

**Tamil Nadu Prohibition (Amendment) Act, 2004****2 of 2004**

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**Tamil Nadu Prohibition (Amendment) Act, 2004****2 of 2004**

An Act further to amend the Tamil Nadu Prohibition Act, 1937. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty fifth Year of the Republic of India as follows:-

Statement of Objects and Reasons<sup>2</sup> The Government amended the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937) by Tamil Nadu Act 31 of 2003 with effect from the 26th day of October 2003 in order to completely eliminate the sale of contraband, spurious, non-duty paid liquor in licensed premises under the system of Retail Vending by private persons and to curb organized groups and cartels that cornered the retail vending trade, apart from indulging in widespread violations of Maximum Retail Price of liquor fixed by the Government thereby causing loss of revenue to the Government. By the said Tamil Nadu Act 31 of 2003, the Government thus granted the exclusive privilege of retail vending of Indian Made Foreign Spirit (IMFS) to the wholly Stateowned and controlled Corporation, Tamil Nadu State Marketing Corporation Limited (TASMAC). By the said Tamil Nadu Act 31 of 2003, the Government, apart from conferring the sole privilege of retail vending of IMFS to TASMAC also laid down that no other person shall be entitled to any privilege for retail vending of IMFS in the whole or any part of the State. The object of the above Act was that, notwithstanding anything contained in any judgement, decree or order of any court, the retail vending of liquor shall be carried on in the State solely by TASMAC. The above amendment Act was questioned before the High Court of Madras. The High Court of Madras while upholding the validity of the Act, ruled that the said

Tamil Nadu Act 31 of 2003 did not apply to 284 ex-licensees on the ground that the said Act was not in the nature of removing the basis of the judgement rendered earlier. The Government have filed Special Leave Petitions in the Supreme Court against this portion of the judgement of the Madras High Court contending that Tamil Nadu Act 31 of 2003 has completely altered the basis of the judgements rendered earlier in favour of the ex-licensees, setting forth various contentions in support of the same. Though the Government consider that the Act in question has brought about a complete change in the law and thereby removed the basis of the judgements rendered earlier, in as much as a different view has been taken in the High Court of Madras, with a view to make the intention clear, it has been decided to amend the said Tamil Nadu Act X of 1937 further in order to give full effect to the object namely to alter the basis of the earlier judgement by giving retrospective effect to the repeal of Rule 14 of the Tamil Nadu Liquor (Retail Vending) Rules, 1989 and Rule 5 of the Tamil Nadu Liquor (Retail Vending in Bar) Rules, 2002. Accordingly, the Tamil Nadu Prohibition (Amendment) Ordinance, 2004 (Tamil Nadu Ordinance 1 of 2004) was promulgated by the Governor on the 28th January 2004 and the same was published in the Tamil Nadu Government Gazette Extraordinary, dated the 28th January 2004 (Part IV, Section 2, Issue No.27, Page 3). 3. The Bill seeks to replace the said Ordinance. 1. Received the assent of the Governor on the 11th February, 2004 - Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section 2, Issue No.40, Page 7, dated 11th February, 2004. 2. Vide Bill No. 1 of 2004 - Published in Tamil Nadu Government Gazette, Extraordinary, Part IV, Section I, Issue No.37, page 1, dated 6th February, 2004.

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

(1) This Act may be called the Tamil Nadu Prohibition (Amendment) Act, 2004.

(2) (a) Section 2,-

(i) in so far as it relates to sub-sections (1) and (2) of new Section 22-CC of the Tamil Nadu Prohibition Act, 1937 (hereinafter referred to as the principal Act), shall be deemed to have come into force on the 22nd day of June 2001;

(ii) in so far as it relates to sub-sections (3) and (4) of new Section 22-CC of the principal Act, shall be deemed to have come into force on the 23rd day of April 2002.

(b) Other provisions shall be deemed to have come into force on the 26th day of October 2003.

## **2. Insertion Of New Section 22-Cc :-**

After Section 22-C of the principal Act, the following Section shall be inserted, namely:-

"22-CC. Repeal of rules- (1) Notwithstanding anything contained in any judgment, decree or order of any Court, Rule 14 of the Tamil Nadu Liquor (Retail Vending) Rules, 1989 is repealed with effect from the 22nd day of June 2001.

(2) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court,-

(i) the licence granted for selling, by retail, Indian Made Foreign Spirit on or after the 22nd day of June 2001, under the Tamil Nadu Liquor (Retail Vending) Rules, 1989, shall be deemed to have been granted without the right of renewal;

(ii) any grant of renewal of licence for selling, by retail, Indian Made Foreign Spirit on or after the 22nd day of June 2001, under the rule repealed under sub-section (1) of this Section shall be deemed to be a grant of licence for selling, by retail, Indian Made Foreign Spirit without the right of renewal and shall cease to be valid on the expiry of the 28th day of November 2003.

(3) Notwithstanding anything contained in any judgment, decree or order of any Court, Rule 5 of the Tamil Nadu Liquor (Retail Vending in Bar) Rules, 2002 is repealed with effect from the 23rd day of April 2002.

(4) Notwithstanding anything contained in this Act or in any judgment, decree or order of any Court,-

(i) the licence granted for vending liquor in bar, on or after the 23rd day of April 2002, under the Tamil Nadu Liquor (Retail Vending in Bar) Rules, 2002, shall be deemed to have been granted without the right of renewal;

(ii) any grant of renewal of licence for vending liquor in bar, on or after the 23rd day of April 2002 under the rule repealed under sub-section (3) of this Section shall be deemed to be a grant of licence for vending liquor in bar without the right of renewal and shall cease to be valid on the expiry of the 28th day of November 2003."

## **3. Amendment Of Section 22-D :-**

In Section 22-D of the principal Act, in clause (a),-

- (1) for the expression "every licence granted or renewed", the expression "every licence granted or renewed [which is deemed to be a grant of licence under sub-sections (2) and (4) of Section 22-CCJ]" shall be substituted;
- (2) for the expression "any licence renewed", the expression "any licence renewed [which is deemed to be a grant of licence under sub-sections (2) and (4) of Section 22-CCJ]" shall be substituted.

#### **4. Repeal And Saving :-**

- (1) The Tamil Nadu Prohibition (Amendment) Ordinance, 2004 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.