government may, by notification, appoint.

(e) The remaining provisions of this amending Act shall come into force from 1st April, 2011.

2. Substitution Of Long Title :-

For long title of the Madhya Pradesh VAT Act, 2002 (No. 20 of 2002) (hereinafter referred to as the Principal Act), the following long title shall be substituted namely,-

"An Act to levy tax on sale and purchase of goods and tax on buildings in the State of Madhya Pradesh.

3. Amendment Of Section 2 :-

In Section 2 of the principal Act,-

(i) after clause (c), the following clause shall be inserted, namely,-

"(ca) Builder means a person who carries on the business of constructing buildings for sale or lease".

(ii) in clause (ha),-

(a) for the words "meals" the words "meals and snacks" shall be substituted; and

(b) for the words "and the like", the words "and the like, and caterer" shall be substituted;

(iii) after clause (p), the following clauses shall be inserted, namely,-

"(pa) Official web portal means the web portal as the State Government may, by notification, specify;

(pb) Person includes any company or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm, a local authority, a State Government, the Central Government and a Government Undertaking;"

4. Amendment Of Section 4 :-

In Section 4 of the principal Act, sub-section (4) and sub-section (12) shall be deleted.

5. Insertion Of Section 9B :-

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

"Sec. 9B : Tax on buildings

(1) (a) Every builder shall be liable to pay tax on the capital value of the building or part of a building constructed by him and sold or leased for the first time on or after 1st April, 2011 at the rate of five percent.

(b) If any part or space of a building is leased for the first time on or after 1st April, 2011, then the entire building shall be deemed to have been leased for the first time on or after 1st April, 2011.

(2) (a) Such value of land, as may be prescribed, assigned to the building shall be deducted from its market value of both land and building to determine its capital value.

(b) If the sale price of a building is more than its market value, then its sale price will be taken as its market value for the purpose of determining its capital value.

(3) Every builder liable to pay tax under sub-section (1) and who is not liable to pay tax under Section 9, shall get himself enrolled in such manner as may be prescribed.

(4) An enrolled builder and a registered dealer who is liable to pay tax under sub-section (1), in respect of goods specified in Schedule II other than those specified in Part III of the said Schedule purchased within the State of Madhya Pradesh from a registered dealer after payment to him input tax for consumption or use in the construction of buildings, 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.

(5) No rebate under this section shall be claimed or be allowed in respect of the goods as the State Government may, by notification, specify.

(6) The rebate under sub-section (4) shall be adjusted towards the tax payable under sub-section (1).

(7) The provisions of this Act shall mutatis mutandis apply to a builder who is liable to pay tax under sub-section (1).".

6. Amendment Of Section 10 :-

In Section 10 of the principal Act, in sub-section (1),-

- (i) in clause (b), in sub-clause (i), for the words and figure "goods declared tax free under Section 16", the words, figures and bracket "goods declared tax free under Section 16 or the goods notified under sub-section (1B) of Section 14" shall be substituted;
- (ii) in clause (c) for the words and figure "any goods specified in Schedule II", the words, figures and bracket "any goods specified in Schedule II or the goods notified under sub-section (1B) of Section 14" shall be substituted.

7. Amendment Of Section 10A :-

In Section 10-A of the principal Act,-

- (i) in sub-section (1), for the words "at the rate of four percent", the words "at the rate as may be notified by the State Government" shall be substituted;
- (ii) in sub-section (7), for the words "at the rate of 4 percent", the words "at the rate notified under sub-section (1)" shall be substituted.

8. Amendment Of Section 14 :-

In Section 14 of the principal Act,-

- (i) in sub-section (1), clause (d) shall be omitted;
- (ii) after sub-section (1A), the following sub-section shall be inserted, namely,-
"(1AA) 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 as fuel in manufacture or processing of goods and the goods manufactured are sold within 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, 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, figure, word and letter "(1 and (1A)", the bracket, figure, letters and word "(1), (1A), (1AA) and (1B)" shall be substituted;
- (iv) in sub-section (4), in clause (ii), the words "in the course of export out of the territory of India" shall be omitted.

9. Amendment Of Section 20A :-

In Section 20-A of the principal Act, in sub-section (1), in clause (a), in sub-clause (i), for the words "forty", the word "sixty" shall be substituted.

10. Amendment Of Section 24B :-

In Section 24-B of the principal Act, in sub-section (3), in clause (ii), for the words "the full amount of tax", the words "the full undisputed amount of tax" shall be substituted.

11. Amendment Of Section 26 :-

In Section 26 of the principal Act, in sub-section (1), for the words "a State Government", the words "a State Government or a notified public sector undertaking" shall be substituted.

12. Amendment Of Section 26A :-

In Section 26-A of the principal Act, for sub-section (5), the following sub-section shall be substituted, namely,-

"(5) The purchaser shall deposit the amount deducted under sub-section (1) which is over and above the amount of input tax rebate notionally admissible under Section 14 on such purchases."

13. Insertion Of Section 34 :-

After Section 33 of the principal Act, the following new section shall be inserted, namely,-

"Sec. 34 : Power to set aside an ex parte order

(1) Where in the proceedings for assessment/reassessment of any dealer referred to in clause (a) of sub-section (4) of Section 20 for any period, an order is passed ex parte, the dealer may, within thirty days from the date of service or knowledge of such order, apply to the assessing authority to set aside the order and reopen the case and if the assessing authority is satisfied that the applicant was prevented by sufficient cause from appearing on the date fixed, he may, with a prior permission of higher authority as may be prescribed, set aside the order and reopen the case for hearing :

Provided that -

(i) no application for setting aside an ex parte assessment order shall be entertained unless it is accompanied by satisfactory proof

of payment of the amount of tax admitted by the dealer;
(ii) such an application shall be entertained only once in the course of such proceeding.
(2) Where an order of ex parte assessment of a registered dealer is set aside and case reopened under this section for making a fresh assessment, such fresh assessment shall be made within a period of six calendar months from the date of setting aside the ex parte order of assessment or within the period laid down in clause (i) of sub-section (7) of Section 20, whichever is later."

14. Amendment Of Section 42 :-

In Section 42 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely,- "(2) The Commissioner, either on his own motion or on an application made by a dealer, may, by order in writing, transfer any proceeding or class of proceedings under Section 46 (including the proceeding already transferred under this sub-section) from an Appellate Authority appointed under Section 3-A to any other Appellate Authority. Intimation about the transfer of any such proceeding or proceedings shall be sent to the dealer."

15. Amendment Of Section 46 :-

In Section 46 of the principal Act,-

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

"Provided that if in addition to the amount admitted, an amount equal to twenty five percent of the remaining amount is paid by a dealer, the Appellate Authority shall stay the recovery of the balance and the Appellate Authority shall dispose of the appeal within six calendar months.";

(ii) in sub-section (6), for the words "till the decision of appeal", the words "in accordance with the provisions of Section 4-A" shall be substituted;

(iii) in sub-section (7), the following proviso shall be inserted, namely,-

"Provided that in a case where an application made under Section 34 is rejected, such dealer may in the like manner appeal against the ex parte order of assessment, within 30 days from the date of service of order rejecting such application."

16. Amendment Of Section 47 :-

In Section 47 of the principal Act, in sub-section (1), in proviso, after clause (ii) the following clause shall be inserted, namely,-
"(iii) where such order is passed under Section 34."

17. Amendment Of Section 53 :-

In Section 53 of the principal Act, in sub-section (5), for the words "fifty percent", the words "twenty five percent" shall be substituted.

18. Amendment Of Section 56 :-

In Section 56 of the principal Act,-

(i) in the marginal heading, for the word "Survey", the words "Survey and cross-verification" shall be substituted;

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

"(1) With a view to ensure tax compliance, the Commissioner may undertake survey of dealers and cross-verification of purchases.";

(iii) in sub-section (2), for the word survey the words survey and cross-verification shall be substituted;

(iv) in sub-section (4),-

(a) for the word "survey", the words "survey and cross-verification" shall be substituted;

(b) the words "but is unregistered or has not applied for grant of the certificate of registration," shall be omitted.

19. Amendment Of Section 57 :-

In Section 57 of the principal Act,-

(i) in sub-section (1), the words "excluding railway premises," shall be omitted;

(ii) in sub-section (2), after second proviso, the following proviso shall be inserted, namely,-

"Provided also that if the transporter transporting goods carries with him an electronically issued declaration form specified in clause (a), particulars of which including date and approximate time of entering the State of Madhya Pradesh, have been uploaded completely on the official web portal of the department before entering the State of Madhya Pradesh, along with the documents, he shall be deemed to have complied with the requirement made under clause (b).";

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

(a) for the words "seven times" and "five times", the words "five times" and "three times" shall respectively be substituted;

(b) after the proviso, the following proviso shall be inserted, namely,-

"Provided further that in any case, the amount of penalty shall not be more than fifty percent of the value of goods.";

Explanation.- Where the explanation submitted lead to the conclusion that there is no possibility of sale of goods within the State of Madhya Pradesh or there was no attempt to evade tax in respect of the goods, it shall be deemed that no violation of the provision of sub-section (2) has taken place.";

(iv) in sub-section (17), for the words "three times", the words "twice" shall be substituted;

(v) in explanation to the section,-

(a) in clause (i), for the words "any means of transportation", the words "any means of transportation, including railway," shall be substituted;

(b) clause (ii) shall be renumbered as clause (iii) and before clause (iii) as so renumbered, the following new clause shall be inserted, namely,-

"(ii) transporter shall include the owner of the vehicle carrying the goods, whether an individual, a firm, association, society or company, and the manager, if any, of such owner; and".

20. Amendment Of Section 61 :-

In Section 61 of the principal Act, in sub-section (1), for full stop, the colon shall be substituted and thereafter the following proviso shall be inserted, namely,-

"Provided that if the dealer carries with him a declaration in prescribed form, particulars of which have been uploaded completely on the official web portal of the department before taking delivery, along with the documents, he shall be deemed to have complied with the requirement made above.".

21. Substitution Of Section 63 :-

For Section 63 of the principal Act, the following section shall be substituted, namely,-

"Sec. 63 : Power to call for information

(1) The Commissioner or any other person appointed under Section 3 to assist him, not below the rank of an Assistant Commercial Tax

Officer may, for carrying out the purposes of this Act, require any department of Central or the State Government, Public Sector Undertaking, Municipality and Municipal Corporation, Authority constituted under any law for the time being in force, Company registered under the Companies Act, 1956 (No. 1 of 1956), Mandi Board, banking or non-banking financial companies or insurance companies, or any officer thereof to furnish any information or statement useful for or relevant to any proceeding under this Act.

(2) Where a person fails to comply with the requirement made under sub-section (1), the Commissioner may, after giving such person an opportunity of being heard, direct him to pay by way of penalty a sum of rupees fifty per day, subject to a maximum of rupees five thousand."

22. Amendment Of Schedule I :-

In Schedule I to the principal Act,-

(i) against serial number 3, in column (2), for the words "de-oiled cake including soyameal and cotton seed oil cake" the words "de-oiled cake including soyameal, cotton seed oil cake and mustard cake" shall be substituted;

(ii) against serial number 48, in column (2), for the words "on which additional excise duty is levied or leviable under the Central Excise Tariff Act, 1985 (No. 5 of 1986)", the words "on which additional excise duty was leviable, but exempted by the Government of India" shall be substituted;

(iii) against serial number 49, in column (2), for the words "on which additional excise duty is levied or leviable under the Central Excise Tariff Act, 1985 (No. 5 of 1986)", the words "on which additional excise duty was leviable, but exempted by the Government of India" shall be substituted;

(iv) against serial number 58-A, in column (2), for the words "by Self Help Groups", the words "by a registered dealer as may be notified by the State Government or Self Help Groups" shall be substituted;

(v) after serial number 85, the following serial numbers and entries relating thereto shall be inserted, namely,-

"86. Fuel made from solid waste procured from any Local Self Government Body.

87. Panchamritam, namakatti and vibhuti."

23. Amendment Of Schedule Ii :-

In Schedule II to the principal Act, in Part II -

- (i) in serial number 5A, in column (2), for the figure "100", the figure "150" shall be substituted;
- (ii) against serial numbers 5(b), 27, 30, 34(a), 84 and 106, in column (3), for the figure "4", the figure "5" shall be substituted;
- (iii) after serial number 20, the following serial number and entries relating thereto shall be inserted, namely,-
"20-A. Canteen stores sold by a registered dealer to the Canteen Stores Department against a certificate issued by the department 4%"
- (iv) in serial number 22, in column (2), for the words "and parts thereof", the words "and parts thereof, and foot valve" shall be substituted;
- (v) in serial number 29, in column (2), for the words "Cups and glasses", the words "Cups, glasses, plates, bowls (Dona-Pattal) and spoons" shall be substituted;
- (vi) in serial number 31, in column (2), for the words "excluding cotton seed oil cake", the words "excluding cotton seed oil cake and mustard oil cake" shall be substituted;
- (vii) in serial number 110, in column (2), the entry number 11 shall be omitted.