

## **Maharashtra Tax Laws (Levy, Amendment And Validation) Act, 2011**

**15 of 2011**

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22. Validation And Saving

**Maharashtra Tax Laws (Levy, Amendment And Validation)**

## **Act, 2011**

### **15 of 2011**

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 Sixty-second Year of the Republic of India as follows:-

#### CHAPTER 1

##### Preliminary

### **1. Short Title And Commencement :-**

(1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011.

(2) (a) Section 1 shall come into force on the date of the publication of this Act in the Official Gazette.

(b) Section 19 (1) shall come into force with effect from the date on which the Finance Act, 2011 comes into force.

(c) Save as otherwise provided in this Act, the remaining sections shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions.

#### CHAPTER 2

##### Amendments to the Bombay Stamp Act, 1958

### **2. Amendment Of Schedule I Of Bom. Lx Of 1958 :-**

In SCHEDULE I appended to the Bombay Stamp Act, 1958 (Bom. LX of 1958.),--

(a)-in article 5,--

(i) in clause (a), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the amount of a bill of exchange." shall be substituted;

(ii) in clause (b), in column 2, for the words and figures "Fifty paise for every rupees 1,00,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(iii) in clause (c),--

(A) in sub-clause (i), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and

words " 0.005 per cent." shall be substituted;

(B) in sub-clause (ii), in column 2, for the words and figures " One rupee for every rupees 10,000 or part thereof" the figures and words " 0.005 per cent." shall be substituted;

(iv) in clause (d), in column 2, for the words and figures " One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(v) in clause (e), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(vi) in clause (f), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(vii) in clause (g), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words " 0.005 per cent." shall be substituted;

(viii) in clause (g-d),--

(A) in sub-clause (i),--

(1) in entry (A), in column 2, for the words " Two thousand rupees." the words and figures "The same duty as is payable under Article 60." shall be substituted;

(2) for entry (B), the following entry shall be substituted, namely :-

-

"(B) for the purpose of residential use,--

(1) having area upto 27.88 square metres (300 square feet); Two hundred rupees.

(2) having area more than 27.88 square metres (300 square feet). The same duty as is payable under Article 60.";

(B) in sub-clause (ii),--

(1) in entry (A), in column 2, for the words "One thousand rupees." the words and figures "The same duty as is payable under Article 60." shall be substituted;

(2) for entry (B), the following entry shall be substituted, namely :-

-

"(B) for the purpose of residential use,--

(1) having area upto 27.88 square metres (300 square feet); One hundred rupees.

(2) having area more than 27.88 square metres (300 square feet). The same duty as is payable under Article 60.";

(C) in sub-clause (iii),--

(1) in entry (A), in column 2, for the words "Four hundred rupees." the words and figures "The same duty as is payable under Article

60." shall be substituted;

(2) for entry (B), the following entry shall be substituted, namely :-

-

"(B) for the purpose of residential use,--

(1) having area upto 27.88 square metres (300 square feet); Fifty rupees.

(2) having area more than 27.88 square metres (300 square feet).

The same duty as is payable under Article 60.";

(b) in article 43,--

(i) in clause (a), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof," the figures and words "0.005 per cent," shall be substituted;

(ii) in clause (b), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof," the figures and words "0.005 per cent." shall be substituted;

(iii) in clause (c), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof," the figures and words "0.005 per cent." shall be substituted;

(iv) in clause (d), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(v) in clause (e), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof " the figures and words "0.005 per cent." shall be substituted;

(vi) in clause (f), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(vii) in clause (g), in column 2, for the words and figures "Fifty paise for every rupees 1,00,000 or part thereof" the figures and words "0.005 per cent." shall be substituted;

(c) in article 51A,--

(i) in clause (a), in column 2, for the words "Fifty rupees for every rupees one crore or part thereof" the figures and words "0.005 per cent." shall be substituted;

(ii) in clause (b),--

(A) in sub-clause (i), in column 2, for the words and figures "One rupee for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the value of the security." shall be substituted;

(B) in sub-clause (ii), in column 2, for the words and figures "Twenty paise for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the value of the security." shall be

substituted;

(iii) in clause (c), in column 2, for the words and figures "Twenty paise for every rupees 10,000 or part thereof." the figures and words "0.005 per cent. of the value of the futures and options trading." shall be substituted;

(iv) in clause (d), in column 2, for the words and figures "One rupee for every rupees 1,00,000 or part thereof." the figures and words "0.005 per cent. of the value of the forward contract." shall be substituted.

### CHAPTER 3

Amendments to The Maharashtra Purchase Tax on Sugarcane Act, 1962

### **3. Amendment Of Section 2 Of Mah. IX Of 1962 :-**

In section 2 of the Maharashtra Purchase Tax on Sugarcane Act, 1962(Mah. IX of 1962.) (hereinafter, in this Chapter, referred to as "the Purchase Tax on Sugarcane Act"), after clause (h), the following clause shall be added, namely:--

"(i) "year" means the year starting from the 1st day of October and ending on the 30th day of September next following .".

### **4. Insertion Of Section 3A In Mah. IX Of 1962 :-**

After section 3 of the Purchase Tax on Sugarcane Act, the following section shall be inserted, namely:--

"3A. Application of certain provisions of Maharashtra Value Added Tax Act, 2002 and rules made thereunder.- Subject to the provisions of this Act and the rules made thereunder, the provisions of the Maharashtra Value Added Tax Act, 2002(Mah. IX of 2005) and the rules made thereunder, so far as they relate to the electronic filing of returns and electronic payment of tax, or any amount payable under this Act, shall mutatis mutandis apply for the purposes of this Act.".

### **5. Amendment Of Section 5 Of Mah. IX Of 1962 :-**

In section 5 of the Purchase Tax on Sugarcane Act; in sub-section (4), for the word "June" the word "September" shall be substituted.

### **6. Amendment Of Section 6 Of Mah. IX Of 1962 :-**

In section 6 of the Purchase Tax on Sugarcane Act,--

(1) in sub-section (2), for the words "full amount of tax leviable" the words "the amount payable as prescribed" shall be substituted;

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

"(4) Where a return is submitted to the Commissioner without making the payment of the, amount of tax as prescribed under section 3, the amount or the remaining unpaid amount, shall be paid by the occupier into a Government Treasury or the Reserve Bank of India on or before the date specified in the notice served by the Commissioner for this purpose, being a date not later than ten days from the date of service of the notice."

## **7. Insertion Of Section 6A In Mah. Ix Of 1962 :-**

After section 6 of the Purchase Tax on Sugarcane Act, the following section shall be inserted, namely :--

" 6A. Special provisions for transitional accounting year.- (1) Notwithstanding anything contained in this Act or the rules made and notifications issued thereunder, the assessment of tax and payment of tax in respect of the transitional accounting year shall be made in such manner as may be prescribed.

Explanation.--For the purpose of this sub-section, the period beginning on the 1st day of April 2010 and ending on the 30th day of September 2011 shall be deemed to be the "transitional accounting year" for levy and collection of tax.

(2) If any difficulty arises in giving effect to the provisions of this section, during the period of three years from the date of commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011(Mah. XV of 2011), the State Government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(3) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature."

## **8. Amendment Of Section 7 Of Mah. Ix Of 1962 :-**

In section 7 of the Purchase Tax on Sugarcane Act, in sub-section (4), the Explanation shall be deleted.

## **9. Amendment Of Section 7B Of Mah. Ix Of 1962 :-**

In section 7B of the Purchase Tax on Sugarcane Act,--

( 1 ) for sub-section (1), the following sub-section shall be substituted, namely:--

"(1) If an occupier fails to submit the return as required by sub-section (1) of section 6 or to pay the amount payable as prescribed as required by sub-section (2) of that section, he shall, in addition to the tax and the penalty, if any, pay simple interest on the amount due at the rate of one and a quarter per cent. for each month from the date immediately following the last day as prescribed till the date the occupier continues to make default in the payment of the amount due.

Explanation.--For the purposes of this sub-section, where an occupier fails to submit the return in due time, the amount of tax assessed under section 7 shall be deemed to be the amount of tax due from the occupier under sub-section (2) of section 6.";

(2) in sub-section (2), the words, brackets and figure "sub-section (1) of" shall be deleted.

#### **10. Insertion Of Section 7E In Mah. Ix Of 1962 :-**

After section 7D of the Purchase Tax on Sugarcane Act, the following section shall be inserted, namely :--

"7E. Refund of excess payment of tax.- If any amount of tax becomes refundable to an occupier of the factory or the unit as per the return for the month of September then, the said amount shall be refunded to the said occupier within six months, from the due date prescribed for filing the return for the month of September or, as the case may be, the date on which the return for the month of September is filed, whichever is later.".

#### **CHAPTER 4**

Amendments to the Maharashtra Value Added Tax Act, 2002

#### **11. Amendment Of Section 16 Of Mah. Ix Of 2005 :-**

In section 16 of the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005) (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"),--

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

" Provided that, if the application is made on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011(Mah. of XV 2011), by a person who voluntarily desires to get registered, the application shall not be entertained, unless the applicant has deposited an amount of

rupees 25,000 in the Government Treasury by way of security deposit and the amount so deposited shall not be adjusted against the tax payable as per any return or towards any other liability under this Act.";

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

"(2A) The security deposit deposited under the proviso to sub-section (2) shall be refundable on such conditions, restrictions and within such time as may be prescribed. The security deposit shall be forfeited, if there is no compliance of such conditions, restrictions and time limit.".

### **12. Amendment Of Section 20 Of Mah. Ix Of 2005 :-**

In section 20 of Value Added Tax Act, in sub-section (4),--

(1) the words "or, as the case may be, a revised return" shall be deleted;

(2) in clause (a),--

(a) for the word "nine" the word "ten" shall be substituted;

(b) the words "or, as the case may be, the revised return " shall be deleted;

(3) after clause (c), the following proviso shall be added, namely :-

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"Provided that, any such person or dealer may furnish not more than one revised return under each of the aforesaid clauses and such revised return may include revision of return or revised return filed earlier."

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

In section 26 of the Value Added Tax Act, in sub-section (5), clause (c) shall be deleted.

### **14. Amendment Of Section 41 Of Mah. Ix Of 2005 :-**

In section 41 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be added, namely :--

"(5) Subject to such conditions and restrictions as it may impose, the State Government may, by notification in the Official Gazette, provide for exemption from the payment of full or part of the taxes payable on any class or classes of sales of liquor by any class or classes of dealers.".

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



In section 50 of the Value Added Tax Act, in sub-section (1), for the words "tax, penalty, interest" the words and figures "tax, penalty, interest, security deposit deposited under section 16" shall be substituted.

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

In section 51 of the Value Added Tax Act,--

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

(a) in clause (a), for the words "within one month of the receipt of the application" the words "on receipt of the application" shall be substituted;

(b) clause (b) shall be deleted;

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

(a) in clause (a),--

(i) sub-clause (iv) shall be deleted;

(ii) after sub-clause (v), after the words "fresh return or revised return." the following Explanation shall be added, namely :--

Explanation.--For the purposes of sub-clause (i), the expression "exporter" shall mean a registered dealer whose turnover of exports during such period as may be prescribed, is not less than such percentage of the total turnover of his sales as may be prescribed in this behalf.";

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

"(b) The Commissioner, on receipt of the said application, may require the dealer to furnish such bank guarantee for such amounts from such banks, for such periods and to such authorities as may be prescribed.";

(3) for sub-section (4), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2011, namely:--

"(4) Save as otherwise provided in this section, the Commissioner shall grant the refund under this section within eighteen months from the end of the month containing the date of the receipt of the application for refund :

Provided that, where a dealer has filed an application for refund under this section on or before the 31st March 2011, then, notwithstanding anything contained in sub-section (4) as it existed prior to the date of commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011(Mah. of XV 2011),

the Commissioner shall,--

(a) in respect of the periods ending on or before the 31st March 2010, grant the refund to such dealer on or before the 30th September 2011, and

(b) in respect of the periods beginning with the 1st April 2010 and ending on the 31st March 2011, grant the refund to such dealer on or before the 30th June 2012.";

(4) in sub-section (7), for the words "three years" the words "eighteen months" shall be substituted.

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

In section 61 of the Value Added Tax Act,--

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

(a) for the words "report of such audit" the words "complete report of such audit" shall be substituted;

(b) the existing Explanation shall be re-numbered as Explanation I thereof; and after the Explanation-I as so re-numbered, the following Explanation shall be added, namely :--

"Explanation II.--For the purposes of this section, an audit report shall be deemed to be the "complete audit report" only if all the items, certifications, tables, schedules and annexures are filled appropriately and are arithmetically self-consistent.";

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

"(2A) Where a dealer liable to file audit report under this section has knowingly furnished the audit report which is not complete, then the Commissioner may, after giving a reasonable opportunity of being heard, impose on him, in addition to any tax payable or any other penalty leviable under this section or any other section, a sum by way of penalty equal to one tenth per cent., of the total sales.".

### **18. Amendment Of Section 74 Of Mah. Ix Of 2005 :-**

In section 74 of the Value Added Tax Act, after sub-section (1), the following sub-section shall be inserted, namely:--

"(1A) (i) Whoever knowingly with the intention to defraud revenue, issues or produces a false tax invoice and thereby makes a false claim in respect of the set-off or the refund, or claims any other deduction that results into reduced tax liability or enhances the amount of refund, or

(ii) abets any of the aforesaid offences,

shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than one year but which may extend to two years and with fine."

**19. Amendment Of Schedule A Appended To Mah. Ix Of 2005. :-**

In SCHEDULE A appended to the Value Added Tax Act,--

(i) in entry 45, in column (2), for the words, brackets and figures "the Additional Duties of Excise (Goods of Special Importance) Act, 1957" the words, brackets and figures " the Additional Duties of Excise (Goods of Special Importance) Act, 1957 as it stood prior to the date on which the Finance Act, 2011 comes into force" shall be substituted;

(2) in entry 55, in column (2), in clause (c), for the words "Dhoop including Loban" the words "Dhoop including Loban and Ral" shall be substituted;

(3) after entry 56, the following entry shall be inserted, namely :--  
"56A. Pre-fabricated domestic biogas units Nil".

**20. Amendment Of Schedule C Appended To Mah. Ix Of 2005 :-**

In SCHEDULE C appended to the Value Added Tax Act,--

(1) in entry 4, in sub-entry (a), in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(2) in entry 8, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(3) in entry 22, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(4) in entry 25, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(5) in entry 27, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(6) in entry 45, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(7) in entry 55, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(8) in entry 57, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(9) in entry 68, in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(10) in entry 94, in column (2), after sub-entry (b), the following sub-entry shall be added, namely: --

"(c) Vada Pav 5%";

(11) in entry 101, in sub-entry (a), in column (3), for the figure and sign "4%" the figure and sign "5%" shall be substituted;

(12) after entry 108, the following entry shall be inserted, namely:

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"108A. Dry fruits excluding cashew kernels and cashew nuts and those to which entry 59 of SCHEDULE A applies. 5%."

## **21. Amendment Of Schedule D Appended To Mah. Ix Of 2005 :-**

In SCHEDULE D appended to the Value Added Tax Act,--

(1) in entry 1, in column (3), for the figures and sign "25%" the figures and sign "50%" shall be substituted;

(2) in entry 2, in column (3), for the figures and sign "25%" the figures and sign "50%" shall be substituted;

(3) In entry 3, in column (3), for the figures and sign "25%" the figures and sign "50%" shall be substituted;

(4) after entry 12, the following entry shall be added, namely:

"13. Aerated and Carbonated non-alcoholic beverage whether or not containing sugar or other sweetening matter or flavour or any other additives. 20%."

## **CHAPTER 5**

Validation and Saving

## **22. Validation And Saving :-**

(1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment, review, levy, collection, refund or interest on refund of tax in respect of sales or purchases effected by any dealer or person, or any action taken or thing done in relation to such assessment, review, levy, collection, refund or interest on refund under the provisions of the Maharashtra Value Added Tax Act, 2002(Mah. IX of 2005) (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), during the period commencing on the 1st April 2005 and ending on the date immediately preceding the date of the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011(Mah.XV of 2011) (hereinafter, in this Chapter, referred to as "the Amendment Act"), shall be deemed to be valid and effective as if such assessment,

review, levy, collection, refund or interest on refund, or action or thing had been duly made, taken or done under the Value Added 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, review, levy, collection or refund of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the 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 Value Added Tax Act as amended by the Amendment Act, any assessment, review, levy, collection or refund 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 Value Added Tax Act, as amended by the Amendment Act.

(3) Nothing in the Value Added Tax Act, as amended by 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 Value Added 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 imposed on him under the law in force immediately before the commencement of the Amendment Act.