

Maharashtra Municipal Corporations And Municipal Councils (Third Amendment) Act, 2010

27 of 2010

[18 December 2010]

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Maharashtra Municipal Corporations And Municipal Councils (Third Amendment) Act, 2010

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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, 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, for the purposes hereinafter appearing; and therefore, promulgated the Bombay Provincial Municipal Corporations (Amendment) Ordinance, 2010, on the 2nd August, 2010 and the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010, on the 26th August, 2010 ;

AND WHEREAS it is expedient to replace the said Ordinances by a consolidated Act of the State Legislature; it is hereby enacted in the Sixty-first 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 (Third Amendment) Act, 2010.

(2) (i) Sections 1, 10 and 12 of this Act shall be deemed to have come into force on the 2nd August, 2010.

(ii) Sections 2 to 9, 11 and 13 to 19 of this Act shall be deemed to have come into force on the 26th August, 2010.

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"),-

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

(a) for the words "official year; and" the words "official year:" shall be substituted;

(b) the following proviso shall be added, namely :-

"Provided that, the Corporation may determine different rates of property taxes for different categories of users of a building or land or part thereof; and";

(2) after sub-section (2), the following sub-section shall be added, namely:-

"(3) Notwithstanding anything contained in sub-sections (1) and (2), the Corporation may at any time, after the 26th August, 2010, being the date of the commencement of section 2 of the Maharashtra Municipal Corporations and Municipal Councils (Third Amendment) Act, 2010, but before the expiry of the official year 2010-2011 (hereinafter, in this Act, referred, to as "the year 2010-2011")- determine different rates of property taxes for different categories of users of a building or land or part thereof, which may be lived in the year 2010-2011. The rates of property taxes so determined shall be effective and shall be deemed to have been effective from the 1st April, 2010 and the tax during the year 2010-2011 shall be livable and payable at those rates."

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

Section 140A of the Mumbai Corporation Act shall be re-numbered as sub-section (1) thereof; and after sub-section (1), as so re-numbered, the following sub-sections shall be added, 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 buildings and lands 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, but before fixing the capital value thereof, the tax livable and payable in respect of such buildings and lands shall provisionally be equal to the amount of tax livable and payable in the preceding year, that is to say, for the year ending on the thirty-first day of March, 2010; and on fixation of capital value of such buildings and lands during the year 2010-2011, a final bill based on the final assessment shall be issued for the total tax livable and payable during the year 2010-2011. After such final assessment, if it is found that the assessed has paid excess amount, such excess amount shall, notwithstanding anything contained in section 179, be refunded within three months from the date of issuing the final bill, along with interest from such date as provided in the first proviso to sub-section (5) of section 217, or after obtaining the consent of the assessed shall be adjusted towards payment of property tax due, if any, or for the subsequent year; and if the amount of tax on final assessment is more than the amount of tax already paid by the assessed the difference shall be recovered from the assessed.

(3) Notwithstanding anything contained in section 163 or 217 or any other provisions of this Act and having regard to the fact that the property tax bill has been issued in accordance with the provisions of sub-section (2), not being a final bill, such bill shall not be questioned before any forum; and no complaint or appeal shall lie against such bill merely on the ground that capital value in respect of the property which is the subject-matter of the bill is not yet fixed, or that the amount of tax livable and payable at the rate of the property tax determined by the Corporation is not yet finally ascertained, or on any other ground whatever."

4. Amendment of section 144A of Bom. III of 1888 :-

To section 144A of the Mumbai Corporation Act, the following Explanation shall be added, namely:-

"Explanation.- For the purposes of this section, "ecologically beneficial scheme" includes rain water harvesting system, vermin composting, use of solar energy and other non-conventional sources of energy, recycling and re-use of waste water, or any scheme for promoting environment friendly and ecologically beneficial building construction or the like as the Corporation or the State Government may identify."

5. Amendment of section 154 of Bom. III of 1888 :-

In section 154 of the Mumbai Corporation Act,-

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

(a) after the words and figures "the Bombay Stamp Act, 1958" the words "as base value," shall be inserted ;

(b) for the words "taking into consideration the market value of such building or land, as a base value; and also have regard to the following factors namely :-" the words "taking into consideration the market value of such building or land, as a base value. The Commissioner, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely :-" shall be substituted;

(2) in sub-section (1B), for the words "assigned to various such categories" the words "assigned to various such factors and categories" shall be substituted.

6. Insertion of section 154A in Bom. III of 1888 :-

After section 154 of the Mumbai Corporation Act, the following section shall be inserted, namely :-

"154A. Provisional fixation of capital value in certain cases. - Notwithstanding anything contained in section 154, where in respect of any building or land or part thereof, the process of fixing capital value for the year 2010-2011 is in progress on the 26th August, 2010, being the date of coming into force of section 6 of the Maharashtra Municipal Corporations and Municipal Councils (Third Amendment) Act, 2010, the rateable value of such building or land or any part thereof during the year preceding the year 2010-2011 shall be the provisional capital value and shall be deemed to be the capital value validly and legally fixed under the provisions of this Act, pending fixing the final 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 of property tax issued under sub-section (2) of section 140A shall be deemed to have been validly and legally issued under the provisions of this Act."

7. Amendment of section 156 of Bom. III of 1888 :-

In section 156 of the Mumbai Corporation Act, for the words "prescribe by rules" the word "determine" shall be substituted.

8. Amendment of section 168 of Bom. III of 1888 :-

In section 168 of the Mumbai Corporation Act, in sub-section (3) for the words "four years" the words "five years" shall be substituted.

9. Insertion of section 219A in Bom. III of 1888 :-

After section 219 of the Mumbai Corporation Act, the following section shall be inserted, namely :-

"219A. Certain provisions to have overriding effect. -

The provisions of sections 128, 140A, 154A, 156 and 168, as amended by the Maharashtra Municipal Corporations and Municipal Councils (Third Amendment.) Act, 2010, shall have effect notwithstanding anything inconsistent therewith contained in Chapter VIII or in any other provisions of this Act, or in any judgment, decree or order of any Court."

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

10. Insertion of section 99D in Bom. LIX of 1949 :-

After section 99C of the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter, in this Chapter, referred to as "the Provincial Corporations Act"), the following section shall be inserted, namely :-

"99D. Power of State Government to revise rates of Local Body Tax.-

(1) Notwithstanding anything contained in section 99B or 99C, the State Government may at any time, by notification in the Official Gazette and for reasons to be specified in such notification, revise the rates and extent of the Local Body Tax determined under section 99B, or, as the case may be, under section 99C.

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

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

In section 129 of the Provincial Corporations Act, -

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

"Provided further that, the Corporation may determine different rates of property tax for different categories of user of a building or land or a part thereof:";

(2) in the second proviso, for the words "Provided that" the words "Provided also that" shall be substituted.

12. Amendment of section 406 of Bom. LIX of 1949 :-

In section 406 of the Provincial Corporations Act,-

(i) in sub-section (6), -

(a) for the words, figures and letter "the demand notice in respect of levy of cess under Chapter XIA" the words, figures and letters "the demand notice in respect of levy of cess under Chapter XIA or the Local Body Tax under Chapter XIB" shall be substituted ;

(b) in clause (i), after the words "by the Cess Officer" the words "or any other officer, not being the Deputy Commissioner" shall be inserted;

(ii) after sub-section (7), the following sub-section shall be added, namely:-

"(8) No appeal under sub-section (6) shall be entertained by the Deputy Commissioner or, as the case may be, the Commissioner unless the amount of the disputed tax claimed from the appellant has been deposited by the appellant with the Commissioner."

13. Amendment of Schedule D to Bom. LIX of 1949 :-

In Schedule D of the Provincial Corporations Act, in Chapter VIII, -

(A) in Rule 7A -

(1) in sub-rule (1), -

(a) after the words and figures "the Bombay Stamp Act, 1958" the words "as a base value," shall be inserted ;

(b) for the words "taking into consideration the market value of such building or land, as a base value, and also have regard to the following factors, namely :-" the words "taking into consideration the market value of such building or land, as a base value. The Commissioner, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely:-"

shall be substituted ;

(2) in sub-rule (2), for the words "assigned to various such categories" the words "assigned to various such factors and categories" shall be substituted;

(B) in Rule 21, in sub-rule (2), for the words "four years" the words "five years" shall be substituted.

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

In section 115A of the City of Nagpur Corporation Act, 1948 (hereinafter, in this Chapter, referred to as "the Nagpur Corporation Act") to sub-section (1), the following proviso shall be added, namely:-

"Provided that, the Corporation may determine different rates of property tax for different categories of users of a building or land or a part thereof."

15. Amendment of section 119 of C. P. and Berar II of 1950 :-

In section 119 of the Nagpur Corporation Act, in clause (B),-

(1) in sub-clause (a),-

(a) after the words and figures "the Bombay Stamp Act, 1958" the words "as a base value," shall be inserted ;

(b) for the words "taking into consideration the market value of such building or land, as a base value ; and also have regard to the following factors, namely :-

" the words "taking into consideration the market value of such building or land, as a base value. The Commissioner, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely :-

" shall be substituted;

(2) in sub-clause (b), for the words "assigned to various such categories" the words "assigned to various such factors and categories" shall be substituted.

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

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

In section 105 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (hereinafter, in this Chapter, referred to as "the Municipal Councils Act"), to sub-section (1), after the second proviso, the following proviso shall be added, namely:-

"Provided also that, the Council may determine different rates of tax for different categories of users of a building or land or a part

thereof".

17. Amendment of section 114 of Mah. XL of 1965 :-

In section 114 of the Municipal Councils Act, in sub-section (3), -
(1) in clause (a),-

(a) after the words and figures "the Bombay Stamp Act, 1958" the words "as a base value," shall be inserted;

(b) for the words "taking into consideration the market value of such building or land, as a base value ; and also have regard to the following factors, namely:-

" the words "taking into consideration the market value of such building or land, as a base value. The Chief Officer, while fixing the capital value as aforesaid, shall also have regard to the following factors, namely:-

" shall be substituted.

(2) in sub-clause (b), for the words "assigned to various such categories" the words "assigned to various such factors and categories" shall be substituted.

18. Amendment of section 124 of Mah. XL of 1965 :-

In section 124 of the Municipal Councils Act, in sub-section (2), for the words "four years" the words "five years" shall be substituted.

CHAPTER 6 MISCELLANEOUS

19. Power To Remove Difficulty :-

(1) If any difficulty arises in giving effect to the provisions of the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 or, as the case may be, the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, in respect of the matters contained in this Act, the State Government may, as the occasion arises, by order published in the Official Gazette, do anything not inconsistent with the provisions of the Mumbai Municipal Corporation Act, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 or, as the case may be, the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 as amended by this Act, which appears to it to be necessary 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 the respective section of this Act.

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

20. Repeal of Mah. Ord. IX of 2010 and Mah. Ord. X of 2010 and saving :-

(1) The Bombay Provincial Municipal Corporations (Amendment) Ordinance, 2010 and the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Ordinance, 2010, are 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, the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur Corporation Act, 1948 or, as the case may be, the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965, as amended by the said Ordinances, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the relevant Acts, as amended by this Act.