

Maharashtra Tax Laws (Levy, Amendment And Validation) Act, 2007

25 of 2007

[06 August 2007]

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Maharashtra Tax Laws (Levy, Amendment And Validation) Act, 2007

25 of 2007

[06 August 2007]

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-eighth Year of the Republic of India as follow :-

CHAPTER 1 PRELIMINARY

1. Short Title And Commencement :-

(1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2007.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

CHAPTER 2

AMENDMENTS TO THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADERS, CALLINGS AND EMPLOYMENTS ACT, 1975

2. Amendment Of Section 6 Of Mah. Xvi Of 1975 :-

In section 6 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"), in sub-section (1), for the proviso, the following proviso shall be substituted, namely :-

"Provided that, the Commissioner may, subject to such terms and conditions, if any, as may be prescribed, permit any employer to furnish a consolidated return relating to all or any of the places of business of such employer in the State, for such period or periods,

to such authority, as he may direct."

3. Amendment Of Section 8 Of Mah. Xvi Of 1975 :-

In section 8 of the Profession Tax Act, in sub-section (3), in clause (a), for the words and figures "rupees 1700, 2200 or as the case may be, 2500 per annum" the words and figures "rupees 2500 per annum" shall be substituted.

CHAPTER 3

AMENDMENT TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987

4. Amendment Of Section 20 Of Mah. Xli Of 1987 :-

In section 20 of the Maharashtra Tax on Luxuries Act, 1987, (Mah. 25XLI of 1987.) in sub-section (1), in clause (iv), for the words "the Deputy Commissioner of Luxury Tax" the words "the Senior Deputy Commissioner of Luxury Tax and the Deputy Commissioner of Luxury Tax" shall be substituted.

CHAPTER 4

AMENDMENT TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002

5. Revival And Re-Enactment Of Schedule To Mah. Iv Of 2003 As It Existed On 31st March 2005 :-

During the period commencing from the 1st October 2002 and ending on the 31st March 2005, the Schedule to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, (Mah. IV of 2003.) as it existed before the 1st April 2005, shall be deemed to have been revived and re-enacted in the same form as it then existed, with certain modifications as follows, namely :-

"In the Schedule so revived and re-enacted, for entry 13, the following entry shall be substituted namely :-

"13. Petroleum fuel oils including- 15 paise in rupee".

(a) heavy furnace oil, and

(b) residual furnace oil.

CHAPTER 5

AMENDMENT TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002

6. Amendment Of Section 2 Of Mah. Ix Of 2005 :-

In section 2 of the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005.) (hereinafter, in this Chapter, referred to as "the Value

Added Tax Act"),-

- (1) in clause (16), the words "or residence" shall be deleted;
- (2) in clause (24), in the Explanation, in clause (b), in sub-clause (ii), for the words "works contract namely," the words "works contract including" shall be substituted and shall be deemed to have been substituted with effect from the 20th June 2006.

7. Amendment Of Section 8 Of Mah. Ix Of 2005 :-

In section 8 of the Value Added Tax Act,-

- (1) in sub-section (3), for the words, "hundred per cent export oriented unit", wherever they occur, the words "export oriented unit" shall be substituted;

- (2) in sub-section (3B), the following Explanation shall be added and shall be deemed to have been added with effect from the 20th June, 2006, namely :-

"Explanation.- For the purposes of this sub-section, "members of the armed forces" includes ex-servicemen and families of the deceased personnel of the armed forces.";

- (3) after sub-section (3B), the following sub-section shall be inserted, namely :-

"(3C) The State Government may, by general or special order published in the Official Gazette, and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt fully from payment of tax with effect from the date specified in the order, the transfer of property in goods involved in the processing of textiles described in column (3) of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957.(58 of 1957)";

- (4) in sub-section (5), for sub-clause (h), the following sub-clauses shall be substituted, namely :-

"(h) any telephone service provider, holding a licence granted under the Indian Telegraph Act, 1885 (13 of 1885.) and the Indian Wireless Telegraphy Act, 1933, (17 of 1933) to establish, install, operate and maintain,-

- (a) telephone service upto subscribers terminal connections, or
- (b) national long distance service network;

(i) Telecom Infrastructure provider who has been granted registration certificate by the Department of Telecommunications, as Infrastructure Provider Category-1(IP-I)".

8. Amendment Of Section 16 Of Mah. Ix Of 2005 :-

In section 16 of the Value Added Tax Act,-

(1) to sub-section (2), the following proviso shall be added, namely :-

"Provided that, in the case of an application made by a person who voluntarily desires to get registered, the certificate of registration shall not be granted unless the applicant has deposited an amount of Rs.25,000 in the Government Treasury as advance towards the tax, interest or penalty, if any, that may become due. The amount so deposited may be adjusted against the tax payable according to the return required to be filed in the year in which the registration is granted or in the succeeding year. The amount of deposit in excess of the amount due from him, by way of tax, interest or penalty, if any, shall be refunded as provided in section 50 or, as the case may be, section 51.";

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

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

"Provided further that, where the Commissioner is satisfied that any person who has voluntarily got himself registered has not commenced business within six months from the date of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules;;

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

9. Amendment Of Section 19 Of Mah. Ix Of 2005 :-

In Section 19 of the Value Added Tax Act, in sub-section (2), the portion beginning with the words "if he has" and ending with the words "the application" shall be deleted.

10. Amendment Of Section 20 Of Mah. Ix Of 2005 :-

In section 20 of the Value Added Tax Act, in sub-section (4), for the words "expiry of a period of eight months" the words "expiry of a period of nine months" shall be substituted.

11. Amendment Of Section 22 Of Mah. Ix Of 2005 :-

In section 22 of the Value Added Tax Act, sub-section (3) shall be deleted.

12. Amendment Of Section 23 Of Mah. Ix Of 2005 :-

In section 23 of the Value Added Tax Act, after sub-section (3), the following sub-section shall be inserted, namely :-

"(3A) Where a notice for assessment under sub-section (3) of section 21 has been served on the dealer, the Commissioner shall assess, to the best of his judgement, the amount of tax due from him :

Provided that, no order of assessment under this sub-section shall be made after the expiry of seven years from the end of the year containing the period in respect of which the notice for assessment has been issued.".

13. Amendment Of Section 26 Of Mah. Ix Of 2005 :-

In section 26 of the Value Added Tax Act, in sub-section (1), for the words "An appeal, from every original order, not being an order mentioned in sub-section (2) of section 85", the following shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :-

"An appeal from every order, not being an order mentioned in sub-section (2) of this section and sub-section (2) of section 85".

14. Amendment Of Section 42 Of Mah. Ix Of 2005 :-

In section 42 of the Value Added Tax Act, in sub-section (4), after the words "where a dealer is liable to pay tax" the words "in respect of any period on or after the appointed day" shall be inserted.

15. Amendment Of Section 50 Of Mah. Ix Of 2005 :-

In section 50 of the Value Added Tax Act,-

(1) in sub-section (1), for the words "penalty and interest," the word "penalty, interest and fee except when the fee is paid by way of court-fee stamp," shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005;

16. Amendment Of Section 51 Of Mah. Ix Of 2005 :-

In section 51 of the Value Added Tax Act,-

(1) in sub-section (1), the word "subsequent" shall be deleted;

(2) in sub-section (2),-

"(a) for clause (a), the following clause shall be substituted, namely

:-

"(a) The registered dealer may, after the end of the year to which the return, fresh return or revised return relates, make an application in the prescribed form for grant of refund of the amount claimed refundable as aforesaid. The Commissioner may, within one month of the receipt of the application call for such additional information from the dealer, as he may think, necessary. The refunds relating to all the periods contained in one year may be granted by a single order.";

(b) in clause (b), the second proviso shall be deleted;

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

(i) in sub-clause (iii), for the words and figures "Tourism Projects 1999;" the words and figures "Tourism Projects 1999; or " shall be substituted;

(ii) after sub-clause (iii), the following sub-clauses shall be added, namely :-

"(iv) selling any goods in the course of inter-State trade or commerce; or

(v) the Canteen Stores Department or the Indian Naval Canteen Services.";

(4) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely :-

"(4) The Commissioner shall grant the refund under this section within three months of the receipt of application or receipt of additional information whichever is later. If the additional information is not furnished, then the refund shall be granted within six months of the receipt of the application.

(5) Notwithstanding anything contained in this section, if the dealer has furnished a bank guarantee for such amount, from such bank, for such period and to such authority as may be prescribed, the Commissioner shall grant the refund due under sub-section (2) or (3), within one month of the furnishing of the bank guarantee, irrespective of whether the additional information has been furnished or not."

17. Amendment Of Section 61 Of Mah. Ix Of 2005 :-

In section 61 of the Value Added Tax Act,-

(1) in sub-section (1), in the Explanation for the words and figures "Accountants Act, 1949" the words and figures "Accountants Act 1949 or a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959)" shall be substituted;

(2) in sub-section (2), the words "or as the case may be, purchases or a sum of one lakh rupees, whichever is less" shall be deleted;
(3) after sub-section (2), the following sub-section shall be added, namely :-

"(3) Nothing in sub-sections (1) and (2) shall apply to Departments of the Union Government, any Department of any State Government, local authorities, the Railway Administration as defined under the Indian Railways Act, 1989 (24 of 1989) , the Konkan Railway Corporation Limited and the Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950 (64 of 1950).".

18. Amendment Of Section 69 Of Mah. Ix Of 2005 :-

In section 69 of the Value Added Tax Act, after sub-section (2), the following sub-section shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely :-

"(3) Where any fresh certificate of registration is prepared on any automated data processing system and is issued to any dealer, then such fresh certificate of registration shall not be required to be personally signed by any officer and the said certificate shall not be deemed to be invalid only on the ground that it is not personally signed by any such officer.".

19. Amendment Of Section 79 Of Mah. Ix Of 2005 :-

In section 79 of the Value Added Tax Act, in clause (b), for the words "shall bear a court-fee stamp of such value" the words "shall be charged with such fee" shall be substituted.

20. Amendment Of Section 86 Of Mah. Ix Of 2005 :-

In section 86 of the Value Added Tax Act, for sub-section (3), the following sub-section shall be substituted, namely :-

"(3) When a dealer liable to pay tax under this Act, sells any goods to any person, he shall issue to the purchaser either a tax invoice or a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated, and preserve it for a period of three years from the end of the year in which the sale took place:

Provided that, where the value of the goods sold in a single

transaction is rupees fifty or less, then it shall not be necessary to issue the said bill or cash memorandum."

21. Amendment Of Section 91 Of Mah. Ix Of 2005 :-

In section 91 of the Value Added Tax Act, in sub-section (5), for the words "Entitlement Certificate", at both the places where they occur, the words and figures "Entitlement Certificate other than an Entitlement Certificate granted under the new package scheme of incentives for Tourism Projects, 1999" shall be substituted and shall be deemed to have been substituted with effect from the 1st April, 2005.

CHAPTER 6

VALIDATION AND SAVINGS

22. Validation And Saving :-

(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 entry of goods into local areas by any importer 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 Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 (Mah.IV of 2003) (hereinafter, in this Chapter, referred to as "the Entry Tax Act") during the period commencing on the 1st October 2002 and ending on the 31st March 2005 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 Entry Tax 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 this sub-section shall be construed as preventing a person,-

(a) from questioning in accordance with the provisions of the Entry Tax Act, as amended by the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2007 (Mah. of 2007), any assessment, re-assessment, levy or collection of tax referred to in this sub-section, 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 Entry Tax Act.