

Rajasthan Sales Tax (Amendment) Act, 1976

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Rajasthan Sales Tax (Amendment) Act, 1976

An Act further to amend the Rajasthan Sales Tax Act, 1954. BE it enacted by the Rajasthan State Legislature in the Twenty-seventh Year of the Republic of India as follows:- Statement of Object "Doubts have arisen as to the continuance of the Finance (Revenue & Economic Affairs) Department (Commercial Taxes Section) Notification No. F. 5(26) FD(CT) 65-I dated 6th day of March, 1965 (See 1965 16 S.T.C. Statutes 32.), levying sales tax on medicines, drugs and pharmaceutical preparations of all sorts at the rate of 4%. Though this notification was replaced by Finance (Revenue and Economic Affairs) Department (Commercial Taxes Section) Notification No. F. 5(155) FD(CT) 65-IV dated 2nd day of November, 1965 (See 1966 17 S.T.C. Statutes 7.), levying sales tax on these goods at the rate of 6% during the period commencing on the 2nd day of November, 1965, and ending on the 7th day of March, 1969, and this subsequent notification was also superseded by Finance Department (Commercial Taxes Section) Notification No. F. 5(16) FD(CT) 69-2 dated the 8th day of March, 1969 (See 1969 23 S.T.C. Statutes 47.), levying taxes on the said goods at the rate of 7% during the period commencing on the 8th day of March, 1969, and ending on the 8th day of March, 1976, some dealers collected taxes at the rates of 6% and 7% respectively under these notifications but have paid the tax at the rate of 4% on the said goods on the ground that notification of the 6th day of March, 1965 (See 1965 16 S.T.C. Statutes 32.), had not yet been rescinded. It was, therefore, expedient to clarify the law and validate the assessment and collection of tax on the said goods so as to prevent such dealers from usurping the amount of tax collected on behalf of the State, at the rate of 6% and 7% under

the said notifications. As revenues of the State were affected such legislation was considered immediately necessary. Accordingly the Governor promulgated on the 8th day of September, 1976, the Rajasthan Sales Tax (Amendment) Ordinance, 1976 (See page 128 supra.). Opportunity was also taken to provide for exemption of tax in some cases with retrospective effect to enable the State Government to exercise this power in public interest and on certain conditions and fees to be specified by notification. 2. The amending Bill seeks to replace this Ordinance by an Act of the State Legislature." MEMORANDUM OF DELEGATED LEGISLATION "Clause 2 of the Bill when enacted would empower the State Government to exempt retrospectively from any tax the sale or purchase of any goods or class of goods or any person or class of persons in public interest and on conditions and fees to be specified by it by notification in the official Gazette. 2. As the power is to be exercised in public interest and on specified conditions delegation is not excessive but is normal in character."

1. Short title :-

This Act may be called the Rajasthan Sales Tax (Amendment) Act, 1976.

2. Amendment of section 4, Rajasthan Act No. XXIX of 1954 :-

In sub-section (2) of section 4 of the Rajasthan Sales Tax Act, 1954 (Rajasthan Act No. XXIX of 1954), hereinafter referred to as the principal Act, for the expression "exempt", the expression "exempt, whether prospectively or retrospectively" shall be substituted.

3. Amendment of section 5, Rajasthan Act No. XXIX of 1954 :-

Section 5 of the principal Act shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:- "(2) Notwithstanding anything contained in sub-section (1) and in the Finance (Revenue & Economic Affairs) Department (Commercial Taxes Section) Notification No. F. 5(26) FD(CT) 65-I dated the 6th day of March, 1965 (See 1965 16 S.T.C. Statutes 32.), published in the Rajasthan Gazette, Extraordinary, dated 6th day of March, 1965, - (i) the said notification shall be deemed to have been rescinded with the expiry of the 1st day of November, 1965; and (ii) tax on medicines, drugs and pharmaceutical preparations of all

sorts shall be deemed always to have been levied, - (a) during the period commencing on the 2nd day of November, 1965, and ending with the 7th day of March, 1969, at the rate of 6% according to the entry at serial number 89 of the Finance (Revenue & Economic Affairs) Department (Commercial Taxes Section) Notification No. 5(155) FD(CT) 65-IV dated 2nd day of November, 1965 (See 1966 17 S.T.C. Statutes 7.), as published in the Rajasthan Gazette, Extraordinary, Part 4(C), dated November 2, 1965; and (b) during the period commencing on the 8th day of March, 1969, and ending on the 8th day of March, 1976, at the rate of 7% according to the entry at serial number 79 of the Finance Department (Commercial Taxes Section) Notification No. F. 5(16) FD(CT) 69-2 dated 8th day of March, 1969 (See 1969 23 S.T.C. Statutes 47.), published in the Rajasthan Gazette, Extraordinary, Part 4(C), sub-section (ii), dated 8th day of March, 1969."

4. Insertion of new section 5AA in Rajasthan Act No. XXIX of 1954 :-

After section 5A of the principal Act, the following new section shall be inserted, namely:- "5AA. Validation of certain assessments, etc. - (1) Notwithstanding anything contained in any judgment, decree or order of any court or authority, any levy, assessment, reassessment or collection of a tax on medicines, drugs and pharmaceutical preparations of all sorts, made during the periods and at the rates under the notifications specified in sub-section (2) of section 5 and any action taken, or thing done in relation to such levy, assessment and reassessment or collection under the provisions of this Act and in pursuance of the said notifications, shall be deemed to be and ever to have been as valid and effective as if such levy, assessment, reassessment, collection, action or thing had been made, taken or done under the provisions of this Act as amended by the Rajasthan Sales Tax (Amendment) Act, 1976, and accordingly - (a) all acts or things done or proceedings taken by any officer of the State Government or by any other authority in connection with the levy, assessment, reassessment or collection of such tax shall, for all purposes, be deemed to be and to have been done or taken in accordance with law; (b) no suit or other proceeding shall be maintained or continued in any court or before any authority questioning the levy, assessment, reassessment or collection of such tax or claiming refund thereof; (c) no court or authority shall enforce any decree or order directing the refund of any such tax; and (d) any reference made or any

other proceeding taken under section 15 for determining the rate of tax leviable on medicines, drugs and pharmaceutical preparations of all sorts during the periods specified in sub-section (2) of section 5 shall abate. (2) For the removal of doubts, it is hereby declared that nothing contained in sub-section (1) shall be construed as preventing any person - (a) from questioning in accordance with the provisions of this Act, as amended by the Rajasthan Sales Tax (Amendment) Act, 1976, the levy, assessment, reassessment or collection of the tax referred to in sub-section (1) other than the rate thereof, or (b) from claiming refund of any amount in excess of the amount of tax due on medicines, drugs and pharmaceutical preparations of all sorts according to sub-section (2) of section 5."

5. Repeal and saving :-

(1) The Rajasthan Sales Tax (Amendment) Ordinance, 1976 (Ordinance No. 11 of 1976) (See page 128 supra,), is hereby repealed. (2) Notwithstanding such repeal all things done, actions taken, and the levy, assessment or reassessment or collection of tax made under the principal Act as amended by the said Ordinance shall be deemed to have been done, taken and made under the principal Act as amended by this Act. The Statement of Objects and Reasons and the Memorandum of Delegated Legislation appended to the Rajasthan Sales Tax (Amendment) Bill, 1976 (Rajasthan Gazette, Extraordinary, Part 3(A), dated 1st October, 1976, page 44.)