

Maharashtra Tax Laws (Levy, Amendment And Validation) Act, 2004

13 of 2004

[29 June 2004]

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60. Validation And Savings

Maharashtra Tax Laws (Levy, Amendment And Validation) Act, 2004

13 of 2004

[29 June 2004]

An Act further to amend certain tax laws in operation in the State of Maharashtra. WHEREAS it is expedient further to amend certain tax laws in operation in the State of Maharashtra, for the purposes hereinafter appearing ; it is hereby enacted in the Fifty-fifth Year of the Republic of India as follows:-

CHAPTER 1

Preliminary

1. Short Title And Commencement :-

(1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2004.

(2) (a) Sections 1 and 25 shall come into force on the date of publication of this Act in the Official Gazette ;

(b) the remaining sections shall come into force with effect from the 1st July 2004.

CHAPTER 2

Amendments to the Bombay Stamp Act, 1958

2. Amendment Of Section 2 Of Bom. Lx Of 1958 :-

In section 2 of the Bombay Stamp Act, 1958 (Bom. LX of 1958) (hereinafter, in this Chapter, referred to as " the Stamp Act"), after clause (g), the following clause shall be inserted, namely ;-

" (ga) " Deputy Inspector General of Registration and Deputy

Controller of Stamps " means the officer or officers appointed by State Government, by notification issued under clause (f) and on whom any or all of the powers of the Collector under this Act are conferred;"

3. Amendment Of Section 4 Of Bom. Lx Of 1958 :-

In section 4 of the Stamp Act, in sub-section (1), for the words " twenty rupees " the words " one hundred rupees " shall be substituted.

4. Amendment Of Section 32A Of Bom. Lx Of 1958 :-

In section 32A of the Stamp Act, for sub-section (2), the following sub-section shall be substituted, namely :-

" (2) Any registering officer receiving such instrument for registration has reason to believe, on the basis of the information available with him in this behalf, that the market value of immovable property which is the subject matter of such instrument has not been truly set forth therein, he shall, immediately after receiving of such instrument, refer it to the Collector for determination of the true market value of such property :

Provided that, in respect of the instrument presented for registration before the date of commencement of the Maharashtra Tax Laws (Levy, Second Amendment and Validation) Act, 1996(Mah. IX of 1997) where, in the opinion of the registering officer, the true market value of the immovable property, which is the subject matter of the said instrument, has not been determined by the Collector of the District, it shall be lawful for the registering officer to verify the true market value of such property as per the annual statement of rates of immovable property determined under the Bombay Stamp (Determination of True Market Value of Property) Rules, 1995 and issue notice to the person, who is liable to pay stamp duty under section 30 calling upon such person to pay the deficit amount of stamp duty and penalty at the rate of 2 per cent. of the deficient portion of the stamp duty, for every month or part thereof from the date of execution of such instrument:

Provided further that, on the receipt of such notice, if the person liable to pay deficit amount of stamp duty and the penalty, pays within one month from the date of receipt of such notice, the deficient amount of stamp duty and also pays the fixed penalty of rupees two hundred fifty, he shall not be liable to make payment of

penalty at the rate of 2 per cent., as provided in the first proviso ; and the reference already made to the Collector of the District shall abate :

Provided also that, in no case, the amount of the penalty to be charged under the proviso shall exceed double the deficit portion of the stamp duty."

5. Substitution Of Section 52A Of Bom Lx Of 1958 :-

For Section 52A of the Stamp Act, the following section shall be substituted, namely :-

" 52A Allowance for duty.- (1) Notwithstanding anything contained in sections 47, 50, 51 and 52, when payment of duty is made by stamps or in cash as provided for under sub-section (3) of section 10, and when the amount of duty paid,-

(i) in the Mumbai City District and Mumbai Suburban District exceeds rupees ten lakh ; and

(ii) in any other District exceeds rupees one lakh,-

the concerned Collector shall not make allowance on such application for the stamps, or the cash amount paid under the Challans, which are spoilt or misused or used incorrectly or not required for use, but shall, after making necessary enquiries, forward such application, with his remarks thereon,-

(a) in case of the application falling in clause (i) through the concerned Deputy Inspector General of Registration and Deputy Controllor of Stamps of his division, to the Chief Controlling Revenue Authority; and

(b) in case of the applications falling in clause (ii) to the concerned Deputy Inspector General of Registration and Deputy Controller of Stamp of his division.

(2) The concerned Deputy Inspector General of Registration and Deputy Controllor of Stamps shall, on receiving such applications,-

(i) in case of the first category of the applications forward the same with his remarks, if any, to the Chief Controlling Revenue Authority for decision ; and

(ii) in case of the second category of applications consider the same and decide whether such allowance shall be given or not and accordingly shall, grant the same, if the amount of allowance does not exceed rupees ten lakh :

Provided that, if on consideration of the application, the amount exceeds rupees ten lakh, the concerned Deputy Inspector General of Registration and Deputy Controllor of Stamps shall submit such

application, also with his remarks thereon, to the Chief Controlling Revenue Authority."

6. Amendment To Schedule I Of Bom. Lx Of 1958 :-

In Schedule I appended to the Stamp Act,-

(1) in article 1, in clause (1), in sub-clause (d), in column (2), for the words " fifty rupees " the words " one hundred rupees " shall be substituted ;

(2) in article 2, in sub-clause (b), in column (2), for the words " Fifty rupees" the words " One hundred rupees" shall be substituted;

(3) in article 4, in column (2), for the words " Twenty rupees " the words " One hundred rupees " shall be substituted ;

(4) in article 5, in clause (h), in column (2), for the words " Twenty rupees" the words " One hundred rupees " shall be substituted;

(5) in article 6,-

(a) in clause (1), in column (2), for the words, brackets and figures " The Same duty as is leviable on a mortgage deed under clause (b) of Article 40 ", the following shall be substituted, namely,-

" Five rupees for every five hundred or part thereof for the amount secured by such deed subject to the minimum of one hundred rupees and the maximum of five lakh rupees." ;

(b) in clause (2), in column (2), for the words, brackets and figures " The same duty as is leviable on a mortgage deed under clause (b) of Article 40 ", the following shall be substituted, namely,-

"Five rupees for every five hundred or part thereof for the amount secured by such deed subject to the minimum of one hundred rupees and the maximum of five lakh rupees." ;

(6) in article 8, in column (2), for the words " fifty rupees " the words " One hundred rupees " shall be substituted ;

(7) in article 9, in column (2), for the words " Fifty rupees " the words " One hundred rupees " shall be substituted;

(8) in article 13, in column (2), for the words "Five rupees. " the words " Five rupees, subject to a minimum of rupees one hundred. " shall be substituted;

(9) in article 18, in column (2), for the words " Twenty rupees " the words "One hundred rupees " shall be substituted ;

(10) in article 25,-

(I) in clause (b),-

(i) in sub-clause (i), in column (2), for the words " Thirty-five rupees " the words " Twenty-five rupees " shall be substituted ;

(ii) in sub-clause (iv), in column (2), for the words "Thirty rupees "

the words " Twenty-five rupees " shall be substituted ;

(iii) in sub-clause (iv-a),-

(a) against entry (i), in column (2), for the words " Forty-five rupees " the words "Twenty-five rupees " shall be substituted ;

(b) against entry (ii), in column (2), for the words "Forty-five rupees " the words " Twenty-five rupees " shall be substituted ;

(iv) in sub-clause (v), in column (2), for the words " Forty rupees " the words " Twenty-five rupees " shall be substituted ;

(vi) in sub-clause (vi), in column (2), for the words "Fifty rupees " the words " Twenty-five rupees " shall be substituted ;

(II) in clause (d), in sub-clause (1), in entry (D), for sub-entries (iv) and (v), the following sub-entry shall be substituted, namely :-

" (iv) exceeds rupees 5,00,000 8,750 rupees plus 5 per cent. of the value above rupees 5,00,000.";

(III) in clause (da), in column (2),-

(i) in the first proviso, in paragraph (i), for the figure and words " 7 per cent." the figure and words " 5 per cent." shall be substituted;

(ii) in the second proviso, in paragraph (i), for the figure and words " 7 per centum." the figure and words " 5 per cent." shall be substituted;

(11) in article 31, in column (2), for the words " Fifty rupees " the words " One hundred rupees " shall be substituted ;

(12) in article 36A, for clause (a), the following clause shall be substituted, namely:-

"(a) Where the leave and licence agreement purports to be for a term not exceeding thirty three months with or without the renewal clause and relates to property situated within the limits of,

(i) the District of Mumbai City and Mumbai Suburban District;

(A) Where the amount of average annual rent plus the amount of security deposit, or money advanced or to be advanced does not exceed rupees two lakh fifty thousand for a single term of eleven months ; Seven hundred fifty rupees for every term of eleven months or part thereof;

(B) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced exceeds rupees two lakh fifty thousand but does not exceed rupees five lakh for a single term of eleven months ; One thousand five hundred rupees for every term of eleven months or part thereof;

(C) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced exceeds rupees five lakh for a single term of eleven months ; Three thousand rupees for every term of eleven months or part thereof;

(ii) the Municipal Corporation of the cities Thane, Pune, Nagpur and Navi Mumbai, Nashik, Pimpri-Chinchwad, Kolhapur, Aurangabad, Amrawati, Solapur, Sangli and Cantonments of Pune, Kirkee, Dehu Road, Devlali and Aurangabad,-

(A) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced does not exceed rupees two lakh fifty thousand for a single term of eleven months; Five hundred rupees for every term of eleven months or part thereof;

(B) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced exceeds rupees two lakh fifty thousand but does not exceed rupees five lakh for a single term of eleven months ; One thousand rupees for every term of eleven months or part thereof;

(C) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced exceeds rupees five lakh for a single term of eleven months ; Two thousand rupees for every term of eleven months or part thereof;

(iii) in any other area excluding the area referred to in sub-clauses (i) and (ii);

(A) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced does not exceed rupees two lakh fifty thousand for a single term of eleven months ; Three hundred rupees for every term of eleven months or part thereof;

(B) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced exceeds rupees two lakh fifty thousand but does not exceeds rupees five lakh for a single term of eleven months ; Six hundred rupees for every term of eleven months or part thereof;

(C) Where the amount of average annual rent plus the amount of security deposit or money advanced or to be advanced exceeds rupees five lakh for a single term of eleven months ; One thousand two hundred rupees for every term of eleven months or part thereof." ;

(13) in article 38, in column (2), for the words " Fifty rupees " the words " One hundred rupees " shall be substituted ;

(14) in article 40, in column (1), after the words " agreement relating to" the words, brackets and figure " Deposit of Title Deeds, Pawn or Pledge or Hypothecation (Article 6)" shall be inserted ;

(15) in article 44, in column (2), for the words " Twenty rupees " the words " One hundred rupees " shall be substituted ;

(16) in article 48, in clause (h), in column (2), for the words " Five rupees for each person authorised " the words " One hundred rupees for each person authorised " shall be substituted ;

(17) in article 49, in column (2), for the words " Twenty rupees " the words " One hundred rupees " shall be substituted ;

(18) in article 50, in column (2), for the words " Twenty rupees " the words " One hundred rupees " shall be substituted ;

CHAPTER 3

Amendments to the Bombay Sales of Motor Spirit Taxation act, 1958

7. Substitution Of Section 6 Of Bom. Lxvi Of 1958 :-

For section 6 of the Bombay Sales of Motor Spirit Taxation Act, 1958(Bom. LXVI of 1958) (hereinafter, in this Chapter, referred to as " the Motor Spirit Act"), the following shall be substituted, namely :-

" 6. Assessment of tax.- (1) The amount of tax due from a trader liable to pay tax shall be assessed by the Collector separately for each year during which he is so liable on the basis of the statement:

Provided that, the Collector may, subject to such conditions as may be prescribed, and for reasons to be recorded in writing, assess the tax due from any trader during a part of a year.

(2) The Collector on being satisfied that the statements furnished by a licensed trader in respect of any period are correct and complete, he shall assess the amount of tax due from such trader on the basis of such statements.

(3) The Collector if not satisfied that the statements furnished by a licensed trader in respect of any period are correct and complete, and he thinks it necessary to require the presence of the licensee or the production of further evidence, he shall serve on him in the prescribed manner a notice requiring him, on a date and at a place specified therein, either to attend and produce or cause to be produced all evidence on which such licensee relies in support of his statements, or to produce such evidence as is specified in the notice.

On the date specified in the notice, or as soon as may be thereafter, the Collector shall, after considering all the evidence which may be produced, assess the amount of tax due from the licensee.

(4) If a licensed trader fails to comply with the terms of any notice issued under sub-section (3), the Collector shall assess, to the best

of his judgement, the amount of tax due from him.

(5) Where all the statements other than an annual statement are filed by a licensed trader for any year starting on or after the 1st April 2004 within one month from the end of the year to which such statements relate, no order of assessment under sub-section (3) or (4) in respect of that year shall be made after the expiry of three years from the end of the said year; and if for any reason such order is not made within the period aforesaid, then the statements so filed shall be deemed to have been accepted as correct and complete for assessing the tax due from such licensee.

Explanation.-If all the statements pertaining to any year ending on or before the 31st March 2004, are filed by a trader on or before the 30th September 2004, no order of assessment under sub-section (3) or (4) shall be made on or after the 1st April 2007 :

Provided that, where a fresh assessment has to be made to give effect to any finding or direction contained in any order made under this Act, or to any order of the High Court or the Supreme Court, such assessment shall be made within thirty-six months from the date of communication to the Collector of such finding, direction or, order, as the case may be :

Provided further that, in computing any period of limitation laid down in this section, the time during which the assessment remained stayed under the order of the Tribunal or of the High Court or of the Supreme Court shall stand excluded.

(6) If a licensed trader does not furnish statements in respect of any period by the prescribed dates, the Collector shall, at any time within eight years from the end of the year in which such period occurs, after giving him a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax (if any) due from him.

(7) If the Collector has reason to believe that a trader is liable to pay tax in respect of any period, but has failed to apply for licence, the Collector shall, at any time within eight years from the end of the year in which such period occurs, after giving the trader a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax (if any) due from the trader in respect of that period, and any period or periods subsequent thereto.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the Collector is not satisfied about the correctness or the completeness of the accounts of a trader, or where no method of accounting has been regularly employed by a

trader, the Collector may, after giving the trader a reasonable opportunity of being heard, assess to the best of his judgement, the amount of tax (if any) due from him."

8. Amendment Of Section 6A Of Bom. Lxvi Of 1958 :-

In section 6A of the Motor Spirit Act,-

- (a) in sub-section (1), for the words "two per cent." the words "one and a quarter per cent." shall be substituted;
- (b) in sub-section (2), for the words " two per cent. " the words " one and a quarter per cent." shall be substituted.

9. Amendment Of Section 7 Of Bom. Lxvi Of 1958 :-

For section 7 of the Motor Spirit Act, the following shall be substituted, namely :-

"7. Refund, interest on amount of refund and interest on delayed refund.- (1) Subject to the other provisions of this Act and the rules made thereunder, the Collector shall refund to a trader the amount of tax, penalty and interest (if any) paid by such trader in excess of the amount due from him. The refund may be either by cash payment or, at the option of the trader by deduction of such excess from the amount of tax, penalty and interest due in respect of any other period :

Provided that, the Collector shall first apply such excess towards the recovery of any amount due in respect of which a notice under the Act has been issued and shall then refund the balance (if any).

(2) Where any refund is due to any trader according to the statement furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the statements furnished under section 13 for any period :

Provided that, the amount of tax, penalty or interest or all of them due from and payable by, the trader on the date of such adjustment shall first be deducted from such refund before making adjustment.

(3) Where tax is levied and collected under section 5 on the sale of Motor Spirit to a wholesale trader and such motor spirit is then exported outside the State of Maharashtra, the wholesale trader shall, upon an application made in this behalf and subject to such conditions as may be prescribed, be entitled to a refund of the tax in respect of the sale to him of the Motor Spirit.

(4) Where, in pursuance of any order passed under this Act, in respect of any period of assessment commencing on or after the 1st

April 2004, refund of any tax becomes due to a trader holding valid licence, he shall, subject to the rules, if any, be entitled to receive, in addition to the refund, a simple interest at the rate of six per cent. per annum for the period commencing on the date next following the last date of the period of assessment to which such order relates and ending on the date of such order or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the trader in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any, adjusted towards any recovery under this Act. If as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

Explanation.-For the purpose of this section, where the refund of tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for filing of the last statement for the period of assessment, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

(5) (a) Where an amount required to be refunded by the Collector to any person by virtue of an order issued under this Act is not so refunded to him within ninety days from the date of the order, the State Government shall, pay such trader simple interest at the rate of six per cent. per annum on the said amount from the date immediately following the expiry of the period of ninety days from the date of such order :

Provided that, where the amount becomes refundable by virtue of an order of the Tribunal, the interest under the provisions of this section shall be payable from the date immediately following the expiry of period of ninety days from the date of receipt of the order of the Tribunal by the officer whose order forms the subject of the appeal or revision proceedings before the Tribunal, to the date of refund.

Explanation.-If the delay in granting the refund within the period of ninety days aforesaid is attributable to the trader, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(b) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Collector, whose decision shall be final."

CHAPTER 4

Amendments to the Bombay Sales Tax Act, 1959

10. Amendment Of Section 2 Of Bom. Li Of 1959 :-

In section 2 of the Bombay Sales Tax Act, 1959(Bom. LI of 1959) (hereinafter, in this Chapter, referred to as " the Bombay Sales Tax Act"),-

(a) in clause (11), in the Explanation, in para (ii), for the words " an auctioneer, who sells or auctions goods" the words " an auctioneer who sells or auctions goods whether acting as an agent or otherwise or who organizes sale of goods or conducts the auction of goods whether or not he has the authority to sell the goods " shall be substituted and shall be deemed to have been substituted with effect from the 22nd April 1988 ;

(b) in clause (12B),-

(i) after the word " SICOM " the words " or the Directorate of Industries " shall be inserted and shall be deemed to have been inserted with effect from the 26th February 2003 ; and

(ii) after the words " the Maharashtra Tourism Development Corporation " the words " or the Maharashtra Energy Development Agency " shall be inserted and shall be deemed to have been inserted with effect from the 24th August 1998.

11. Amendment Of Section 3 Of Bom. Li Of 1959 :-

In section 3 of the Bombay Sales Tax Act, in sub-section(4),-

(a) in clause (i),-

(i) in sub-clause (a), for the words, letters and figures " from outside the State during the year is not less than Rs. 10,000" the words, letters and figures " from outside the State during the year is not less than Rs. 25,000 " shall be substituted ;

(ii) in sub-clause (b), for the words, letters and figures " manufactured by him during the year is not less than Rs. 10,000 " the words, letters and figures " manufactured by him during the year is not less than Rs. 25,000 " shall be substituted ;

(b) for clause (ii), the following shall be substituted, namely:-

" (ii) Limit of Turnover Rs. 2,50,000 In case of a dealer to whom clause (i) does not apply and who holds Liquor Vendor License in Form FL-I, FL-II, FL-III or FL-IV (including temporary club licences) under the Bombay Foreign Liquor Rules, 1953 or License in Form E under the Special Permits and License Rules, 1952, or License in Form CL-II, CL-III or CL/FL/TOD/III under the Maharashtra

Country Liquor Rules, 1973.

(iii) Limit of turnover Rs. 5,00,000 In any case, including the case where a dealer has not become liable to pay tax under clause (i) or, as the case may be, clause (ii), where the value of taxable goods sold or purchased by the dealer during the year is not less than Rs. 10,000.".

12. Amendment Of Section 7 Of Bom. Li Of 1959 :-

In section 7 of the Bombay Sales Tax Act, in sub-section (1), in clauses (i), (ii) and (iii), the words, figure and letter " other than those covered by entry 6 of Schedule B " shall be deleted and shall be deemed to have been deleted with effect from the 1st May 2003.

13. Amendment Of Section 9 Of Bom. Li Of 1959 :-

In section 9 of the Bombay Sales Tax Act, in the Explanation, for the words " levied or leviable" the word " payable" shall be substituted and shall be deemed to have been substituted with effect from the 1st May 2002.

14. Amendment Of Section 13Aa Of Bom. Li Of 1959 :-

To section 13AA of the Bombay Sales Tax Act, the following proviso shall be added, namely :-

" Provided that, no purchase tax shall be levied under this section on or after coming into force of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2004(Mah. of 2004)."

15. Amendment Of Section 14 Of Bom. Li Of 1959 :-

In section 14 of the Bombay Sales Tax Act, in sub-section (1), in the second proviso, for the words, letter and figures " or as the case may be, the purchase tax paid or payable under section 13A" the words, figures and letters "or purchase tax paid or payable under section 13A or, as the case may be, under section 13AA" shall be substituted and shall be deemed to have been substituted with effect from the 1st October 1995.

16. Amendment Of Section 15 Of Bom. Li Of 1959 :-

In section 15 of the Bombay Sales Tax Act, in sub-section (2), after the word and figure " section 3 " the words, brackets, letter and

figures " or as provided in clause (a) of sub-section (8) of section 22 " shall be inserted.

17. Re-Enactment Of Section 15-1A Of Bom. Li Of 1959 :-

Section 15-1A of the Bombay Sales Tax Act shall and shall be deemed to have been duly and validly re-enacted for the period commencing on the 31st March 1999 and ending on the 31st March 2001 with the following modification, namely :-

In sub-section (1) of the said section 15-1A, after the words " has exceeded one lakh rupees in any year " the words, figures and letters " commencing from the 1st April 1999," shall be inserted and shall be deemed to have been inserted.

18. Amendment Of Section 16 Of Bom. Li Of 1959 :-

In section 16 of the Bombay Sales Tax Act, after sub-section (2), the following shall be added and shall be deemed to have been added with effect from the 22nd April 1988, namely:-

" (3) Where there is a sale by auction, the auctioneer and the principal shall both be jointly and severally liable to pay the tax or taxes on the turnover of such sale irrespective of whether the principal or the auctioneer is a dealer.

(4) On the principal satisfying the Commissioner that tax has been paid by the auctioneer on such sale, the principal shall not be liable to pay the tax in respect of such sale."

19. Amendment Of Section 21 Of Bom. Li Of 1959 :-

In section 21 of the Bombay Sales Tax Act,-

(a) in sub-section (2), after the word "thereof" the words on the basis of his seniority in the judicial service" shall be added ;

(b) for sub-section (3), the following shall be substituted, namely :-

" (3) The qualifications and the term of office of the members of the Tribunal shall be as may be prescribed, and a member shall hold office for such period as prescribed or as the State Government may, by special order in his case, specify."

20. Amendment Of Section 22 Of Bom. Li Of 1959 :-

In section 22 of the Bombay Sales Tax Act,-

(a) in sub-section (3), after the words "for registration is in order," the words " and the conditions prescribed, if any, are fulfilled," shall be inserted;

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

" (8) Notwithstanding anything contained in this Act,-

(a) the registration certificate of every Registered Dealer the effective date of which is 31st March 2004 or any earlier date, and which certificate is valid and in force on the 30th June 2004, shall unless,-

(1) such dealer is a manufacturer or an importer during the period commencing on the 1st April 2003 and ending on the 31st March 2004 ; or

(2) the turnover of sales or, as the case may be, purchases of such dealer has exceeded Rs.5,00,000 during the period commencing on the 1st April 2003 and ending on 31st March 2004 ; or

(3) such dealer holds license in Form FL-I, FL-II, FL-III or FL-IV (including temporary club license) under the Bombay Foreign Liquor Rules, 1953 or a license in Form E under the Special Permits and License Rules, 1952 or license in Form CL-I, CL-II, CL-III or CL/FL/TOD/III under the Maharashtra CountryLiquor Rules, 1973 at any time during the said period ; or

(4) such dealer holds an Authorisation or Permit or any other certificate issued by a Sales Tax Authority under any entry of the Schedule appended to the notification issued under section 41 at any time during the period commencing on the 1st April 2003 and ending on the 31st March 2004; or

(5) such dealer is covered by the Explanation to clause (11) of section 2 ;

stand cancelled for all the purposes of this Act with effect from the 1st July 2004.

(b) The Registered dealer whose registration certificate is cancelled under clause (a) shall surrender the registration certificate so cancelled to the assessing authority in charge of the case before the 31st July 2004. The assessing authority shall deface its own copy of the registration certificate as also the copy surrendered to it and after defacement return the defaced copy to such dealer.

(c) (i) Every Registered dealer whose certificate of registration is valid and effective or in force on the 31st March 2004 as also on the 30th June 2004, shall file a return by the 31st July 2004, for the period commencing on the 1st April 2003 and ending on the 31st March 2004, in such form and with such authority as may be prescribed.

(ii) If such return is not filed by the dealer by the said date, the Commissioner shall, unless otherwise proved by the dealer,

presume that the Registration Certificate of such dealer is liable to be cancelled under clause (a), and after giving such dealer a reasonable opportunity of being heard, cancel the registration certificate with effect from the 1st July 2004."

21. Amendment Of Section 33 Of Bom. Li Of 1959 :-

In section 33 of the Bombay Sales Tax Act,-

(1) in sub-section (4A), for the portion beginning with the words "Where all the returns " and ending with the words " to which such returns relate ", the following shall be substituted, namely:-

" Where all the returns other than the annual return are filed by a Registered dealer for any year ending on or after the notified day within one month of the end of the year to which such returns relate ";

(2) for sub-section (6B), the following shall be substituted, namely :-

" (6B) (i) During the course of any proceedings under section 49, in case of any dealer or person, the Commissioner is satisfied that tax has been sought to be evaded in respect of any period by not recording or recording in an incorrect manner, any transaction of sale or of purchase, or that any claim or deduction has been incorrectly made, in such a case, notwithstanding that any notice for assessment has been issued under other provisions of this section or any other section of this Act, the Commissioner may, after giving such dealer or person a notice in the prescribed form and a reasonable opportunity of being heard, initiate assessment of tax, due from the dealer or person in respect of such transaction, deduction or claim.

(ii) During the course of any proceedings under section 49 if the concerned authority is satisfied that the tax has been or is sought to be evaded, as provided under clause (i) by any dealer or person, such authority may, after issuing a notice in the prescribed form and after giving a reasonable opportunity of being heard to such dealer or person, start assessment of such dealer or person as provided in clause (i) in respect of any such transaction, claim or deduction relating to any period and such authority shall, notwithstanding anything contained in section 70, be deemed to have the requisite jurisdiction and power to assess such dealer or person in respect of such transaction of sale or purchase or any deduction or claim, covered by clause (i) and such assessment proceedings shall for all the purposes of this Act, be deemed to

have been transferred to such authority.

(iii) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings under any other sub-section or under other sections of this Act by any authority who otherwise has the jurisdiction to assess such dealer or person in respect of other transactions of sales or purchases or any other claim or deductions which are not covered by clause (i) and clause (ii).

(iv) The assessment under this sub-section shall be made separately in respect of the transaction, deduction or claim relating to any year or, as the case may be, for a part of a year, and irrespective of any assessment made under this sub-section, the dealer may be assessed under the other provisions of this section in respect of such year or, as the case may be, part of such year :

Provided that, once the dealer is assessed under this sub-section, no tax on such transaction, deduction or claim and penalty and interest, if any, consequent upon such tax, shall be levied or demanded from such dealer or person, at the time of assessment of tax under the other provisions of this section in respect of the year or, as the case may be, part of the year relating such transaction, deduction or claim."

22. Insertion Of Section 33D In Bom. Li Of 1959 :-

After section 33C of the Bombay Sales Tax Act, the following section shall be inserted, namely :-

" 33D Cancellation of assessment.- (1) Where a dealer is assessed at any time on or after such date as may be notified in this behalf by the State Government in the Official Gazette, in respect of any period whether ending before or after the said notified date, under section 33, and such dealer makes an application in the prescribed form to the Commissioner within thirty days from the date of service of the order of assessment for cancellation of the assessment on the ground that he had not been able to attend or remain present before the Commissioner at the time of hearing when the assessment order had been passed, the Commissioner shall, after verifying that the contention of the applicant is correct and that the prescribed condition have been fulfilled, cancel by order in writing, the said assessment including any penalty and interest levied in relation to or in consequence of the said assessment and shall make a fresh assessment in accordance with the provisions of section 33 including levy of interest and penalty,

as the case may be :

Provided that, only one application for cancellation shall be entertained under this sub-section in respect of any period of assessment.

(2) Notwithstanding anything contained in section 33, the fresh order of assessment as provided under sub-section (1) may be passed at any time, within a period of eighteen months from the date of service of the cancellation order."

23. Amendment Of Section 36 Of Bom. Li Of 1959 :-

In section 36 of the Bombay Sales Tax Act,-

(a) in sub-section (3),-

(i) in clause (a), for the words " two per cent." the words " one and a quarter per cent." shall be substituted;

(ii) (A) in clause (b), for the figure and words " 2 per cent." the words " one and a quarter per cent." shall be substituted ;

(B) in the third proviso, after the words "has filed all the returns " the words " other than the annual return" shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2000 ;

(b) for sub-section (4A), the following shall be substituted, namely :-

"(4A) Where a dealer has failed, without sufficient cause, to file within the prescribed time, a return as required by sub-clause (i) of clause (c) of sub-section (8) of section 22, the Commissioner may, after giving him a reasonable opportunity of being heard, impose upon him a penalty of rupees two thousand. Such penalty shall be without prejudice to any other penalty leviable under this section.

(4B) (i) Where a dealer has failed, without sufficient cause, to file within the prescribed time, an annual return in respect of any period, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, impose upon him a penalty of,-

(a) rupees one thousand five hundred, in case such dealers annual tax liability for the period to which the annual return relates, does not exceed rupees twenty thousand ;

(b) rupees ten thousand, in case such dealers annual tax liability for the period to which the annual return relates, exceeds rupees twenty thousand but does not exceed rupees four lakh;

(c) rupees twenty five thousand, in case such dealers annual tax liability for the period to which the annual return relates, exceeds

rupees four lakh.

Explanation.-For the purpose of this sub-section, the expression " tax liability " in relation to a Registered Dealer means,-

(a) in the case of a dealer holding an Eligibility Certificate and a Certificate of Entitlement under the relevant entry of the Schedule to the Notification issued under section 41, the cumulative quantum of the benefits availed of by such dealer calculated in accordance with the rules, in respect of the said year, and

(b) in any other case, the total of all taxes payable by such dealer in respect of all his places of business in the State under the Central Sales Tax Act, 1956(74 of 1956) and the Bombay Sales Tax Act, 1959(Bom. LI of 1959) less the amount of drawback, set-off, refund or remission claimed by him, if any.

(ii) Any penalty levied under this sub-section shall be without prejudice to any other penalty levied or leviable under this section.

(4C) On a dealer failing without sufficient cause, to file within the prescribed time, any return for any period, then in any case where sub-section (4A) or (4B) do not apply, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose upon him, a penalty of rupees two thousand. Such penalty shall be without prejudice to any other penalty leviable under this section."

24. Amendment Of Section 38 Of Bom. Li Of 1959 :-

In section 38 of the Bombay Sales Tax Act, in sub-section (4), in the third proviso, after the word "SICOM" the words "or the Directorate of Industries " shall be inserted and shall be deemed to have been inserted with effect from the 26th February 2003.

25. Substitution Of Section 40A Of Bom. Li Of 1959 :-

For section 40A of the Bombay Sales Tax Act, the following section shall be substituted, namely:-

"40A. Levy and collection of tax on lottery.- (1) Notwithstanding anything contained in any other provisions of this Act, the dealer, who is a first seller of lottery tickets in the State (hereinafter, in this section, referred to as " the lottery dealer "), shall be liable to pay tax on sale of lottery tickets as provided in the Table hereunder:-

TABLE

Turnover of Bale of lottery tickets per draw of a particular scheme	Quantum of tax
(1)	(2)

(a) Upto Rs. 2.5 lakh . .	60 per cent., of taxable turnover plus surcharge levied under section 15-1A or Rs. 5,000, whichever is higher;
(b) Above Rs. 2.5 lakh but up to Rs. 5 lakh	60 per cent., of taxable turnover plus surcharge levied under section 15-1A or Rs. 6,000, whichever is higher ;
(c) Above Rs. 5 lakh but up to Rs. 10 lakh	60 per cent., of taxable turnover plus surcharge levied under section 15-1A or Rs. 8,000, whichever is higher;
(d) Above Rs. 10 lakh but up to Rs. 50 lakh	60 per cent., of taxable turnover plus surcharge levied under section 15-1A or Rs. 15,000, whichever is higher ;
(e) Above Rs. 50 lakh but up to Rs. 1 Crore	60 per cent., of taxable turnover plus surcharge levied under section 15-1A or Rs. 25,000, whichever is higher ;
(f) Above Rs. 1 Crore but up to Rs. 5 Crore	60 per cent., of taxable turnover plus surcharge levied under section 15-1A or Rs. 2,00,000, whichever is higher;
(g) Above Rs. 5 Crore	60 per cent., of taxable turnover plus surcharge levied under section 15-1A or Rs. 5,00,000, whichever is higher :

Provided that, where a lottery dealer has paid the tax under this sub-section, no tax shall be payable in respect of the subsequent sale of such lottery tickets by any other dealer or any person in the State.

Explanation.-For the purposes of this section,-

(a) " turnover of sale of lottery tickets " means the aggregate of the tickets sold by a lottery dealer of a draw under a particular scheme multiplied by the maximum retail price (M.R.P.) of the tickets;

(b) " taxable turnover " means the aggregate of the total number of tickets sold by a lottery dealer of a draw under a particular scheme multiplied by the maximum retail price (M.R.P.) of such tickets sold, minus the amount of prizes actually paid in respect of the said tickets under such draw by the concerned State ;

(c) "lottery" means the lottery as defined in clause (b) of section 2 of the Lotteries (Regulation) Act, 1998(17 of 1998) ;

(d) " scheme " means a scheme or plan brought in the market with specific name under which combination of prizes are offered to the public purchasing a lottery ticket and details like the price of the ticket, the number of series, the prize structure, the date and time of draw, the size of the scheme, the method or procedure of drawing prizes being offered, the commission and bonus, if any, offered under such a scheme or plan, are specified;

(e) " first seller " means the dealer who sells the lottery tickets of Maharashtra State or any other lottery selling State or any other entity in the State of Maharashtra for the first time ;

(f) " lottery officer " means the State Lottery Officer appointed by the Commissioner, by notification in the Official Gazette, issued under section 20 of this Act.

(2) (a) Notwithstanding anything contained in any other provisions of this Act, the lottery dealer shall pay provisionally in the State Treasury Office, not less than seven days before the date of the declaration of the result of each draw of a lottery under a scheme, the amount of tax payable under sub-section (1), worked out on the basis of the provisional turnover calculated by applying the formula given below and shall submit a copy of the chalan as a proof of the payment of

provisional tax in the prescribed form to the lottery officer alongwith a true copy of the agreement between the wholesale distributor from whom the lottery dealer has procured the lottery tickets of that draw and the concerned State Government, and a copy of the authority letter from the said distributor authorising the lottery dealer to market the lotteries in the State of Maharashtra.

Formula :-

(I) In case of paper lottery,-				
Total number of tickets of a particular draw under a scheme to be kept for sale or to be sold in the State.	X	Maximum Retail Price of a ticket.	=	Provisional Turnover of sales of tickets.
(II) In case of existing on-line lottery,-				
Total number of tickets sold in the previous week, in case of weekly schemes/fortnight, in case of fortnightly schemes/month, in case of monthly schemes, for a particular scheme in the State.	X	Maximum Retail Price of a ticket.	=	Provisional Turnover of sales of tickets.

(III) In case of new on-line lottery,-

The projected sale of total number of tickets for that draw in a week, in case of weekly schemes/fortnight, in case of fortnightly schemes/month, in case of monthly schemes for a particular scheme in the State. X Maximum Retail Price of a ticket. = Projected Provisional Turnover of sales of tickets :

Provided that, the true copy of the agreement shall be required to be filed for a lottery scheme only once during the validity period of the said agreement:

Provided further that, if, at any time the agreement is terminated or revoked for any reason by the concerned Government, it shall be incumbent on the concerned dealer to intimate in writing to the lottery officer of such termination or revocation :

Provided also that, non-disclosure of such termination or revocation shall attract the operation of sub-section (4).

(b) After every draw, the lottery dealer shall adjust the provisional amount of tax, already paid as provided under clause (a), against the actual amount of tax payable as provided in sub-section (1), and after such adjustments pay the remaining amount of tax, if any, payable, in the State Treasury Office and then, submit to the lottery officer the actual return in the prescribed form, time and manner.

(c) The lottery dealer shall also furnish to the lottery officer, fortnightly, a statement, in the prescribed form, manner and time, and by the prescribed dates in respect of all the lottery tickets sold by such lottery dealer in the State of a particular draw under a particular scheme, for the concerned Government.

(d) On the basis of the returns, chalans and the statement filed as provided in clauses (b) and (c), the lottery officer shall assess the actual amount of tax payable by the lottery dealer and after such assessment, if any tax, in addition to the tax already paid under clause (b) becomes due to be paid by the lottery dealer for a particular draw under a particular scheme, the same shall forthwith be demanded in writing from such lottery dealer and on such demand, the said dealer shall pay the same within seven days from the date of receipt of the demand notice :

Provided that, any amount found to have been paid in excess of the tax payable by the lottery dealer shall be refunded to him by the lottery officer within one week from the date of the final assessment or shall be adjusted by the lottery officer against the provisional tax to be paid under clause (a) for the draws to be held subsequent to the date of filing of the return and the determination of the refund amount.

(3) Notwithstanding anything contained in any other provisions of this Act, appeal against the assessment order carried out by the lottery officer under clause (d) of sub-section (2) may be filed, within a period of fifteen days from the date of service of demand notice, from the lottery officer, to the appellate officer, as may be notified by the Government, and the second appeal against the order of the appellate officer, may be filed within a period of thirty days from the date of the order of the first appellate authority, to the Maharashtra Sales Tax Tribunal:

Provided that, the officer appointed as the first appellate officer by the Government shall not be below the rank of Deputy Director of State Lotteries:

Provided further that, the period of limitation for filing first and second appeal may be relaxed by the concerned appellate authority for sufficient reasons to be recorded in writing.

(4) If a lottery dealer fails to pay in advance, the provisional amount of tax as provided under sub-section (1) within the time specified in sub-section (2), for any draw under any scheme, the lottery officer shall, seize all the tickets of that draw in case of paper lottery and seize the terminal or, as the case may be, the server in the case of on-line lottery/Internet Lottery; and may also, after giving such dealer a reasonable opportunity of showing cause, impose upon such lottery dealer a penalty of rupees 25,000 or three times the sales tax amount payable by such dealer under such draw, whichever is higher:

Provided that, no such penalty shall be imposed on any dealer for failure to pay the advance provisional tax under sub-section (1) for any draw under any scheme, held within a period of seven days from the date of commencement of section 25 of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2004 (Mah. of XIII 2004) and any payment of tax for the draws held within the said period of seven days may be made by the lottery dealer, within seven days from the said date of commencement.

(5) (a) The dealer who is liable to pay tax under this section on sales of lottery tickets, shall not be liable for payment of sales tax and turnover tax under any other provisions of this Act.

(b) Notwithstanding anything contained in this Act, the said dealer shall not be entitled to claim deduction from the turnover of sales, to pay tax at a reduced rate or claim exemption from the full or part of the tax payable on the sales of lottery tickets on account of any declaration or certificate provided by or under this Act or under any entry of the Schedule to the notification issued under section 41 of the Act."

26. Insertion Of Section 41-A1 In Bom. Li Of 1959 :-

After section 41 of the Bombay Sales Tax Act, the following section shall be inserted, namely:-

" 41-A1. Refund of tax.-The State Government may, if satisfied that it is necessary in the public interest to grant refund of any tax levied and collected from any class or classes of dealers or persons or, as the case may be, charged on the purchases or sales made by any class or classes of dealers or persons, by notification in the Official Gazette, and subject to such terms and conditions as may be specified in the notification, grant refund of any such tax, or part of such tax for any such period and to such class of dealers or persons, as may be specified in such notification :

Provided that, such notification may be issued so as to have retrospective effect so however that the effective date of such notification is not earlier than the appointed day."

27. Amendment Of Section 41B Of Bom. Li Of 1959 :-

In section 41B of the Bombay Sales Tax Act, in sub-section (1), for the words, letter and figure "as the case may be, under entry E-3," the words, letters and figures, "entry E-3, E-11, E-12 or, as the case may be, E-13" shall be substituted.

28. Amendment Of Section 41C Of Bom. Li Of 1959 :-

In section 41C of the Bombay Sales Tax Act, in sub-section (2), for the words, letter and figure "or as the case may be, under entry E-3," the words, letters and figures "entry E-3, E-11, E-12 or, as the case may be, E-13" shall be substituted.

29. Amendment Of Section 42 Of Bom. Li Of 1959 :-

In section 42 of the Bombay Sales Tax Act, in sub-section (1), in clause (a), after sub-clause (iii), the following shall be added and shall be deemed to have been added with effect from the 1st October 2002, namely :-

"(iv) paid or levied or leviable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2003(Mah. IV of 2003) be granted to a dealer, ".

30. Amendment Of Section 43A Of Bom. Li Of 1959 :-

In section 43A of the Bombay Sales Tax Act, for the words " twelve per cent. " the words "six per cent." shall be substituted.

31. Amendment Of Section 44A Of Bom. Li Of 1959 :-

In section 44A of the Bombay Sales Tax Act, for the words " nine per cent." the words "six per cent." shall be substituted.

32. Amendment Of Section 50 Of Bom. Li Of 1959 :-

(a) The existing section 50 of the Bombay Sales Tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1), so renumbered, the following sub-section shall be added, namely:-

" (2) Every dealer liable to pay tax under this Act who is liable to obtain a permanent account number under the Income Tax Act, 1961(43 of 1961), shall communicate to the Commissioner, in the prescribed time and manner, the said number and in case where he has applied for the same, provide the details of the application, and

on obtaining such number shall communicate the same to the Commissioner. " ;

(b) in the marginal note, the words " and permanent account number" shall be added at the end.

33. Amendment Of Section 55 Of Bom. Li Of 1959 :-

In section 55 of the Bombay Sales Tax Act,-

(a) in sub-section (7), for clause (a), the following shall be substituted, namely:-

"(a) in an appeal against an order of assessment, it may confirm, reduce, enhance or annul the assessment:

Provided that, where the appeal is filed before the Tribunal, the Tribunal may set aside the assessment and refer the case back to the assessing authority or, as the case may be, the appellate authority for making a fresh order in accordance with the direction given by Tribunal and after making such further inquiry as may be necessary; the said authority shall thereupon proceed to make such fresh order and determine, where necessary, the amount of tax payable on the basis of such fresh order :";

(b) after the existing proviso under clause (c), the following proviso shall be added, namely :-

" Provided further that, notwithstanding anything to the contrary in this section or any other provisions of this Act, where the State Government or the Commissioner has initiated any proceedings before an appropriate forum against the point which is decided against the State by a judgment of the Tribunal, then the appellate authority other than the Tribunal may pass an order in appeal, as if the point was not so decided against the State, but shall stay the recovery of such of the dues including interest and penalty, if any, in so far as they relate to such point, until the decision by the appropriate forum and after such decision modify the order, if found necessary." ;

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

"(8) Every appellate authority including the Tribunal, in so far as it may, shall decide the appeals pending before it by such priorities as may be prescribed."

34. Amendment Of Section 62 Of Bom. Li Of 1959 :-

In section 62 of the Bombay Sales Tax Act, after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) Where any dealer or person has recorded in his books of

accounts or, as the case may be, has claimed in the returns that no tax is payable or that the tax is payable at a reduced rate on any transaction of sale on account of any declaration or certificate to be received from the purchasing dealer or person and he has not produced such certificate or declaration before the passing of the order of assessment for any reason whatsoever in which assessment order the claim is disallowed, then at any time within two years from the date of the service on him of the said order, he may apply to the Commissioner for rectification of the order on the ground that he has received such declaration or certificate and is in a position to produce the same and thereupon the Commissioner may hold such inquiry as he may deem fit and after hearing the applicant, rectify the assessment order where necessary:

Provided that, in respect of any assessment sought to be rectified under this sub-section only one application for rectification shall be entertained :

Provided further that, where the dealer has applied in accordance with sub-section (1) or (1A) within the said period of two years for rectification of the said order and has specified in his application, the quantum by which the amount payable as per the said order should be reduced and has attached the necessary evidence if required, alongwith the application, then the Commissioner shall, without prejudice to the other provisions of this Act including, levy of interest, stay, if requested, the recovery of such quantum till the disposal of the application for rectification."

35. Amendment Of Section 63 Of Bom. Li Of 1959 :-

In section 63 of the Bombay Sales Tax Act,-

(a) in sub-section (10), after clause (b-1), the following shall be inserted, namely:-

" (b-2) fails without sufficient cause to surrender the certificate of registration as required under clause (b) of sub-section (8) of section 22 ; " ;

(b) after sub-section (10A), the following shall be inserted namely:-

"(10B) Whoever fails without sufficient cause to furnish the return under sub-clause (i) of clause (c) of sub-section (8) of section 22, shall, on conviction be punished with simple imprisonment for a term which may extend to one month and with a fine which shall not be less than rupees one thousand."

36. Amendment Of Section 67 Of Bom. Li Of 1959 :-

In section 67 of the Bombay Sales Tax Act, sub-section (1) shall be deleted.

37. Amendment Of Schedule A Appended To Bom. Li Of 1959 :-

In Schedule A appended to the Bombay Sales Tax Act, in entry 8, in sub-entry (1), in column (2), after the words " and oil cakes" the words " and de-oiled cakes" shall be added.

38. Amendment Of Part Ii Of Schedule C Appended To Bom. Li Of 1959 :-

In Part II of Schedule C appended to the Bombay Sales Tax Act,-

(a) for the entry 5A, the following shall be substituted, namely:-

" 5A. Farsan Powder i.e. a mixture of maize powder with gram dal powder. ... 4% 4%.";

(b) in entry 56, in sub-entry (2), in columns (3) and (4), for the figures "20%", the figures "13%" shall be substituted ;

(c) for entry 112, the following shall be substituted, namely:-

"112(1) Wires and Cables of all kinds (other than those specified elsewhere in this Schedule) used in the generation, transmission, distribution or in connection with the consumption of electricity. 8% 8%

(2) Goods of all kinds (other than those specified elsewhere in this Schedule) used in the generation, transmission, distribution or in connection with the consumption of electricity such as all kinds of holders, plugs, switches, casings, cappings, reapers, bends, junction boxes, meter boards, switch boards, electrical earthenware and procelainware. 13% 13%" ;

(d) in entry 118, in columns (3) and (4), for the figures "20%", the figures "13%" shall be substituted ;

(e) entry 151A shall be deleted.

39. Amendment Of The Notification Issued Under Section 8A Of Bom Li Of 1959 :-

For Entry 1 in the STATEMENT appended to the Government Notification, Finance Department, No. STA-1195/CR-114/ Taxation -1, dated the 15th May 1996 issued under section 8A of the Bombay Sales Tax Act, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st January 2000, namely:-

" 1. Precious stones including diamonds, synthetic or artificial stones and pearls whether real, artificial or cultured, covered by entry 98A and entry 99 in Part II of Schedule C ".

CHAPTER 5

Amendments to the Maharashtra Purchase Tax on Sugarcane Act, 1962

40. Substitution Of Section 7 Of Mah. Ix Of 1962 :-

For section 7 of the Maharashtra Purchase Tax on Sugarcane Act, 1962(Mah. IX of 1962) (hereinafter, in this chapter, referred to as " the Purchase Tax Act"), the following section shall be substituted, namely :-

"7. Assessment and collection of tax.- (1) The amount of tax due from an occupier liable to pay tax shall be assessed separately for each year :

Provided that, the Commissioner may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any occupier for a part of a year:

Provided further that, when an occupier has failed to furnish, by the prescribed date, any return relating to any period in any year, the Commissioner may, if he thinks fit, assess the tax due from such occupier separately for different parts of such year.

(2) The Commissioner on being satisfied that, the returns furnished by the occupier in respect of any period are correct and complete, he shall assess the amount of tax due from the occupier on the basis of such returns :

Provided that, the Commissioner on not being satisfied that the returns furnished by the occupier in respect of any period are correct and complete, and he is of the opinion that it is necessary to require the presence of the occupier or the production of further evidence in that respect, he shall serve on such occupier, in the prescribed manner, a notice requiring such occupier on a date and at a place specified in the notice, either to attend and produce or cause to be produced all the evidence on which such occupier has relied in support of his returns, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidence produced, assess the amount of tax due from the occupier:

Provided further that, if the occupier fails to comply with any of the directions or requirements specified in the notice issued under the above proviso, the Commissioner may, assess the amount of tax

due from the occupier on the basis of the record available before him.

(3) Where all the returns are filed by the occupier for any year starting on or after the 1st April 2004 within one month from the end of the year to which such returns relate, no order of assessment under the provisos to sub-section (2) in respect of that year shall be made after the expiry of three years from the end of the said year; and if for any reason such order is not made within the period aforesaid, then the returns so filed shall be deemed to have been accepted as correct and complete for assessing the tax due from such occupier:

Provided that, in the case of returns pertaining to the years ending on or before the 31st March 2004, and filed on or before the 30th September 2004, no order of assessment shall be made under the provisos to sub-section (2) on or after the 1st April 2007 :

Provided further that, where a fresh assessment has to be made to give effect to any finding or direction contained in any order made under this Act, or to any order of the Court, such assessment shall be made within thirty-six months from the date of communication to the Commissioner of such finding, direction or order, as the case may be:

Provided also that, in computing the period specified in the second proviso, the time during which the assessment remained stayed by or under the order of the Court, shall stand excluded.

(4) In any case where it comes to the notice of the Commissioner that, any occupier has not furnished returns in respect of any period by the prescribed date, the Commissioner may, at any time, before the expiry of the period of eight years from the end of the year to which such period relates, after giving such defaulting occupier a reasonable opportunity of being heard in that matter, assess, to the best of his judgment, the tax, if any, due from such occupier.

Explanation.-For the purposes of this section the expression "year" means the financial year."

41. Amendment Of Section 7A Of Mah. Ix Of 1962 :-

In section 7A of the Purchase Tax Act, for sub-section (2), the following shall be substituted, namely :-

"(2) In a case where it is noticed that, any occupier has failed to obtain a licence or renew the licence as provided under section 5, and has been carrying on the operation of manufacturing or

producing of sugar in the factory or unit, the Commissioner may, after serving on such occupier, a notice in writing and giving him a reasonable opportunity of being heard, by order in writing, impose upon such occupier in addition to the tax, interest and penalty which may become payable under sub-section (1), also an additional penalty for non-obtaining or non-renewal of the licence, which shall be a sum not exceeding rupees ten thousand for each year of illegal operation without a licence."

42. Amendment Of Section 7B Of Mah. Ix Of 1962 :-

In section 7B of the Purchase Tax Act,-

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

(i) for the words " one and one half per cent." the words " one and a quarter per cent." shall be substituted;

(iii) in the Explanation, for the words, brackets and figure " sub-section (2)" the words, brackets and figure " sub-section (4)" shall be substituted ;

(b) in sub-section (2), for the words " one and one half per cent." the words " one and a quarter per cent." shall be substituted.

43. Insertion Of Sections 7C And 7D In Mah. Ix Of 1962 :-

After section 7B of the Purchase Tax Act, the following sections shall be inserted, namely :-

" 7C. Interest on amount of refund.- Where, in pursuance of any order passed under this Act, in respect of any period of assessment commencing on or after the 1st April 2004, refund of any tax becomes due to the occupier, he shall, subject to the rules, if any, be entitled to receive, in addition to the refund, a simple interest at the rate of six per cent. per annum for the period commencing on the date next following the last date of the period of assessment to which such order relates and ending on the date of such order or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the occupier in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any, adjusted towards any recovery under this Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

Explanation.-For the purposes of this section, where the refund of

tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for filing of the last return for the period of assessment, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

7D. Interest on delayed refund.- Where an amount required to be refunded by the Commissioner to any occupier by virtue of an order issued under this Act is not so refunded to him within ninety days from the date of the order, the State Government shall, pay such occupier simple interest at the rate of six per cent. per annum on the said amount from the date immediately following the expiry of the period of ninety days from the date of such order."

CHAPTER 6

Amendments To The Maharashtra State Tax on Professions, Trades, Callings And Employments Act, 1975

44. Substitution Of Section 7 Of Mah. Xvi Of 1975 :-

For section 7 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975(Mah. XVI of 1975) (hereinafter, in this chapter, referred to as" the Profession Tax Act"), the following section shall be substituted, namely :-

"7. Assessment and collection of tax.- (1) The amount of tax due from an employer liable to pay tax shall be assessed separately for each year :

Provided that, the Commissioner may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any employer for a part of a year :

Provided further that, when an employer has failed to furnish, by the prescribed date, any return relating to any period in any year, the Commissioner may, if he thinks fit, assess the tax due from such employer separately for different parts of such year.

(2) The Commissioner on being satisfied that, the returns furnished by an employer in respect of any period are correct and complete, he shall assess the amount of tax due from the employer on the basis of such returns :

Provided that, the Commissioner on not being satisfied that the returns furnished by the employer in respect of any period are correct and complete, and he is of the opinion that it is necessary to require the presence of the employer or the production of further evidence in that respect, he shall serve on such employer, in the prescribed manner, a notice requiring such employer on a date and

at a place specified in the notice, either to attend and produce or cause to be produced all the evidence on which such employer has relied in support of his returns, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidence produced, assess the amount of tax due from the employer:

Provided further that, if the employer fails to comply with any of the directions or requirements specified in the notice issued under the above proviso, the Commissioner may, assess, the amount of tax due from the employer on the basis of the record available before him.

(3) Where all the returns are filed by the employer for any year starting on or after the 1st April 2004 within one month from the end of the year to which such returns relate, no order of assessment under the provisos to sub-section (2) in respect of that year shall be made after the expiry of three years from the end of the said year; and if for any reason such order is not made within the period aforesaid, then the returns so filed shall be deemed to have been accepted as correct and complete for assessing the tax due from such employer :

Provided that, in the case of returns pertaining to the years ending on or before the 31st March 2004, and filed on or before the 30th September 2004, no order of assessment shall be made under the provisos to sub-section (2) on or after the 1st April 2007 :

Provided further that, where a fresh assessment has to be made to give effect to any finding or direction contained in any order made under this Act, or to any order of the Tribunal or Court, such assessment shall be made within thirty-six months from the date of communication to the Commissioner of such finding, direction or order, as the case may be :

Provided also that, in computing the period specified in the second provision, the time during which the assessment remained stayed by or under the order of the Tribunal or Court, shall stand excluded.

(4) Notwithstanding anything contained in this section or any other provisions of this Act, where the assessment involves a decision on a point which is concluded against the State by the judgement of the Tribunal and the State Government or the Commissioner has initiated any proceedings against such judgment before an appropriate forum, in such a case, the Commissioner may complete the assessment as if the point was not so decided by the Tribunal

against the State, but shall stay the recovery of such dues including interest and penalty, if any, in so far as they relate to such point, until the decision by the appropriate forum and after such decision, modify the assessment order, in accordance with such decision.

(5) In any case where it comes to the notice of the Commissioner that, any employer has not furnished returns in respect of any period by the prescribed date, the Commissioner may, at any time, before the expiry of the period of eight years from the end of the year to which such period relates, after giving such defaulting employer a reasonable opportunity of being heard in that matter, assess, to the best of his judgment, the tax, if any, due from such employer.

(6) The Commissioner on being satisfied that an employer liable to pay tax in respect of any period, has failed to apply for registration within time as required by this Act, the Commissioner shall, at any time, before the expiry of the period of eight years from the end of the year to which such period relates, after giving such defaulting employer, a reasonable opportunity of being heard, assess, to the best of his judgement, the tax, if any, due from the employer in respect of that period, and any period or periods subsequent thereto.

(7) The amount of tax so assessed shall be paid within fifteen days of receipt of the notice of demand from the prescribed authority."

45. Amendment Of Section 9 Of Mah. Xvi Of 1975 :-

In section 9 of the Profession Tax Act, in sub-section (2), for the figure and words " 2 per cent." the words "one and a quarter per cent." shall be substituted.

46. Insertion Of Sections 19A And 19B In Mah. Xvi Of 1975 :-

After section 19 of the Profession Tax Act, the following sections shall be inserted, namely:-

" 19A. Interest on amount of refund.- Where, in pursuance of any order under this Act, in respect of any period of assessment commencing on or after the 1st April 2004, refund of any tax becomes due to an employer or person he shall, subject to the rules, if any, be entitled to receive, in addition to the refund, simple interest at the rate of six per cent. per annum for the period commencing on the date next following the last date of the period

of assessment to which such order relates and ending on the date of such order or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the employer or any person in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any, adjusted towards any recovery under this Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

Explanation.-For the purposes of this section, where the refund of tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for filing of the last return for the period of assessment, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

19B. Interest on delayed refund.- Where an amount required to be refunded by the Commissioner to any employer or person by virtue of an order issued under this Act is not so refunded to him within ninety days from the date of the order, the State Government shall, pay such employer or person a simple interest at the rate of six per cent. per annum on the said amount from the date immediately following the expiry of the period of ninety days from the date of such order :

Provided that, where the amount becomes refundable by virtue of an order of the Tribunal, the interest under the provisions of this section shall be payable from the date immediately following the expiry of the period of ninety days from the date of receipt of the order of the Tribunal by the officer whose order forms the subject of the appeal or revision proceedings before the Tribunal.

47. Amendment Of Schedule I To Mah. Xvi Of 1975 :-

In Schedule I of the Profession Tax Act, in entry 13, in column 2, in clause (a), for the words " three wheeler vehicles " the words " three wheeler goods vehicles" shall be substituted and shall be deemed to have been substituted with effect from the 1st April 1999.

CHAPTER 7

Amendments To The Maharashtra Sales Tax On The Transfer Of The Right To Use Any Goods For Any Purpose Act, 1985

48. Insertion Of Section 4B In Mah Xviii Of 1985 :-

After section 4A of the Maharashtra Sales Tax on the Transfer of Right to use any Goods for any purpose Act, 1985(Mah. XVIII of 1985) (hereinafter, in this Chapter, referred to as "the Lease Tax Act"), the following section shall be inserted, namely:-

"4B. Exemption.- (1) Notwithstanding anything contained in this Act, no tax shall be levied on the turnover of sales effected by any registered dealer to a certified registered dealer, if such certified registered dealer furnishes to the selling registered dealer a declaration in the prescribed Form.

(2) Where any certified registered dealer has issued a declaration mentioned in sub-section (1) but has failed to comply with the prescribed conditions relating to such declaration or, where such dealer was not entitled to issue such declaration, the Commissioner may, after giving such dealer an opportunity of being heard, by order in writing, impose upon such dealer a penalty equal to the aggregate of the tax which would have been payable under the provisions of this Act in respect of the sale to him of the goods in absence of such declaration and a simple interest on the amount of such tax at the rate of one and quarter per cent. per month or part thereof computed from the date of sale.

Explanation.-For the purpose of this section, " certified registered dealer " means a dealer registered under the Bombay Sales Tax Act, 1959(Bom. LI of 1959) and who is a developer of Special Economic Zone or an industrial unit or any other establishment and who holds a certificate from the designated Development Commissioner of Special Economic Zone certifying that the place of business of the dealer is situated in the said Special Economic Zone."

49. Insertion Of Sections 8B And 8C In Mah. Xviii Of 1985 :-

After section 8A of the Lease Tax Act, the following sections shall be inserted, namely :-

" 8B. Interest on amount of refund.- Where, in pursuance of any order under this Act, in respect of any period of assessment commencing on or after the 1st April 2004, refund of any tax becomes due to a registered dealer, he shall, subject to the rules, if any, be entitled to receive, in addition to the refund, a simple interest at the rate of six per cent. per annum for the period commencing on the date next following the last date of period of assessment to which such order relates and ending on the date of

such order, or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the dealer in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any, adjusted towards any recovery under this Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

Explanation.-For the purposes of this section, where the refund of tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for filing of the last return for the period of assessment, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

8C. Interest on delayed refund.- Where an amount required to be refunded by the Commissioner to any registered dealer by virtue of an order issued under this Act is not so refunded to him within ninety days from the date of the order, the State Government shall pay such dealer simple interest at the rate of six per cent. per annum on the said amount from the date immediately following the expiry of the period of ninety days from the date of such order :

Provided that, where the amount becomes refundable by virtue of an order of the Tribunal, the interest under the provisions of this section shall be payable from the date immediately following the expiry of period of ninety days from the date of receipt of the order of the Tribunal by the officer whose order forms the subject of the appeal before the Tribunal. ".

CHAPTER 8

Amendments To The Maharashtra Tax On Luxuries Act, 1987

50. Amendment Of Section 2 Of Mah. Xli Of 1987 :-

In section 2 of the Maharashtra Tax on Luxuries Act, 1987(Mah. XLI of 1987) (hereinafter, in this chapter, referred to as " the Luxuries Tax Act "),-

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

" (b-1A) " Certificate of Entitlement" means a Certificate issued by the Commissioner in respect of Luxury Tax Incentives by way of exemption from the tax liability under the Package Scheme of Incentives for Tourism, 1993 or the New Package Scheme of

Incentives for Tourism Projects, 1999 or, the new Package Scheme of Incentives for Tourism Projects, 2000 ; " ;

(2) in clause (d-1), after the words and figures "the Package Scheme of Incentives for Tourism, 1993 " the words and figures " or the New Package Scheme of Incentives for Tourism Projects, 1999 or, the New Package Scheme of Incentives for Tourism Projects, 2000 " shall be inserted ;

51. Insertion Of Section 15A In Mah. Xli Of 1987 :-

After section 15 of the Luxuries Tax Act, the following section shall be inserted, namely :-

" 15A. Assessment or reassessment in special cases.- (1) Notwithstanding anything contained in section 3B, there shall be levied and collected a tax on the turnover of the receipts of tobacconist, in so far as it relates to tobacco in the form of Gutka or Pan Masala , during the periods mentioned in column (1) of the Table hereunder, at the rates set out in column (2) thereof.

Table

Period	Rate of Tax
(1)	(2)
1st October 1995 to 30th April 1998.	13 paise in a rupee.
1st May 1998 to 31st March 1999.	20 paise in a rupee.
1st April 1999 to 30th April 2001.	23 paise in a rupee.

(2) Notwithstanding anything contained in section 15, if a tobacconist has been assessed under section 13 for any period starting on or after the 1st October 1995 and where the whole or any part of the turnover of the receipts of tobacco in respect of that year or part thereof, has not been assessed to tax or has been underassessed or assessed at a lower rate, or any deduction has been wrongly made, the Commissioner may, at any time, before the expiry of a period of ten years from the end of the relevant year, after giving the tobacconist a reasonable opportunity of being heard, assess or re-assess, to the best of his judgement, the amount of tax due from such tobacconist.

(3) Notwithstanding anything contained in section 13, if a tobacconist, has not been assessed in respect of any year starting on or after the 1st October 1995 and ending on or before the 30th April 2001, in respect of his turnover of receipts of tobacco then he may be assessed in respect of such year at any time by serving a notice on him at any time before the expiry of a period of ten years from the 1st October 1995."

52. Amendment Of Section 16 Of Mah. Xli Of 1987 :-

In section 16 of the Luxuries Tax Act, in sub-section (2),-

(a) in clause (a), for the words " two per cent." the words " one and a quarter per cent." shall be substituted ;

(b) in clause (b), for the words " two per cent." the words " one

and a quarter per cent." shall be substituted.

53. Insertion Of Section 22A In Mah. Xli Of 1987 :-

(1) After section 22 of the Luxuries Tax Act, the following section shall be inserted, namely :-

"22A. Calculation of cumulative quantum of benefits under the New Package Scheme of Incentives for Tourism Projects.- (1) In order to determine, whether the cumulative quantum of benefits received by a registered hotelier to whom a Certificate of Entitlement has been granted by the Commissioner under sub-entry (2) or, as the case may be, sub-entry (3) of entry 7 of the Schedule appended to the notification issued under section 22, has at any time after the 8th July 1999 exceeded the relevant monetary ceiling under the New Package Scheme of Incentives for Tourism Projects, 1999 or, as the case may be, the New Package Scheme of Incentives for Tourism Projects, 2000 for any period ending whether before or after the date of commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2004(Mah. of XIII 2004), the Commissioner shall calculate the cumulative quantum of benefits in the manner prescribed in respect of all the relevant periods and the said Schemes.

(2) If it is found that the cumulative quantum of benefits so calculated in respect of any Eligible Unit has exceeded the relevant monetary ceiling, the Commissioner shall, require the said hotelier by order in writing to pay the tax, interest or penalty in respect of each relevant period and shall for the purpose of recovery of such, tax, interest or penalty, serve on the hotelier a notice :

Provided that, no order under this section shall be passed without giving such hotelier a reasonable opportunity of being heard.

(3) The notice so issued, shall be deemed to be a notice issued under sub-section (4) of section 18, and the relevant provisions of this Act shall apply to such notice as they apply to a notice issued under sub-section (4) of section 18."

54. Amendment Of Section 24 Of Mah. Xli Of 1987 :-

In section 24 of the Luxuries Tax Act, in sub-section (1), for the words " nine per cent." the words " six per cent." shall be substituted.

55. Insertion Of Section 24A In Mah. Xli Of 1987 :-

After section 24 of the Luxuries Tax Act, the following section shall be inserted, namely :-

" 24A. Interest on amount of refund.- Where, in pursuance of any order under this Act, in respect of any period of assessment commencing on or after the 1st April 2004, refund of any tax becomes due to a registered tobacconist, hotelier or, as the case may be, textile trader he shall, subject to the rules, if any, be entitled to receive, in addition to the refund, a simple interest at the rate of six per cent. per annum for the period commencing on the date next following the last date of the period of assessment to which such order relates and ending on the date of such order or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the tobacconist, hotelier or, as the case may be, the textile trader in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any, adjusted towards any recovery under this Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

Explanation.-For the purposes of this section, where the refund of tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for filing of the last return for the period of assessment, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order."

56. Amendment Of Section 51 Of Mah. Xli Of 1987 :-

In section 51 of the Luxuries Tax Act, after sub-section (2), the following sub-section shall be inserted, namely:-

"(2A) Any rule made under this Act may be made so as to be retrospective to any date not earlier than the 1st January 1988."

CHAPTER 9

Amendments to the Maharashtra Sales Tax on the Transfer of Property in Goods Involved in the Execution of Works Contract (Re-enacted) Act, 1989

57. Insertion Of Section 4C In Mah. Xxxvi Of 1989 :-

After section 4B of the Maharashtra Sales Tax on Transfer of Property in Goods Involved in the Execution of Works Contract (Re-enacted) Act, 1989 (Mah. XXXVI of 1989) (hereinafter, in this

chapter, referred to as " the Works Contract Act"), the following section shall be inserted, namely :-

"4C. Exemption.- (1) Notwithstanding anything contained in this Act, no tax shall be levied on the turnover of sales, effected by any registered dealer to a " certified registered dealer " if such certified registered dealer furnishes to the selling registered dealer the declaration in the prescribed form.

(2) Where any certified registered dealer has issued a declaration mentioned in sub-section (1), but has failed to comply with the prescribed conditions relating to such declaration or, where such dealer or person was not entitled to issue such declaration, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by order in writing, impose upon such dealer, a penalty equal to the aggregate of the tax which would have been payable under the provisions of this Act in respect of the sale to him of the goods in the absence of such declaration and a simple interest on the amount of such tax at the rate of one and quarter per cent. per month or part thereof computed from the date of sale.

Explanation.-For the purpose of this section, " certified registered dealer " means a dealer registered under the Bombay Sales Tax Act, 1959(Bom. LI of 1959) who is a developer of Special Economic Zone or an industrial unit or any other establishment and who holds a certificate from the designated Development Commissioner of Special Economic Zone certifying that the place of business of the dealer is situated in the said Special Economic Zone. ".

58. Insertion Of Sections 9A And 9B In Mah. Xxxvi Of 1989

:-

After section 9 of the Works Contract Act, the following sections shall be inserted, namely :-

"9A. Interest on amount of refund.- Where, in pursuance of any order under this Act, in respect of any period of assessment commencing on or after the 1st April 2004, refund of any tax becomes due to a registered dealer, he shall, subject to the rules, if any, be entitled to receive, in addition to the refund, simple interest at the rate of six per cent. per annum for the period commencing on the date next following the last date of period of assessment to which such order relates and ending on the date of such order or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the

dealer in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any, adjusted towards any recovery under this Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

Explanation.- For the purposes of this section, where the refund of tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for filing of the last return for the period of assessment, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

9B. Interest on delayed refund.- Where an amount required to be refunded by the Commissioner to any registered dealer by virtue of an order issued under this Act is not so refunded to him within ninety days from the date of the order, the State Government shall, pay such dealer a simple interest at the rate of six per cent. per annum on the said amount from the date immediately following the expiry of the period of ninety days from the date of such order :

Provided that, where the amount becomes refundable by virtue of an order of the Tribunal, the interest under the provisions of this section shall be payable from the date immediately following the expiry of period of ninety days from the date of receipt of the order of the Tribunal by the officer whose order forms the subject of the appeal proceedings before the Tribunal."

CHAPTER 10

Amendment to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002

59. Amendment Of Section 3 Of Mah. Iv Of 2003 :-

In section 3 of the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002(Mah. IV of 2003), in sub-section (5), after the proviso, the following proviso shall be added, namely:-

" Provided further that, a sale in the course of inter-State trade or commerce or resale in the State shall not include a sale to which clause (b) of section 3 or, as the case may be, sub-section (2) of section 6 of the Central Sales Tax Act, 1956(74 of 1956), applies."

CHAPTER 11

Validation And Savings

60. Validation And Savings :-

(1) Notwithstanding anything contained in any judgement, decree or order of any Court or Tribunal to the contrary, any assessment, re-assessment, levy or collection of tax in respect of sales or purchases effected by any dealer or person, engagement of any person in a profession, trade or calling, provision by a tobacconist of luxuries made or purporting to have been made, or any action taken or thing done in relation to such assessment, re-assessment, levy or collection under the provisions of the Bombay Sales Tax Act, 1959(Bom. LI of 1959), (hereinafter in this chapter referred to as "the Sales Tax Act"), the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975(Mah. XVI of 1975), (hereinafter in this chapter referred to as "the Profession Tax Act") and the Maharashtra Tax on Luxuries Act, 1987(Mah. XLI of 1987) (hereinafter in this chapter referred to as "the Luxuries Tax Act"), during the period commencing on the 22nd April 1988 and ending, on and including the date immediately preceding the date of the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2004(Mah. of XIII 2004) (hereinafter, in this chapter referred to as "the Amendment Act"), shall be deemed to be valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been duly made, taken or done under the Sales Tax Act, the Profession Tax Act and the Luxuries Tax Act, as amended by the Amendment Act, and accordingly,-

(a) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, re-assessment, levy or collection of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid ; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,-

(a) from questioning in accordance with the provisions of the Sales Tax Act or, the Profession Tax Act, or the Luxuries Tax Act, as amended by the Amendment Act, any assessment, re-assessment, levy or collection of tax referred to in sub-section(1), or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Sales Tax Act, or the Luxuries Tax Act, as amended by the Amendment Act.

(3) Nothing in the Amendment Act shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act, if such act or omission was not an offence under the Sales Tax Act, the Profession Tax Act, or the Luxuries Tax Act but for the amendments made by the Amendment Act; nor shall any person in respect of such act or omission be subject to a penalty greater than that which could have been inflicted on him under the law in force immediately before the commencement of the Amendment Act.

(4) Where any person holds a permit under the Motor Vehicles Act, 1988(59 of 1988), for three wheeler vehicles other than goods vehicles at any time during the period commencing on the 1st April 1999 and ending on the date immediately preceding the date of commencement of the Amendment Act, and has paid tax under the Profession Tax Act, he shall not be liable to get refund under the said Act as amended by the Amendment Act.