

## **Bombay Provincial Municipal Corporations And The Bombay Village Panchayats (Amendment) Act, 2009**

**27 of 2009**

**[24 December 2009]**

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## **Bombay Provincial Municipal Corporations And The Bombay Village Panchayats (Amendment) Act, 2009**

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### PREAMBLE

An Act further to amend the Bombay Provincial Municipal Corporations Act, 1949 and the Bombay Village Panchayats Act, 1958.

WHEREAS both Houses of the State Legislature were not in session;  
AND WHEREAS the Governor of Maharashtra was satisfied that

circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) and the Bombay Village Panchayats Act, 1958 (Bom. III of 1959) for the purposes hereinafter appearing; and, therefore, promulgated the Bombay Provincial Municipal Corporations and the Bombay Village Panchayats (Amendment) Ordinance, 2009 (Mah. Ord. XXI of 2009), on the 31st August 2009;

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Sixtieth Year of the Republic of India as follows:--

## **CHAPTER 1 PRELIMINARY**

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

(1) This Act may be called the Bombay Provincial Municipal Corporations and the Bombay Village Panchayats (Amendment) Act, 2009.

(2) It shall be deemed to have come into force on the 31st August 2009.

## **CHAPTER 2 AMENDMENTS TO THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT, 1949**

### **2. Amendment Of Section 2 Of Bom. Lix Of 1949 :-**

In section 2 of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) (hereinafter, in this Chapter, referred to as "the Provincial Corporations Act"),--

(a) in clause (6A), for the words, figures and brackets "but does not include octroi as defined in clause (42)", the following shall be substituted, namely:--

"but does not include Local Body Tax, as defined in clause (31A) or the octroi as defined in clause (42)";

(b) after clause (31), the following clause shall be inserted, namely:---

"(31A) "Local Body Tax" means a tax on the entry of goods into the limits of the City, for consumption, use or sale therein, levied in accordance with the provisions of Chapter XIB, but does not include cess as defined in clause (6A) and octroi as defined in clause (42);";

(c) in clause (42), for the words, figure, letter and brackets "but does not include a cess as defined in clause (6A)", the following

shall be substituted, namely:---

"but does not include a cess as defined in clause (6A) or Local Body Tax, as defined in clause (31A)".

### **3. Amendment Of Section 99 Of Bom Lix Of 1949 :-**

In section 99 of the Provincial Corporations Act, after the words, figure and brackets "sub-section (2) of the said section" the words, brackets and letters "(excluding Local Body Tax under clause (aaa) thereof)" shall be inserted.

### **4. Insertion Of Sections 99B And 99C In Bom. Lix Of 1949 :-**

After section 99A of the Provincial Corporations Act, the following sections shall be inserted, namely:---

"99B. Determination of categories of goods for Local Body Tax :--

The State Government shall, on or before the twentieth day of the February each year, after considering the proposal of the Commissioner in this behalf, and subject to the limitations and conditions prescribed in Chapter XIB, determine the rates and the extent to which the taxes referred to in clause (aaa) of sub-section (2) of section 127, shall be levied, for various categories of goods in the next ensuing official year and notify such rates and extent in the Official Gazette.

99C. Provisions of section 99B not to apply to Local Body Tax to be first levied :--

In the event it is decided first time to levy Local Body Tax specified in clause (aaa) of sub-section (2) of section 127, if the Local Body Tax can not, by following the provisions of section 99B and the other relevant provisions of this Act, be brought into force on the 1st day of April of any year, then in that case, notwithstanding anything contained in section 99B, the State Government may, by notification in the Official Gazette, subject to the limitations and conditions laid down in Chapter XIB and the rules, determine the rates at and the extent to which and the date from which, the Local Body Tax shall be levied; and thereupon, the Local Body Tax shall be levied at the rates, extent and from the date so notified, and all the relevant provisions of this Act shall, so far as may be, apply to the Local Body Tax as if the procedure laid down by section 99B and the other provisions of this Act had been followed."

### **5. Amendment Of Section 127 Of Bom. Lix Of 1949 :-**

In section 127 of the Provincial Corporations Act, in sub-section (2), after clause (aa), the following clause shall be inserted, namely:--  
"(aaa) Local Body Tax on the entry of the goods into the limits of the City for consumption, use or sale therein, in lieu of octroi or cess, if so directed by the State Government by notification in the Official Gazette;".

## **6. Insertion Of Section 149A In Bom. Lix Of 1949 :-**

After section 149 of the Provincial Corporations Act, the following section shall be inserted, namely:---

"149A. Additional Stamp duty on certain transfers of immovable properties in municipal areas :--

(1) The stamp duty leviable under the Bombay Stamp Act, 1958 (Bom. LX of 1958), on instruments of sale, gift and usufructuary mortgage, respectively, of immovable property shall, in the case of any such instrument relating to immovable property situated in the City to which the provisions of clause (aaa) of sub-section (2) of section 127 apply (hereinafter in this section referred to as "the notified City"); and executed on and after such date as may be specified by the State Government by notification in the Official Gazette, be increased by a surcharge at the rate of one per cent in the case of sale or gift, on the value of the property so situated and in the case of an instrument of usufructuary mortgage on the amount secured by the instrument as set forth in the instrument and shall be collected accordingly under the said Act.

(2) For the purposes of this section, section 28 of the Bombay Stamp Act, 1958 (Bom. LX of 1958), shall be read and enforced as if it specifically required the particulars therein referred to be set forth separately in respect of,--

(a) the property situated in the notified City; and

(b) the property situated in any other area.

(3) The State Government shall, every year, after due appropriation made by law in this behalf, pay to the Corporation of each of the notified City, a grant-in-aid approximately equal to the amount of additional duty realized on account of the surcharge levied under this section in respect of immovable properties situated within the jurisdiction of that Corporation.

(4) The sum of money required to meet the expenditure by the State Government under sub-section (3), shall be charged on the Consolidated Fund of the State.

(5) The Government may, by notification in the Official Gazette,

make rules to carry out the purposes of this section.

(6) All rules made under this section shall be subject to the condition of previous publication.

(7) Every rule made under this section, shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule."

## **7. Insertion Of Chapter Xib In Bom. Lix Of 1949 :-**

After section 152O of the Provincial Corporations Act, the following Chapter and sections shall be inserted, namely:--

"CHAPTER XIB

PROVISIONS RELATING TO LOCAL BODY TAX

152P. Levy of Local Body Tax :-- Subject to the provisions of this Chapter and the rules, the Corporation, to which the provisions of clause (aaa) of sub-section (2) of section 127 apply, may, for the purposes of this Act, levy and collect Local Body Tax on the entry of goods specified by the State Government by notification in the Official Gazette, into the limits of the City, for consumption, use or sale therein, at the rates specified in such notification.

152Q. Certain goods not liable to Local Body Tax :--The State Government may, after considering the proposal of the Commissioner in this behalf, and by notification in the Official Gazette, specify various categories of goods on which no Local Body Tax shall be leviable.

152R. Applicability of certain provisions of Chapter XIA :--The provisions of sections 152B, 152D, 152E, 152F, 152G, 152I, 152J, 152K, 152L, 152M, 152N and 152O of Chapter XIA shall mutatis mutandis, apply to levy and collection of Local Body Tax under this Chapter.

152S. Assessment of Dealers :--The Commissioner may, for the purposes of levy, collection and recovery of Local Body Tax under

this Act, assess such dealers for such period and in such manner as may be prescribed.

152T. Power of State Government to make rules for the purposes of this Chapter :--

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter.

(2) All rules made under this section shall be subject to the condition of previous publication.

(3) Every rule made under this section, shall be laid as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule."

### **CHAPTER 3** AMENDMENTS TO THE BOMBAY VILLAGE PANCHAYATS ACT, 1958

#### **8. Amendment Of Section 3 Of Bom. Iii Of 1959 :-**

In section 3 of the Bombay Village Panchayats Act, 1958 (Bom. III of 1958) (hereinafter, in this Chapter, referred to as "the Village Panchayats Act"),-- (a) after clause (4), the following clause shall be inserted, namely:--

"(5) "Designated Authority" means the authority designated by the State Government for the purpose of levy and collection of the Local Body Tax;"

(b) after clause (11), the following clauses shall be inserted, namely:--

"(11A) "Local Body Tax" means a tax on the entry of goods, into the limits of any village falling within the limits of the notified area within the meaning of clause (IIB), for consumption, use or sale therein, levied in accordance with the provisions of section 124A;

(11B) "notified area" means the area, adjacent to the City, notified by the State Government for the purposes of levy of the Local Body Tax, as defined in clause (IIA), to which the provisions of clause

(aaa) of sub-section (2) of section 127 and other provisions of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) in respect of levy, assessment and recovery of the Local Body Tax, apply;".

#### **9. Insertion Of Section 124A In Bom. Iii Of 1959 :-**

After section 124 of the Village Panchayats Act, the following section shall be inserted, namely:---

"124A. Provisions relating to Local Body Tax :--

(1) Every Panchayat in a notified area shall levy and collect the Local Body Tax on entry of goods for consumption, use or sale in such notified area in accordance with the provisions of this section.

(2) The State Government may, by general or special order, designate any authority, Secretary of the Panchayat or any other officer to be the Designated Authority.

(3) It shall be the responsibility of the Designated Authority to levy and collect the Local Body Tax on the entry of the goods into the notified area, for consumption, use or sale therein in accordance with the provisions of Chapter XIB of the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), and the rules made thereunder and to deposit or cause to be deposited into the treasury of the Government, such Local Body Tax.

(4) The State Government shall, every year, after due appropriation made by law in this behalf, place in the hands of the Collector to pay to each of the Panchayats whose area falls within a notified area, a grant-in-aid approximately equal to the amount of the Local Body Tax collected from the area of that Panchayat.

(5) The sum of money required to meet the expenditure by the State Government under sub-section (4), shall be charged on the Consolidated Fund of the State."

#### **CHAPTER 4 MISCELLANEOUS**

#### **10. Repeal Of Mah. Ord. Xxi Of 2009 And Saving :-**

(1) The Bombay Provincial Municipal Corporations and the Bombay Village Panchayats (Amendment) Ordinance, 2009 (Mah. Ord. XXI of 2009), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949) or, as the case may be, the Bombay Village Panchayats Act, 1958

(Bom. III of 1949), as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the said Acts, as amended by this Act.