

Uttar Pradesh Recovery Of Taxes And Other Public Moneys (Amendment And Validation) Act, 1970

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Uttar Pradesh Recovery Of Taxes And Other Public Moneys (Amendment And Validation) Act, 1970

It is hereby enacted in the Twenty-first Year of the Republic of India as follows:-

1. Short Title :-

This Act may be called the Uttar Pradesh Recovery of Taxes and Other Public Moneys (Amendment and Validation) Act, 1970.

2. Amendment Of U.P. Act Xxv Of 1965 :-

Section 3 of the Public Moneys (Recovery of Dues) Act, 1965, is, with effect from December 4, 1965, repealed and re-enacted with the modification that - (i) in sub-section (1), the words "without prejudice to any other mode of recovery under any other law for the time being in force" shall be omitted; (ii) after sub-section (2), the following sub-section shall be inserted, namely:- "(3) No suit for the recovery of any sum due as aforesaid shall lie in the civil court against any person referred to in sub-section (1): Provided that nothing in this section shall - (a) be construed to bar a suit or affect any other right or remedy against such person or any other person in respect of a mortgage, charge or pledge in favour of the State Government, the Corporation, a Government Company, the State Bank of India or any other scheduled bank; or (b) be construed to bar a suit or affect any other right or remedy against any other person in respect of a contract of indemnity or guarantee entered into in relation to an agreement referred to in sub-section (1)."

3. Bar Of Civil Suit In Certain Cases :-

(1) No suit lie or be deemed, at any time after January 25, 1950, ever to have lain in the civil court for the recovery of - (a) any tax, cess, fee, duty or any other impost, by whatever name called, charged, levied or collected by or under any Uttar Pradesh Act, whether passed before or after the commencement of the Constitution, where any enactment provides for the recovery thereof as arrears of revenue; (b) taqavi or any other dues of any nature whatsoever, other than dues referred to in clause (a) or in the Public Moneys (Recovery of Dues) Act, 1965, where any Uttar Pradesh enactment, whether passed before or after the commencement of the Constitution, provides for the recovery thereof as arrears of revenue. (2) Every such enactment providing for the recovery of sums referred to in sub-section (1) as arrears of revenue is, with effect from the original date of its commencement, repealed and re-enacted so as to have effect subject to the provisions of sub-section (1). (3) Nothing in this section shall be construed to apply in relation to any enactment which had either expired or been repealed before the commencement of this Act.

4. Validation :-

Notwithstanding any judgment, decree or order of any court, any proceeding for the recovery of any sum referred to in section 3 of this Public Moneys (Recovery of Dues) Act, 1965 or in section 3 of this Act as arrears of revenue taken or purporting to be taken before the commencement of this Act and anything done or any action taken or purporting to be taken in pursuance of or in consequence of such proceeding shall be deemed to be and always to have been done or taken under and by virtue of the provisions of the relevant enactment as re-enacted by section 2 or section 3, as the case may be, and to be and always to have been as valid as if the provisions of this Act were in force at all material times.

5. Savings :-

Nothing in sections 2 and 3 shall be construed to affect the validity or executability of any decree passed in a suit by a civil court before the commencement of this Act for the recovery of any sum referred to therein: Provided that notwithstanding anything contained in any Uttar Pradesh Act, no proceeding shall be maintainable for the recovery of any such judgment-debt as arrears of revenue.

6. Repeal Of U.P. Ordinance No. 1 Of 1970 :-

The Uttar Pradesh Recovery of Taxes and Other Public Moneys (Amendment and Validation) Ordinance, 1970 is hereby repealed. The Statement of Objects and Reasons appended to the Uttar Pradesh Recovery of Taxes and Other Public Moneys (Amendment and Validation) Bill, 1970 (Uttar Pradesh Gazette, Extraordinary, dated 3rd March, 1970, page 43.), runs as follows:- "The High Court, in Writ Petition No. 334 of 1968, decided on August 18, 1969, held section 3 of the Public Moneys (Recovery of Dues) Act, 1965 as violating the provisions of Article 14 of the Constitution, on the ground that the State has an arbitrary discretion to proceed against any defaulter either under the civil court or by way of revenue recovery proceedings, which are of a summary nature. In view of this decision it was apprehended that provision of the other Uttar Pradesh enactments enabling recovery of any tax, cess, fee, duty or any other impost or other dues as arrears of land revenue might also be declared unconstitutional on the said ground. This position was unsatisfactory from the point of view of recovery of taxes and various other public dues. It was accordingly decided to have only the summary procedure in all such cases and to give up the alternative remedy of suit in civil courts, and thereby to remove the ground of the above decision for holding the special provisions for recovery to be ultra vires. Accordingly, the Governor, promulgated the Uttar Pradesh Recovery of Taxes and Other Public Moneys (Amendment and Validation) Ordinance, 1970, on January 6, 1970. This Bill is being introduced to replace the said Ordinance.