

**Madhya Pradesh Vilasita, Manoranjan, Amod Evam
Vigyapan Kar Adhiniyam, 2011**

11 of 2011

[31 March 2011]

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An Act to levy tax on luxuries, entertainments, amusements and advertisements exhibited In the State of Madhya Pradesh. Be it enacted by the Madhya Pradesh Legislature in the Sixty-second year of the Republic of India as follows :-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Madhya Pradesh Vilasita, Manoranjan, Amod Evam Vigyapan Kar Adhiniyam, 2011.
- (2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force from 1st April, 2011.

2. Definitions :-

(1) In this Act, unless the context otherwise requires,-

(a) "admission to an entertainment" includes admission to any place in which the entertainment is held and access to entertainment through cable service, direct to home (DTH) service, telecom service or any other technological means or device;

(b) "advertisement" means the intimation or announcement of any goods, service, product, property, entertainment, trade, business or profession by means of a slide or film or poster or banner or hoarding, etc. exhibited at any place or advertised through cable television or by any other means including tele-marketing, except advertisements published in the newspapers or broadcast by radio or television;

(c) "amusement" means any amusement provided in any amusement arcade or amusement park or theme park or by whatever name called;

(d) "business" includes-

(i) the activity of providing residential accommodation and any other service in connection with or incidental or ancillary to such activity of providing residential accommodation by a hotelier;

(ii) the activity of providing entertainment and exhibiting advertisements by a proprietor;

(iii) the activity of providing luxuries by a proprietor;

(e) "cable operator" means any person engaged in the business of receiving and distributing satellite signals, communication network, including production and transmission of programmes and packages;

(f) "caterer" means a person who provides meals, snacks, etc., at a place other than a restaurant;

(g) "club" includes both an incorporated and unincorporated association of persons, by whatever name called;

(h) "entertainment" includes-

(i) any exhibition, performance, amusement, game or sport to which persons are admitted;

(ii) entertainment provided by a direct to home (DTH) Service Provider through Satellite;

(iii) entertainment provided by a cable operator through cable service;

(iv) ring tones, music, videos, movies, animations, games, jokes,

etc. provided by a Telecom Service provider through telecom service;

(v) contests organised through telecom services by the Telecom Service Provider or any person;

(vi) entertainment provided by any other technological means or device.

Explanation :-Services received by a person situated in the State of Madhya Pradesh, shall be deemed to have been provided within the State of Madhya Pradesh;

(i) "hotel" includes a residential accommodation, a lodging house, a club, an inn, a public house or a building or part thereof where residential accommodation is provided in the course of business;

(j) "hotelier" means the owner of the hotel and includes the person who for the time being is in-charge of the management of the hotel;

(k) "luxury" means use of goods, services, property, facilities,, etc for enjoyment, comfort or pleasure or lavish consumption of such goods or services, that is to say,-

(i) accommodation and other services provided in a hotel, the rate of charges per day for which, including the charges for air-conditioning, telephone, television, radio, music, entertainment, extra beds and the like is more than the amount as may be prescribed, but does not include the supply of food and drinks where such supply is separately charged for;

(ii) services provided in a beauty parlour, spa;

(iii) services or facilities, provided by a marriage hall;

(iv) services provided by a caterer, except provided in hospitals and educational institutions, but does not include the supply of food and drinks where such supply is separately charged for;

(v) services provided by a decorator, florist, illuminator, audio system provider;

(l) "marriage hall" includes lawn, garden, a building or part of a building where accommodation or space is provided for more than one hundred persons, for any event including seminar or convention or banquet or meeting or exhibition cum sale;

(m) "monetary consideration for admission to entertainment" includes-

(i) any payment for seats or other accommodation in any form in a place of entertainment;

(ii) any payment for a program or synopsis of an entertainment;

(iii) any payment made for the loan or use of any instrument or contrivance which enables a person to get a normal or better view

or hearing or enjoyment of the entertainment, which without the aid of such instrument or contrivance such person would not get;

(iv) any payment made by a person by way of contribution or subscription or installation and connection charges or any other charges, by whatever name called, for providing access to any entertainment, whether for a specified period or on a continuous basis;

(v) any payment, by whatever name called for any purpose whatever, connected with an entertainment, which a person is required to make in any form as a condition of attending or continuing to attend the entertainment, either in addition to the payment, if any, for admission to the entertainment or without any such payment for admission;

(vi) any payment, made by a person, who having been admitted, to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving tax or more tax is required;

(vii) in case of free, surreptitious, unauthorized or concessional entry, whether with or without the knowledge of the proprietor, the payment which would have been made if the person concerned had been admitted on payment of the full charges ordinarily chargeable for such admission.

Explanation I.-Any subscription raised or donation collected in connection with an entertainment in any form shall be deemed to be payment for admission;

Explanation II.-Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any person, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission without further payment or at a reduced charge, the tax shall be paid on the amount of such lump sum.

Explanation III.-Where entertainment is provided as part of any service by any person, whether forming an integral part of such service or otherwise, the charges received by such person for providing the service shall be deemed to include charges for providing entertainment or access to entertainment also;

(n) "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;

- (0) "place of business" includes an office, or any other place which a hotelier or a proprietor uses for the purpose of his business or where he keeps his books of accounts;
- (p) "proprietor" in relation to any advertisement, entertainment or luxury includes any person responsible for or for the time being in-charge of the management thereof;
- (q) "receipt of monetary consideration" means the amount of payment received or receivable by a hotelier or a proprietor, or by his agent for any advertisement, luxury or entertainment, but shall not include the tax payable under this Act and collected separately by the hotelier or the proprietor;
- (r) "registered hotelier or proprietor" means a hotelier or a proprietor registered under this Act;
- (s) "tax" means tax payable under this Act;
- (t) "turnover" in relation to any period means the aggregate of the amount of receipts of monetary considerations received or receivable by a hotelier or a proprietor in respect of advertisements, luxuries or entertainments provided by him;
- (u) "Vat Act" means the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002).
- (2) All those expressions which are used but are not Defined in this Act and are defined, in Vat Act shall have the meaning assigned to them in Vat Act.

3. Incidence Of Tax :-

- (1) Every hotelier or proprietor whose turnover during a period of twelve months immediately preceding the commencement of this Act exceeds rupees five lacs, shall, from such commencement be liable to pay tax under this Act in respect of any advertisement, luxury or entertainment provided by him in Madhya Pradesh.
- (2) Every hotelier or proprietor to whom sub-section (1) does not apply, shall be liable to pay tax under this Act in respect of any advertisement, luxury or entertainment provided by him in Madhya Pradesh With effect from the date on which his turnover in a year first exceeds rupees five lacs but for the purpose of assessment of the tax for that year, only so much of his, turnover as is in excess of such limit, shall be taken into consideration.

4. Determination Of Liability To Pay Tax :-

- (1) The Commissioner shall, in the prescribed manner, institute proceedings for the purpose of determining the liability of a hotelier

or a proprietor to pay tax under this Act. Such liability shall be determined by an order and such determination shall be made within a period of twelve months from the date of institution of such proceedings.

(2) Notwithstanding anything contained in sub-section (2) of Section 3, liability of a dealer to pay tax under this Act shall not be determined from a date earlier than five years prior to-

- (i) the date of institution of proceedings under sub-section (1); or
- (ii) the date of validity of the registration certificate, whichever is earlier.

5. Levy Of Tax :-

(1) There shall be levied a tax on the turnover and such tax shall be payable by a hotelier or a proprietor in accordance with the provisions of this Act.

(2) If a person other than the owner (including part-owner) is for the time being in-charge of the place of business, then such person and the owner (including part-owner) shall jointly and severally be liable to pay the tax.

6. Charges And Rate Of Tax

:-

(1) The tax payable by a hotelier or proprietor under this Act shall be charged at the following rates, namely:

(a) In case of a hotelier 10 per cent of the turnover;

(b) In case of a proprietor,-

(i) on luxuries, other than those provided in a hotel, 10 per cent of the turnover;

(ii) on advertisements, 10 per cent of the turnover;

(iii) on entertainment, 20 per cent of the turnover.

(2) Where, in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated by the hotelier and not paid to the staff, then such charges shall be deemed to be the part of the charges for luxury provided in the Hotel.

(3) The tax shall be levied and collected at the rate specified in clause(a) of sub-section (1), on the charges actually paid to the hotelier for such luxury.

(4) The tax shall not be levied and payable in respect of the turnover for supply of food and drinks, where they are separately charged for and on the sale of which the hotelier or the proprietor is liable to pay tax under the Madhya Pradesh Vat Act, 2002 (No.20

of 2002).

7. Liability Of Firms As Hotelier Or Proprietor :-

Where a business is owned, managed or run by a firm, the firm and each of the partners of the firm shall jointly and severally be liable to pay tax Under this Act :

Provided that where any partner retires from the firm he shall be liable to pay the tax, penalty, interest or any other amount payable under this Act remaining unpaid at the time of his retirement; and any tax due up to the date of his retirement, even if assessment of tax, or levy of penalty or Interest is made at a later date.

8. Certain Provisions Of Vat Act To Apply :-

Subject to the provisions of this Act and the rules made thereunder, the provisions of the Vat Act and the rules made, order and notifications issued thereunder, including the provisions relating, to returns, assessment, self-assessment, reassessment, payment and recovery of tax, accounts, detection and prevention of tax evasion, refund, appeal, revision, rectification, offences and penalties and other miscellaneous matter, shall mutatis mutandis apply to a hotelier or proprietor in respect of tax, interest or penalty levied and payable under this Act as if these provisions were mutatis mutandis incorporated in this Act, and it shall be deemed that the rules made and orders and notifications issued under those provisions were mutatis mutandis made or issued under the relevant provisions as so incorporated in this Act.

9. Assessment Collection, Etc. Of Tax :-

Subject to the provisions of this Act and the rules made thereunder, the administration of this Act in so far as it relates to levy, assessment and collection of tax from hoteliers or proprietors shall vest in the authorities specified in the Vat Act and accordingly the authorities for the time being empowered to assess, reassess, collect and enforce the payment of tax under the Vat Act shall assess, reassess, collect and enforce the payment of tax including interest or penalty payable by a hotelier or a proprietor under this Act as if the tax including interest or penalty payable by such hotelier or proprietor under this Act or under the provisions of the Vat Act as made applicable under section 8 to hoteliers or proprietors in relation to tax levied under this Act is a tax or

interest or penalty payable under that Act and for this purpose they may exercise all or any of the powers conferred upon them by or under that Act.

10. Registration :-

(1) Every hotelier or proprietor liable to pay tax under this Act shall obtain registration certificate from the appropriate Commercial Tax Officer or any other officer authorised by the Commissioner in this behalf in such manner and form as may be prescribed.

(2) Every hotelier or proprietor required to obtain a registration certificate shall within sixty days from the date of commencement of this Act or if he was not carrying on business on that date shall within thirty days of his becoming liable to pay tax, apply for grant of a registration certificate.

(3) Where a hotelier or proprietor required to obtain a registration certificate under subsection (1) fails to apply for the same within the time specified in sub-section (2), the appropriate Commercial Tax Officer or any other officer authorised by the Commissioner in this behalf may, after giving him a reasonable opportunity of being heard, direct him to pay by way of penalty a sum not exceeding five thousand rupees, subject to a minimum of five hundred rupees.

(4) A registration certificate granted on application made within the period specified in sub-section (2) shall be valid from the date of liability. A registration certificate granted on an application made after such period shall be valid from the date of application.

(5) Every hotelier who at the commencement of this Act holds a registration certificate under the provisions of the Act repealed by this Act shall, on such commencement, be deemed for all purposes of this Act to be a hotelier registered and holding a registration certificate under this section.

(6) The provisions of section 17 of the Vat Act and the rules made thereunder so far as they relate to the amendment and cancellation of registration certificates granted under Vat Act shall mutatis mutandis apply to the registration certificates granted under this section.

11. Power To Exempt :-

The State Government may, by notification, and subject to such restrictions and conditions as may be specified therein exempt whether prospectively or retrospectively in whole or in part any

hotelier / proprietor or class of hoteliers / proprietor from the payment of tax under this Act.

12. Saving :-

Notwithstanding the repeal of the Madhya Pradesh Hotel Tatha Vas Grihon Me Vilas Vastuon Par Kar Adhiniyam, 1988 (No. 13 of 1988) and the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (No. 30 of 1936) (hereinafter referred to as the repealed Acts), the State Government may, by notification, exempt any hotelier / proprietor or class of hoteliers / proprietors from the payment of tax under the repealed Acts for any period before the commencement of this Act and for that purpose it shall and shall always be deemed that the provisions of section 9 of Act No. 13 of 1988 or Section 7 of the Act No. 30 of 1936 have revived for the purpose of such exemption.

13. Power To Make Rules :-

- (1) The State Government may make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules, prescribing-
 - (a) the manner and form in which registration certificate shall be obtained under subsection (1) of section 10;
 - (b) the form in which the returns shall be filed;
 - (c) the form and the manner in which and the period before which tax shall be paid;
 - (d) the form in which the order of assessment shall be passed;
 - (e) the form in which notice of demand shall be issued.
- (3) All rules made under this section shall be laid on the table of the Legislative Assembly.

14. Bar On Imposition Of Entertainment Tax By Any Local Authority :-

- (1) Notwithstanding anything contained in any other enactment for the time being in force, no local authority shall on or after the date of coming into force of this Act impose or recover a tax on or in respect of any entertainment with respect to period falling after such date.
- (2) The State Government shall pay to every local authority, which

before the coming into force of this Act had imposed a tax or duty in respect of entertainments, an annual grant-in-aid for such period and in accordance with such principles as may be prescribed in this behalf.

(3) Nothing in this section shall apply to the imposition of a show tax leviable by a local authority under any law for the time being in force.

Explanation.-For purposes of this section "show tax" means a tax leviable on the proprietor of an entertainment in the form of a fixed sum for each show or performance.

15. Repeal And Savings :-

The Madhya Pradesh Hotel Tatha Vas Grihon Me Vilas Vastuon. Par Kar Adhiniyam, 1988 (No. 13 of 1988) and the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (No. 30 of 1936) shall stand repealed on the date of coming into force of this Act:

Provided that-

(i) such repeal shall not-

(a) affect the previous operation of the Act No. 13 of 1988 and Act No. 30 of 1936 (hereinafter referred to as repealed Acts) so repealed or anything duly done or suffered thereunder; or

(b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Acts; or

(c) affect any penalty forfeiture or punishment incurred in respect of any offence committed against the repealed Acts; or

(d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed and the said Acts had not been repealed.

(ii) Unless it is otherwise expressly provided, anything done or any action taken (including any appointment, notification, notice, order, rule, form, regulation or certificate) in the exercise of any power conferred by or under the repealed Acts shall, subject to the provisions of sub-clause (b) of clause (i), in so far as it is not inconsistent with the provisions of this Act, continue to be in force and be deemed to have been done or taken in the exercise of the powers conferred by or under the provisions of this Act as if this Act were in force on the date on which such thing was done or action

was taken unless and until it is superseded by or under this Act and all arrears of tax and other amount due at the commencement of this Act may be recovered as if they had accrued under this Act .

(iii) Any assessment, appeal, revision or other proceedings arising under the repealed Acts and the rules made thereunder and / or pending before an officer or authority duly empowered to make assessment or hear and decide such appeal, revision or other proceeding immediately preceding the commencement of this Act shall, on the date of such commencement stand transferred to the officer or authority competent to make assessment or to hear and decide appeal or revision or other proceedings under this Act and thereupon such assessment, shall be made or such appeal or revision or other proceeding shall be heard and decided within the period, if any specified therefor, by such officer or authority in accordance with the provisions of the repealed Acts or the rules made thereunder as if they were the officer or authority duly empowered for the purpose under the repealed Acts.

(iv) Notwithstanding anything contained in clause (i), any appeal, revision or other proceedings arising under the repealed Acts but preferred or initiated after the commencement of this Act, shall be heard and decided by the authority competent to entertain any appeal, revision or any other proceedings in accordance with the provisions of this Act.

16. Power To Remove Difficulties :-

If any doubt or difficulty arises in giving effect to any of the provisions of this Act in consequence of the transition to the said provisions from the corresponding provisions of the Acts repealed by Section 15, the State Government may within two years from the date of commencement of this Act by order notified in the official Gazette of the State make such provision not inconsistent with this Act as appear to be necessary or expedient for removing the doubt or difficulty.