

Maharashtra Tax Taxl (Levy, Amendment And Validation) Act, 2014

27 OF 2014

[26 June 2014]

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Maharashtra Tax Taxl (Levy, Amendment And Validation) Act, 2014

27 OF 2014

[26 June 2014]

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-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 TaxL (Levy, Amendment and Validation) Act, 2014.
- (2) Sections 2, 7, 9 and 15 shall come into force with effece from thm 1st July 2014 and remaining sections shall come into force on the date of publication of this Act in the Official Gazette.

CHAPTER 2 Amendments to the Maharashtra Stamp Act.

2. Amendment of SCHEDULE I of LX of 1958. :-

In SCHEDULEL appended to the Maharashtra Stamp Act, in article 6,-

- (1) in clause (1), in sub-clause (6), in column (2), for the words and figures "Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed." the words and figures "Two

rupees for every rupees 1000 or part thereof, for the amount secured by such deed, subject to the maximum of ten lakh rupees." shall be substituted;

(2) in clause (2), in sub-clause (6), in column (2), for the words and figures "Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed." the words and figures "Two rupees for every rupees 1000 or part thereof, for the amount secured by such deed subject to the maximum of ten lakh rupees." shall be substituted.

CHAPTER 3 Amendments, to the Maharashtra Purchase Tax on Sugarcane Act, 1962.

3. Insertion of section 12AA in Mah. IX of 1962. :-

After Section 12A of the Maharashtra Purchase Tax on Sugarcane Act, 1962 (hereinafter, in this Chapter, referred to as "the Purchase Tax on Sugarcane Act"), the following section shall be inserted, namely :-

Special powers of authorities under Act for recovery of tax as arrears of land revenue.

"12AA. Subject to the provisions of this Act and the rules made thereunder, the provisions of the Maharashtra Value Added Tax Act, 2002 and the rules made thereunder so far as they relate to the recovery of tax as arrears of land revenue, shall mutatis mutandis apply for the purposes of recovery of tax under this Act. The authorities appointed under this Act shall have and exercise all the powers and perform all the duties of the equivalent authorities appointed under the Maharashtra Value Added Tax Act, 2002."

4. Amendment of section 12B in Mah. IX of 1962. :-

In section 12B of the Purchase Tax on Sugarcane Act, after clause (d), the following clause shall be added, namely :-

"(e) for the purpose or assisting the sugar factories in the State, to give the fair and remunerative price to the farmers for the year 2013-14".

CHAPTER 4 Amendments to the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975.

5. 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 (hereinafter, in this Chapter, referred to as "the Profession Tax Act"), to sub-section (3), the following proviso shall be added, namely:-

"Provided that, if the State Government is satisfied that it is necessary so to do in the public interest, it may, from time to time, by notification published in the Official Gazette, exempt the whole or any part of the late fee payable under this sub-section, by such class or classes of employers, for such period or periods, either prospectively or retrospectively, as may be specified in such notification."

6. Amendment of section 27A of Mah. XVI of 1975. :-

In section 27A of the Profession Tax Act, for clause (e), the following clause shall be substituted, namely :-

"(e) Any person with Intellectual and Development Disabilities (Mental Retardation) specified in the rules made in this behalf, which is certified by a psychiatrist working in a Government Hospital and which has the effect of reducing considerably such individuals capacity for normal work or engaging in a gainful employment or occupation and parents or guardian of such person : Provided that, such individual or, as the case may be, employer produces the aforesaid certificate before the prescribed authority in respect of the first assessment year for which he claims deduction under this clause.

Explanation.- For the purpose of this clause, the expression "Government Hospital" shall have the same meaning as assigned to it in clause (c);",

7. Amendment of SCHEDULE I of Mah. XVI of 1975. :-

In SCHEDULE I appended to the Profession Tax Act, in entry 1,-

(1) in clause (a), for the figures "5,000" the figures "7,500" shall be substituted;

(2) in clause (h), for the figures "5,000" the figures "7,500" shall be substituted.

CHAPTER 5 Amendments to the Maharashtra Tax on Luxuries Act, 1987.

8. Amendment of section 2 of Mah. XLI of 1987. :-

In section 2 of the Maharashtra Tax on Luxuries Act, 1987 (hereinafter, in this Chapter, referred to as "the Luxury Tax Act"),-

(1) in clause (b-1A), after the words and figures "Tourism Projects, 2000" the words and figures "or the Tourism Policy- 2006" shall be added;

(2) in clause (d-1), after the words and figures "Tourism Projects, 2000" the words and figures "or the Tourism Policy-2006" shall be added.

9. Amendment of section 3 of Mah. XLI of 1987. :-

In section 3 of the Luxury Tax Act, in sub-section (2),-

(1) in clause (a), for the words "seven hundred and fifty rupees" the words "one thousand rupees" shall be substituted;

(2) in clause (b),-

(i) for the words "seven hundred and fifty rupees" the words "one thousand rupees" shall be substituted;

(ii) for the words "twelve hundred rupees" the words "one thousand five hundred rupees" shall be substituted;

(3) in clause (c), for the words "twelve hundred rupees" the words "one thousand five hundred rupees" shall be substituted.

10. Amendment of section 22A of Mah. XLI of 1987. :-

In section 22A of the Luxury Tax Act, in sub-section (1),-

(1) for the words, brackets and figures "sub-entry (2) or, as the case may be, sub-entry (3) of entry 7 of the Schedule appended to the notification issued" the words "any of the entries of the Schedule appended to the notification issued, from time to time," shall be substituted,

(2) after, the word and figures "Act, 2004," the words and figures "or, as the case may be, the Tourism Policy-2006," shall be inserted;

(3) in the marginal note, after the words "Tourism Projects" the words "and Tourism Policy" shall be added."

11. Insertion of section 22B in Mah. XLI of 1987. :-

After section 22A of the Luxury Tax Act, the following section shall be inserted, namely :-

"22B. Incentives to Eligible Unit in certain contingencies under Tourism Policy-2006.

(1) Notwithstanding anything to the contrary contained in Tourism Policy- 2006, the Certificate of Entitlement, in respect of Tourism Policy- 2006, shall be granted only to the Eligible Unit, situated in

areas specified in Zone B or, as the case may be, Zone C as shown in Annexure B to the said Policy, to which the Eligibility Certificate has been issued after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2014 :

Provided that, Certificate of Entitlement to the Expansion Unit under the Tourism Policy- 2006 shall be granted only if there is an increase in capacity of the existing unit.

(2) Notwithstanding anything to the contrary contained in Tourism Policy-2006, any Eligible Unit, to whom the Eligibility Certificate and Certificate of Entitlement has been granted, for expansion of existing unit, shall be entitled to draw the benefits under the Act, in any year, only on that part of its turnover of receipts as may be arrived at, by applying the provisions of sub-section (3).

(3) In case where the Eligible Unit has,-

(a) maintained separate accounts of receipts and able to identify the receipts pertaining to the increased capacity, then the portion of the turnover of receipts eligible for benefits will be decided solely on the basis of such identification;

(b) not maintained separate accounts of receipts and not able to identify the receipts in relation to increase in the capacity, then such benefits shall be calculated after applying the formula as under:-

Eligible turnover of receipts = $\text{Turnover of receipts} \times \frac{\text{increase in capacity}}{\text{Total Capacity after such increase}}$

Explanation.- For the purpose of this section, the expression "increase in capacity" shall have the same meaning as specified in the Tourism Policy-2006."

CHAPTER 6 Amendments to the Maharashtra Value Added Tax Act, 2002.

12. Amendment of section 3 of Mah. IX of 2005. :-

In section 3 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), in sub-section (4), in clause (b), for the figures "5,00,000" the figures "10,00,000" shall be substituted.

13. Amendment of section 10 of Mah. IX of 2005. :-

In section 10 of the Value Added Tax Act,-

(1) in sub-section (2), clause (b) shall be deleted;

(2) in sub-section (6), the words "Senior Deputy Commissioner,"

shals be deleted.

14. Amendment of section 16 of Mah. IX of 2005. :-

In section 16 of the Value Added Tax Act, in sub-section (6),-

(1) in clause (b), after the words and figure "of section 3," the word "or" shall be added;

(2) after clause (b) so amended, the following clause shall be added,

(3) after the words "circumstances of the case.", the following shall be inserted, namely :-

"In the case covered by clause (c), the dealer may apply in the prescribed form for cancellation of his registration to the Commissioner on or before the 30th September 2014 and thereupon the Commissioner may, after such inquiry as he deems fit, cancel the registration with effect from the 1st October, 2014.".

15. Amendment of section 20 of Mah. IX of 2005. :-

In section 20 of the Value Added Tax Act, in sub-section (6), for the words "five thousand" the words "two thousand if the return is filed within a period of thirty days from the expiry of the due date prescribed for filing of such return and an amount of rupees five thousand, if any other case" shall be substituted.

16. Amendment of section 23 of Mah. IX of 2005. :-

In section 23 of the Value Added Tax Act,-

(1) sub-section (9) shall be deleted;

(2) to sub-section (10), the following proviso shall be added, namely:-

"Provided that, in respect of the period commencing on or after the 1st April 2011, in case a dealer is required under the rules, to file more than one return in different forms prescribed, then such dealer may be assessed separately for each form of return for the said period.";

(3) in sub-section (11),-

(a) after the words "order in writing" the words "within three months from the end of the month in which such application is made" shall be inserted;

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

"Provided further that, if no order is passed within the aforesaid

period of three months, then the assessment order shall be deemed to be cancelled.";

(4) in sub-section (12), after the words "cancellation order" the words brackets and figures " or, as the case may be, from the date on which the assessment order is deemed to have been cancelled under the second proviso to sub-section (11)" shall be added.

17. Amendment of section 26 of Mah. IX of 2005. :-

In section 26 of the Value Added Tax Act, in sub-section (6),-

(1) before the existing proviso, the following proviso shall be inserted namely:-

"Provided that, in case of an appeal filed on or after the 1st July 2014 against any order, in which claim against declaration or certificate, has been disallowed on the grounds of non-production of such declarations or, as the case may be, certificate then, -

(a) where such appeal is filed after two years from the end of the year to which such claim relates, then the stay shall not be granted unless the appellant makes 100 per cent, payment of tax, in respect of such claim,

(b) where such appeal is filed before the expiry of two years from the end of the year to which such claim relates, the stay, if any, shall stand vacated, if the dealer fails to produce the required declaration before the expiry of the said period of two years.

18. Amendment of section 29 of Mah. IX of 2005. :-

In section 29 of the Value Added Tax Act,-

(1) in sub-section (3), for the words "equal to" the words "not exceeding the amount of tax due but not less than twenty five per cent. of " shall be substituted;

(2) after sub-section (7), the following sub-section shall be inserted, namely-

"(7A) In case of a dealer, who has filed late return on or after the 1st August 2012, and has also paid the late fee, under sub-section (6) of section 20, the penalty in respect of such return, if any, imposed under sub-section (8) of this section, as it existed, shall not be recovered.";

(3) after sub-section (11), the following sub-section shall be inserted, namely:-

(11A) Notwithstanding anything contained in sub-section (11), penalty under this section may be imposed while passing an order under this Act.";

(4) sub-section (12) shall be deleted.

19. Amendment of section 30 of Mah. IX of 2005. :-

In section 30 of the Value Added Tax Act, in sub-section (4), the following shall be added at the end, namely:-

"Provided that, interest under this sub-section shall not be payable on account of the additional tax liability arising due to non-production of declarations or, as the case may be, certificates:

Provided further that, if the amount of tax paid as per revised return is less than ten per cent. of the aggregate amount of tax paid as per the original returns, in respect of the corresponding period, then no interest under this sub-section shall be payable.

Explanation.-For the purpose of this sub-section the expressions,-

(i) "tax paid as per original returns" shall be deemed to include the amount of tax paid, as per the revised returns, filed before the commencement of proceedings specified in clause (a) or before the receipt of intimation specified in clause (b) of sub-section (4);

(ii) "tax paid" shall mean the amount of tax paid by such person or dealer, after the adjustment of set-off."

20. Amendment of section 31A of Mah. IX of 2005. :-

In section 31A of the Value Added Tax Act,-

(2) in sub-section (J), after clause (b), the following clause shall be added, namely:-

"(c) who awards quarrying lease or quarrying permit in respect of minor minerals to a dealer, within their jurisdiction to collect an amount at the time of such award or, as the case may be, auction, at such rate as provided in sub-section (2) towards the liability of sales tax to be incurred on sale of such minor minerals.";

(2) in sub-section (2), for the brackets, letters and word "(a) and (b)" the brackets, letters and word " (a), (b) and (c)" shall be substituted;

(3) in sub-section (3), for the brackets, word and letters "(a) and (b)" the brackets, letters and word " (a), (b) and (c)" shall be substituted.

21. Amendment of section 51 of Mah. IX of 2005. :-

In section 51 of the Value Added Tax Act, in sub-section (3), in clause (a), in sub-clause (iii), for the words and figures "Package Scheme of Incentives-2001 or, as the case may be, Package

Scheme of Incentives-2007" the words and figures "Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013" shall be substituted,

22. Amendment of section 61 of Mah. IX of 2005. :-

In section 61 of the Value Added Tax Act,-

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

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

"(a) if the,-

(i) aggregate of his turnover of sales and the value of goods transferred to any other place of his business or of his agent or principal, situated outside the State, not by reason of sale, or

(ii) turnover of purchases,

exceeds rupees one crore in any year;"

(ii) clause (b) shall be deleted;

(2) in sub-section (2), the proviso shall be deleted.

23. Amendment of section 63 of Mah. IX of 2005. :-

In section 63 of the Value Added Tax Act, in sub-section (7), for the words "Commissioner may" the words "Commissioner shall" shall be substituted.

24. Amendment of section 88 of Mah. IX of 2005. :-

In section 88 of the Value Added Tax Act,-

(1) in clause (a-1), for the words and figures "Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007" the words and figures "Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013" shall be substituted;

(2) in clause (e), for the words and figures "the Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007" the words and figures "the Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives-2013" shall be substituted.

25. Amendment of section 89 of Mah. IX of 2005. :-

In section 89 of the Value Added Tax Act, in sub-section (4), for the words and figures "Package Scheme of Incentives-2001 or, as the case may be, Package Scheme of Incentives-2007 " the words and figures " Package Scheme of Incentives-2001, Package Scheme of Incentives-2007 or, as the case may be, Package Scheme of Incentives- 2013" shall be substituted.

26. Amendment of SCHEDULE A of Mah. IX of 2005. :-

In SCHEDULE A appended to the Value Added Tax Act, after entry 26, the following entry shall be inserted, namely :-

"26A Copyrights, for distribution and exhibition of cinematographic films in theatres and cinema halls, sold during the period commencing on the 1st April 2005 and ending on the 30th April 2011. - Nil".

27. Amendment of SCHEDULE C of Mah. IX of 2005. :-

In SCHEDULE C of the Value Added Tax Act, after entry 55, the following entries shall be inserted, namely :-

"55A Tool, alloy and special steels of any of the categories, specified in clause (x) to clause (xv) of entry 55 of this Schedule, sold during the period commencing on the 1st April 2005 and ending on the 30th April 2011. - 4%

55B Tool, alloy and special steels of any of the categories, specified in clause (x) to clause (xv) of entry 55 of this Schedule, sold on or after the 1st May 2011. - 5%".

CHAPTER 7 Validation and Savings.

28. Validation and savings. :-

(1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment, review, levy or collection 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 or collection of tax by any dealer or person under the provisions of the Maharashtra Value Added Tax Act, 2002 (hereinafter in this section referred to as "the Value Added Tax Act"), before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2014 (hereinafter, in this section, referred to as "the Amendment Act"), shall be deemed to be valid and effective as if such assessment, review, levy or collection 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 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 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 subsection (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 or collection of tax referred to in subsection (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.