

Maharashtra Municipal Corporations And Municipal Councils (Amendment) Act, 2011

11 of 2011

[18 April 2011]

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Maharashtra Municipal Corporations And Municipal Councils (Amendment) Act, 2011

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PREAMBLE

An Act further to amend the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 and the Maharashtra Municipal Councils, Nagar Panchayats and industrial Townships Act, 1965.

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 Mumbai Municipal Corporation Act (Bom. III of 1888), the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), the City of Nagpur Corporation Act, 1948 (C.P. and Berar II of 1950) and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965), for the purposes hereinafter appearing; and, therefore, promulgated the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2011 (Mah. Ord. X of 2011), on the 10th March 2011;

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

CHAPTER 1 PRELIMINARY

1. Short Title And Commencement :-

(1) This Act may be called the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 2011.

(2) It shall be deemed to have come into force on the 10th March 2011.

CHAPTER 2 AMENDMENTS TO THE MUMBAI MUNICIPAL CORPORATION ACT

2. Amendment of section 128 of Bom. III of 1888 :-

In section 128 of the Mumbai Municipal Corporation Act,

(hereinafter, in this Chapter, referred to as "the Mumbai Corporation Act(Bom. III of 1888)"), for sub-section (3), the following sub-section shall be substituted, namely:--

"(3) Notwithstanding anything contained in sub-sections (1) and (2), the Corporation may, at any time during the official years 2010-2011 and 2011-2012, determine, separately for each of the said two years, the rates of property taxes for different categories of users of a building or land or part thereof. The rates of property taxes so determined shall be effective and shall be deemed to have been effective from the 1st of April of those two years and the taxes for the said two years shall be leviable and payable at the rates so determined."

3. Amendment of section 140A of Bom. III of 1888 :-

In section 140A of the Mumbai Corporation Act,--

(1) in sub-section (1),--

(a) after the first proviso, the following proviso shall be inserted, namely:--

"Provided further that, where the property 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 leave and licence charges, by whatever name called, then for the purposes of the first proviso it shall be lawful for the Commissioner to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied and had been so entered in the assessment book;"

(b) in the second proviso, for the word "further" the word "also" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely:--

"(2) Notwithstanding anything contained in sub-section (4) of section 139A or any other provisions of this Act or Resolution, if any, passed by the Corporation for adopting the levy of property tax on the basis of capital value but subject to the provisions of section 154A, buildings and lands in respect of which the process of fixing capital value is in progress on the 26th August 2010, being the date of coming into force of section 3 of the Maharashtra Municipal Corporations and Municipal Councils (Third Amendment) Act, 2010(Mah. XXVII of 2010), until it is so fixed; the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in

the preceding year, that is to say, for the year commencing on the first day of April 2009 and ending on the thirty-first day of March 2010 and such provisional tax shall be leviable and payable for each of the years 2010-2011 and 2011-2012 according to the provisional bills which may be issued separately for each such year; so, however, that on fixation of capital value of the respective buildings and lands, final bill of assessment of property taxes on the basis of capital value may then be issued for each such year as aforesaid. After such final assessment, if it is found that the assessee has paid excess amount, such excess shall, notwithstanding anything contained in section 179, be refunded within three months from the date of issuing the final bill, alongwith interest from such date as provided in the first proviso to subsection (5) of section 217, or after obtaining the consent of the assessee, shall be adjusted towards payment of property tax due, if any, for the subsequent years; and if the amount of taxes on final assessment is more than the amount of tax already paid by the assessee, the difference shall be recovered from the assessee."

4. Substitution of section 154A of Bom. III of 1888 :-

For section 154A of the Mumbai Corporation Act, the following section shall be substituted, namely:--

"154A. Provisional fixation of capital value in certain cases.--

Notwithstanding anything contained in section 154, the rateable value of any building or land or part thereof, for the official year 2009-2010, shall be the provisional capital value of such buildings or lands in respect of the official years 2010-2011 and 2011-2012, and such provisional capital value shall be deemed to be the capital value validly and legally fixed under the provisions of this Act, pending fixing the capital value thereof; and it shall be lawful for the Commissioner to treat it as such for the purposes of assessment book kept under the provisions of this Act, and the bill for property taxes issued under subsection (2) of section 140A shall be deemed to have been validly and legally issued under the provisions of this Act."

5. Substitution of section 172 of Bom. III of 1888 :-

For section 172 of the Mumbai Corporation Act, the following section shall be substituted, namely:--

"172. Rules for water taxes and charges and sewerage taxes and charges and amendment thereof.--

(1) The provisions of sections 140A and 154A, as amended by the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 2011(Mah. XI of 2011), shall, mutatis mutandis apply, for the purposes of levy of water taxes and charges and sewerage taxes and charges for the years 2010-2011 and 2011-2012.

(2) The Standing Committee may, from time to time, add to, amend or rescind any rules made or deemed to be made by it under sections 169 and 170 (both inclusive), but any such revision of the rules shall, subject to the provisions of sub-section (1), come into force on the date appointed by the Committee for this purpose so however that such date shall not be earlier than the 1st April of the official year during which the decision to make such revision is taken by the Standing Committee:

Provided that, the rules fixing the rates for the official years 2010-2011 and 2011-2012 shall be effective from the first day of each respective official year."

6. Insertion of section 216B in Bom. III of 1888 :-

After section 216A of the Mumbai Corporation Act, the following section shall be inserted, namely:-

"216B. Power to assess in case of escape from assessment.--

Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this Chapter has escaped assessment in any year, the Commissioner may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates."

7. Amendment of section 219A of Bom. III of 1888 :-

In section 219A of the Mumbai Corporation Act, after the figures "2010", the following shall be inserted, namely:--

"or, as the case may be, by the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 2011(Mah. XI of 2011),".

CHAPTER 3 AMENDMENTS TO THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS ACT, 1949

8. Amendment of section 129 of Bom. LIX of 1949 :-

In section 129 of the Bombay Provincial Municipal Corporations Act, 1949(Bom. LIX of 1949) (hereinafter, in this Chapter, referred to as "the Provincial Corporations Act"), in sub-section (2),--

(a) after the first proviso, the following proviso shall be inserted, namely:--

" Provided further that, where the property 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 leave and licence charges, by whatever name called, then for the purposes of the first proviso, it shall be lawful for the Commissioner to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied and had been so entered in the assessment book;"

(b) in the second proviso, for the word "further" the word "also" shall be substituted.

9. Insertion of section 129-2A in Bom. LIX of 1949 :-

After section 129-1A of the Provincial Corporations Act, the following section shall be inserted, namely:--

"129-2A. Transitory provisions in respect of property taxes on capital value.--

(1) Where a Corporation passes a resolution to adopt levy of property taxes on buildings and lands in the City, on the basis of capital value of buildings and lands, notwithstanding anything contained in any other provisions of this Act, the following provisions shall apply in the official year in which such tax is levied on the basis of capital value of buildings and lands, namely:--

(i) until the capital value of the buildings and lands in the City are fixed, the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year and it shall be lawful for the Corporation to issue a provisional bill for the tax accordingly;

(ii) on fixation of the capital value of the buildings and lands, the Corporation shall issue a final bill of assessment of property taxes;

(iii) after such final assessment, if it is found that the assessee has paid excess amount, such excess shall be refunded within three months from the date of issuing the final bill, alongwith interest from the date of final bill, or after obtaining the consent of the assessee, shall be adjusted towards payment of property taxes

due, if any, for the subsequent years; and if the amount of tax on final assessment is more than the amount of tax already paid by the assessee, the difference shall be recovered from the assessee.

(2) The provisions of this section shall cease to operate after expiry of the official year in which the Corporation has decided to levy property tax on the basis of capital value of buildings and lands."

10. Insertion of section 150A in Bom. LIX of 1949 :-

After section 150 of the Provincial Corporations Act, the following section shall be inserted, namely:--

"150A. Power to assess in case of escape from assessment.--

Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this Act has escaped assessment in any year, the Commissioner may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates."

CHAPTER 4 AMENDMENTS TO THE CITY OF NAGPUR CORPORATION ACT, 1948.

11. Amendment of section 115A of C.P. and Berar II of 1950 :-

In section 115A of the City of Nagpur Corporation Act, 1948(C.P. and Berar II of 1950) (hereinafter, in this Chapter, referred to as "the Nagpur Corporation Act"), in sub-section (2),--

(a) after the first proviso, the following proviso shall be inserted, namely:--

"Provided further that, where the property taxes levied in respect of any residential or non-residential building or portion thereof were on the basis of annual value arrived at considering leave and licence charges, by whatever name called, then for the purposes of the first proviso, the property taxes leviable during such immediately preceding year shall be ascertained on the basis of the tax which could be leviable and payable as if the building or portion thereof were self-occupied and had been so entered in the assessment book:";

(b) in the second proviso, for the word "further" the word "also" shall be substituted.

12. Insertion of section 115AAA in C.P. and Berar II of 1950 :-

After section 115AA of the Nagpur Corporation Act, the following section shall be inserted, namely:--

"115AAA. Transitory provisions in respect of property tax on capital value.--

(1) Where the Corporation passes a resolution to adopt levy of property taxes on buildings and lands in the City, on the basis of capital value of buildings and lands, notwithstanding anything contained in any other provisions of this Act, the following provisions shall apply in the official year in which such tax on the basis of capital value of buildings and lands is levied, namely:--

(i) until the capital value of the buildings and lands in the City are fixed, the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year and it shall be lawful for the Corporation to issue a provisional bill for the tax accordingly;

(ii) on fixation of the capital value of the buildings and lands, the Corporation shall issue a final bill of assessment of property taxes;

(iii) after such final assessment, if it is found that the assessee has paid excess amount, such excess shall be refunded within three months from the date of issuing the final bill, alongwith interest from the date of final bill, or after obtaining the consent of the assessee, shall be adjusted towards payment of property taxes, due, if any, for the subsequent years; and if the amount of tax on final assessment is more than the amount of tax already paid by the assessee, the difference shall be recovered from the assessee.

(2) The provisions of this section shall cease to operate after expiry of the official year in which the Corporation has decided to levy property tax on the basis of capital value of buildings and lands."

13. Insertion of section 155B in C.P. and Berar II of 1950 :-

After section 155A of the Nagpur Corporation Act, the following section shall be inserted, namely:--

"155B. Power to assess in case of escape from assessment.--

Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this Act has escaped

assessment in any year, the Commissioner may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates."

CHAPTER 5 AMENDMENTS TO THE MAHARASHTRA MUNICIPAL COUNCILS, NAGAR PANCHAYATS AND INDUSTRIAL TOWNSHIPS ACT, 1965

14. Amendment of section 105 of Mah. XL of 1965 :-

In section 105 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (Mah. XL of 1965) (hereinafter, in this Chapter, referred to as "the Municipal Councils Act"), in sub-section (4),--

(a) after the first proviso, the following proviso shall be inserted, namely:--

"Provided further that, where the property 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 leave and licence charges, by whatever name called, then for the purposes of the first proviso, it shall be lawful for the Chief Officer to ascertain such tax leviable during such immediately preceding year, as if such building or portion thereof were self-occupied and had been so entered in the assessment book:";

(b) in the second proviso, for the word "further" the word "also" shall be substituted.

15. Insertion of section 106B in Mah. XL of 1965 :-

After section 106A of the Municipal Councils Act, the following section shall be inserted, namely:--

" 106B. Transitory provisions in respect of property tax on capital value.--

(1) Where a Council passes a resolution to adopt levy of property taxes on buildings and lands in the municipal area, on the basis of capital value of buildings and lands, notwithstanding anything contained in any other provisions of this Act, the following provisions shall apply in the official year in which such tax on the basis of capital value of buildings and lands is levied, namely:--

(i) until the capital value of the buildings and lands in the municipal area are fixed, the tax leviable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax leviable and payable in the preceding year and it shall be lawful for the Council to issue a provisional bill for tax accordingly;

(ii) on fixation of the capital value of the buildings and lands, the Council shall issue a final bill of assessment of property taxes;

(iii) after such final assessment, if it is found that the assessee has paid excess amount, such excess shall be refunded within three months from the date of issuing the final bill, alongwith interest from the date of final bill, or after obtaining the consent of the assessee, shall be adjusted towards payment of property taxes due, if any, for the subsequent years; and if the amount of tax on final assessment is more than the amount of tax already paid by the assessee, the difference shall be recovered from the assessee.

(2) The provisions of this section shall cease to operate after expiry of the official year in which the Council has decided to levy property tax on the basis of capital value of buildings and lands."

16. Insertion of section 150C in Mah. XL of 1965 :-

After section 150B of the Municipal Councils Act, the following section shall be inserted, namely:--

"150C. Power to assess in case of escape from assessment.--

Notwithstanding anything to the contrary contained in this Act or the rules made thereunder, if for any reason any person liable to pay any of the taxes or fees leviable under this Chapter has escaped assessment in any year, the Chief Officer may, at any time within six years from the date on which such person should have been assessed, serve on such person a notice assessing him to the tax or fee due and demanding payment thereon within 15 days from the date of such service; and the provisions of this Act and the rules made thereunder shall, so far as may be, apply as if assessment was made in the year to which the tax or fee relates."

CHAPTER 6 MISCELLANEOUS

17. Repeal of Mah. Ord. X of 2011 and saving :-

(1) The Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2011(Mah. Ord. X of 2011), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken

(including any notification or order issued) under the corresponding provisions of the Mumbai Municipal Corporation Act(Bom. III of 1888), the Bombay Provincial Municipal Corporations Act, 1949(Bom. LIX of 1949), the City of Nagpur Corporation Act, 1948(C.P. and Berar II of 1950) and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965(Mah. XL of 1965), 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 relevant Act, as amended by this Act.