

**Maharashtra Education And Employment Guarantee (Cess)
(Amendment) Act, 2012**

26 of 2012

[20 December 2012]

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PREAMBLE

An Act further to amend the Maharashtra Education and Employment Guarantee (Cess) Act, 1962.

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 Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (Mah. XXVII of 1962), for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012 (Mah. Ord. XI of 2012), on the 3rd December 2012;

AND WHEREAS it is expedient to replace the said Ordinance by an

Act of the State Legislature; it is hereby enacted in the Sixty-third Year of the Republic of India as follows:--

1. Short Title And Commencement :-

(1) This Act may be called the Maharashtra Education and Employment Guarantee (Cess) (Amendment) Act, 2012.

(2) It shall be deemed to have come into force on the 3rd December 2012.

2. Amendment Of Section 2 Of Mah. Xxvii Of 1962 :-

In section 2 of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 (hereinafter referred to as "the principal Act" (Mah. XXVII of 1962)),--

(i) in clause (a), proviso shall be deleted;

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

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"(ba) "capital value" means the capital value of a land or building or part thereof fixed or determined in accordance with the provisions of the relevant municipal law;"

3. Amendment Of Section 4 Of Mah. Xxvii Of 1962 :-

In section 4 of the principal Act, for clause (a), the following shall be substituted, namely:--

"(a) (i) with effect from the 1st day of April 1974, a tax on lands and buildings in a municipal area at the rates specified in Schedule A hereto annexed;

(ii) with effect from the 1st day of April 2010, in case of municipal area of Brihan Mumbai Municipal Corporation constituted under the Mumbai Municipal Corporation Act (III of 1888) and in case of other municipality with effect from the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality, a tax on lands and buildings at the rates notified by the Collector, upon receipt of proposal by municipality, by notification in the Official Gazette, which may be different for different categories of users of lands or buildings or parts thereof and which shall not be less than 0.01 per cent. and not more than 0.3 per cent. of the capital value of lands or buildings or parts thereof:

Provided that, for the period of five years from the date on and from which such tax is levied on capital value, the tax shall not

exceed,--

(I) in respect of land or building used for residential purposes, two times, and

(II) in respect of land or building used for non-residential purposes, three times.

the amount of tax leviable in respect thereof in the year immediately preceding such date on and from which such tax is levied on capital value:

Provided further that, where the taxes levied in respect of any residential or non residential building or portion thereof were on the basis of annual letting value arrived at considering the leave and licence charges, by whatever name called, then for the purposes of the first proviso it shall be lawful to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied:

Provided also that, for the period of five years commencing from such year from which such tax is levied on capital value, the amount of tax leviable in respect of a residential building or residential tenement, having carpet area of 46.45 sq. metre (500 sq. feet) or less, shall not exceed the amount of tax levied and payable in the year immediately preceding the year from which such tax is levied on capital value:

Provided also that, after the year from which such tax is levied on capital value, the tax in respect of any taxable land or building shall be revised after every five years and on each such revision, such amount of tax, shall not in any case exceed forty per cent. of the amount of the tax levied and payable in the year immediately preceding the year of the revision;"

4. Amendment Of Section 5 Of Mah. Xxvii Of 1962 :-

In section 5 of the principal Act, in sub-section (1), after the words "annual letting value" the words "or as the case may be, the capital value" shall be inserted.

5. Amendment Of Section 6B Of Mah. Xxvii Of 1962 :-

In section 6B of the principal Act, for clause (a), the following shall be substituted, namely--

(a) (i) with effect from the 1st day of April 1975, a further tax on lands and buildings in a municipal area used or intended to be used for a non residential purpose at the rates specified in Schedule C hereto annexed;

(ii) with effect from the 1st day of April 2010, in case of municipal area of Brihan Mumbai Municipal Corporation constituted under the Mumbai Municipal Corporation Act (III of 1888) and in case of other municipality with effect from the date on which the capital value of lands or buildings is basis of levy of property tax is adopted by such municipality, a tax on lands and buildings used or intended to be used for a non-residential purpose at the rates notified by the Collector, upon receipt of proposal by municipality, by notification in the Official Gazette, which may be different for different categories of users of lands or buildings or parts thereof and which shall not be less than 0.005 per cent. and not more than 0.10 per cent. of the capital value of lands or buildings or parts thereof:

Provided that, for the period of five years from the date on and from which such tax is levied on capital value, the tax shall not exceed three times the amount of tax leviable in respect thereof in the year immediately preceding such date on and from which such tax is levied on capital value.

Provided further that, where the tax levied in respect of any nonresidential building or portion thereof were on the basis of annual letting value arrived at considering the leave and licence charges, by whatever name called, then for the purposes of the first proviso it shall be lawful to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied:

Provided also that, after the year from which such tax is levied on capital value, the tax in respect of any taxable land or building shall be revised after every five years and on each such revision, such amount of tax, shall not in any case exceed forty per cent. of the amount of the tax levied and payable in the year immediately preceding the year of the revision;"

6. Amendment Of Section 6C Of Mah. Xxvii Of 1962 :-

In section 6C of the principal Act in sub-section (2),--

(i) after the word and letter "Schedule C" the words, brackets, letters and figure "or in sub-clause (ii) of clause (a) of section 6B" shall be inserted;

(ii) after the words "annual letting value", at both the places where they occur, the words "or as the case may be, the capital value" shall be inserted.

7. Amendment Of Section 6D Of Mah. Xxvii Of 1962 :-

In section 6D of the principal Act, after the words "annual letting value" the words "or as the case may be, the capital value" shall be inserted.

8. Amendment Of Section 10 Of Mah. Xxvii Of 1962 :-

In section 10 of the principal Act, in sub-section (1), for the words "as penalty a sum not exceeding one tenth of the amount of the tax so unpaid" the words "as penalty a sum not exceeding two per cent. per month of the amount of the tax so unpaid" shall be substituted.

9. Amendment Of Section 12 Of Mah. Xxvii Of 1962 :-

In section 12 of the principal Act, for the portion beginning with the words "the tax is due, such portion thereof" and ending with the words "annual letting value thereof" the following shall be substituted, namely:--

"the tax is due,--

(i) such portion thereof as bears to the total amount of the tax based on the annual letting value due, the same ratio which the rent annually payable by such occupier bears to the aggregate amount of the annual letting value thereof; or

(ii) such portion thereof as bears to the total amount of the tax based on the capital value due, the same ratio which the capital value of such portion of the land or building of the occupier bears to the aggregate amount of the tax based on the capital value, in respect of the said land or building."

10. Amendment Of Section 13 Of Mah. Xxvii Of 1962 :-

In section 13 of the principal Act, in sub-section (2), after the words "such tenement is let" the words "or to the amount of capital value of such tenement occupied by him" shall be inserted.

11. Removal Of Doubt :-

For the removal of doubt it is hereby declared that all proceedings in connection with any assessment, re-assessment, levy (including levy of penalty) and collection of any tax levied on the basis of annual letting value relating to any period whatsoever, immediately before the 1st April 2010 in case of municipal area of Brihan Mumbai Municipal Corporation constituted under the Mumbai

Municipal Corporation Act,(III of 1888) and in case of other municipality immediately before the date on which the capital value of lands or buildings as basis of levy of property tax is adopted by such municipality shall, notwithstanding anything contained in this Act, but save as otherwise expressly provided therein, be continued and dealt with under the principal Act as if this Act has not been enacted.

12. Power To Remove Difficulty :-

(1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act or by reason of anything contained therein or in giving effect to the provisions of the principal Act in respect of the matters contained in this Act, the State Government may, as occasion arises, by order published in the Official Gazette, do anything, not inconsistent with the provisions of the principal Act, as amended by this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty:

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order under sub-section (1) shall be laid, as soon as may be, after it is issued, before each House of the State Legislature.

13. Repeal Of Mah. Ord. Xi Of 2012 And Saving :-

(1) The Maharashtra Education and Employment Guarantee (Cess) (Amendment) Ordinance, 2012 (Mah Ord. XI 2012), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification, order or bill issued) under the principal Act, 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 principal Act, as amended by this Act.