
Uttar Pradesh Sales Tax (Amendment And Validation) Act, 1970

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Uttar Pradesh Sales Tax (Amendment And Validation) Act, 1970

An Act further to amend the U.P. Sales Tax Act, 1948 and to validate certain actions taken thereunder. 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 SalesTax (Amendment and Validation) Act, 1970.

2. Amendment Of Section 3-A Of U.P. Act Xv Of 1948 :-

In section 3-A of the U.P. Sales Tax Act, 1948, hereinafter referred to as the principal Act, in sub-section (1) - (i) for the words "at such single point in the series of sales by successive dealers as the State Government may specify", the words "at such single point of sale as the State Government may specify, and such declaration may be made notwithstanding that the goods or class of goods are not capable of being sold, or according to prevalent commercial practice are not ordinarily sold, at more than one point shall be substituted and be deemed always to have been substituted; (ii) at the end, the following Explanation shall be inserted, and be deemed always to have been inserted, namely:- "Explanation - For the purposes of this sub-section, ornamented or cut-glass bangles shall be deemed to be different from plain glass bangles, and accordingly, nothing in this sub-section shall be construed to

prevent the imposition, levy or collection of the tax at the specified point of sale of ornamented or cut-glass bangles merely because tax had been imposed, levied or collected earlier at the specified point of sale of those glass bangles in their plain form."

3. Amendment Of Section 3-D :-

In section 3-D of the principal Act, in sub-section (1), the existing Explanation shall be numbered as Explanation I, and after Explanation I as so numbered the following Explanation shall be inserted and be deemed always to have been inserted, namely:- "Explanation II - For the purposes of this sub-section, split or processed foodgrains, such as in the form of dal, shall be deemed to be different from unsplit or unprocessed foodgrains, and accordingly, nothing in this sub-section shall be construed to prevent the imposition, levy or collection of the tax in respect of the first purchases of split or processed foodgrains merely because tax had been imposed, levied or collected earlier in respect of the first purchases of those foodgrains in their unsplit or unprocessed form."

4. Substitution Of New Section For Section. 4-A :-

For section 4-A of the principal Act, the following section shall be substituted, namely:- "4-A. (1) Notwithstanding anything contained in section 3 or section 3-A, the State Government may, if it is of opinion as specified in sub-section (2), by notification in the Gazette declare in respect of any goods that the turnover by the manufacturer thereof shall, during such period, not exceeding five years as may be specified, be exempt from sales tax or be liable to tax at such reduced rate as it may fix. (2) A declaration under sub-section (1) may be made if the State Government is of opinion that it is necessary so to do for - (a) increasing the production of the specified goods, or (b) promoting the development of such industrially backward districts as the State Government may by notification in the Gazette specify from time to time. (3) It shall be lawful for the State Government to grant exemption from tax or reduction in rate of tax - (a) under clause (a) of sub-section (2) generally in respect of all such goods manufactured subsequent to the date of the notification under sub-section (1); or (b) under clause (a) or clause (b) of sub-section (2) in respect of such of those goods only as are manufactured in a new unit which goes into production after such date, whether before or after the date of the notification under sub-section (1), and within such period, as may be specified. Explanation - For the purposes of this section,

new unit means a factory or workshop using machinery, accessories or components not already used or acquired for use in any other factory or workshop in Uttar Pradesh, but does not include any factory or workshop established on the site of an existing factory or workshop manufacturing the same goods or any addition to or extension of an existing factory or workshop."

5. Substitution Of New Section For Section 7-D.- For Section 7-D Of The Principal Act, The Following Section Shall Be Substituted, Namely :-

"7-D. Composition of tax liability- (1) Any dealer whose turnover in an assessment year does not exceed Rs. 25,000 may apply, before the expiry of the first quarter of the assessment year, to the assessing authority to permit him to pay, in lieu of the tax payable by him under this Act, an amount by way of composition, hereinafter referred to as the composition fee, and the assessing authority shall, if it is satisfied that the turnover is not likely to exceed Rs. 25,000, allow him to do so: Provided that nothing in this sub-section shall apply to the following classes of dealers, namely:- (a) manufacturers of goods other than goods which the State Government may by notification in the Gazette specify in that behalf; (b) dealers importing from outside Uttar Pradesh goods in respect of which a notification under section 3-A, section 3-AA or section 3-D is for the time being in force declaring that the turnover in respect of those goods shall not be liable to tax except at the single point of sale by an importer; (c) casual dealers. (2) The composition fee shall be determined at the rate of 2 per cent. of the turnover of the dealer, to be determined in such manner as may be prescribed, during the assessment year. (3) The assessing authority shall make a detailed survey of the premises of the dealer (that is to say, any office, shop, godown, vessel or vehicle in which the goods or books, documents or accounts maintained by the dealer in the ordinary course of his business are kept) before passing an order determining the composition fee payable by him. (4) If on the basis of such survey or of any other information received the assessing authority is satisfied that the dealers turnover is likely to exceed Rs. 25,000 or that the dealer belongs to a class specified in the proviso to sub-section (1), the assessing authority shall reject the application of the dealer for composition and make an assessment of tax in accordance with the provisions of this Act. (5) A dealer who has been allowed to pay composition fee in lieu of tax shall maintain vouchers in respect of all purchases

made by him during the year and shall also maintain records showing therein the daily totals of the sales made by him. (6) The composition fee determined under this section shall be deemed to be the tax payable by the dealer for all purposes of this Act and shall, in particular, be realisable in the same manner as tax assessed under the Act."

6. Insertion Of New Section 12-A :-

After section 12 of the principal Act, the following section shall be inserted and be deemed always to have been inserted, namely:- "12-A. Burden of proof- In any assessment proceedings, when any fact is specially within the knowledge of the assessee, the burden of proving that fact shall lie upon him, and in particular, the burden of proving the existence of circumstances bringing the case within any of the exceptions, exemptions or reliefs mentioned in section 3-A, section 3-D, section 4, section 4-A, section 4-B or section 7-D shall lie upon him and the assessing authority shall presume the absence of such circumstances."

7. Validation :-

Notwithstanding any judgment, decree or order of any court or tribunal to the contrary, every notification issued or purporting to have been issued under section 3-A or section 3-D of the principal Act before the commencement of this Act shall be deemed to have been issued under that section as amended by this Act and shall be so interpreted and be deemed to be as always to have been as valid as if the provisions of this Act were in force at all material times, and accordingly, anything done or any action taken (including any order made, proceeding taken, jurisdiction exercised, assessment made, or tax levied, collected or paid, purporting to have been done or taken in pursuance of any such notification) shall be deemed to be, and always to have been, validly and lawfully done or taken.

8. Repeal Of U.P. Ordinance No. 2 Of 1970 :-

The Uttar Pradesh Sales Tax (Amendment and Validation) Ordinance, 1970 is hereby repealed. The Statement of Objects and Reasons appended to the Uttar Pradesh Sales Tax (Amendment and Validation) Bill, 1970 (Uttar Pradesh Gazette, Extraordinary, dated 3rd March, 1970, page 41.), runs as follows:- "Sections 3-A and 3-D of the U.P. Sales Tax Act, 1948, provide for single point taxation. Under the former section the tax is levied on the turnover of sales, while under the latter the tax is levied on the turnover of first

purchases. Plain and ornamented glass bangles are subject to tax separately under section 3-A. Similarly, unsplit and split pulses are separately subject to tax under section 3-D. It has been held by the High Court in one case that tax cannot be levied separately on plain and ornamented glass bangles under section 3-A and in another that tax cannot be levied separately on unsplit and split pulses under section 3-D, because in their opinion plain glass bangles are not a commodity different from ornamented glass bangles and similarly unsplit pulses and split pulses are also not two different commodities. These judgments have created legal difficulties in the assessment and collection of tax on the aforesaid commodities. Besides, the dealers have started applying for the refund of tax already collected on these commodities. This will have serious repercussions on the States revenues. Accordingly, it is proposed to amend sections 3-A and 3-D to provide for the levy of tax on the aforesaid commodities as separate items. It is also proposed to validate the past levy, assessment and collection of tax on the above commodities. Opportunity has also been taken to introduce a system of compounding of sales tax in order to give relief to the smaller dealers whose turnover in an assessment year does not exceed Rs. 25,000. For this purpose the existing section 7-D is proposed to be substituted by a new section. A new section 12-A is also proposed to be inserted for making it clear that the burden of proving the various circumstances on account of which some concession is claimed during the course of assessment proceedings under the Act shall lie upon the dealer. This is being done with a view to avoiding unnecessary delay in the finalisation of assessment proceedings. Amendments are also being made in section 4-A with a view to helping the setting up of new industries in industrially backward districts of the State. Since the proposed amendments, specially those meant for validating the past levy of tax on bangles and pulses, were required to be made urgently and the Legislature was not in session, the Uttar Pradesh Sales Tax (Amendment and Validation) Ordinance, 1970 (Ordinance No. 2 of 1970) was promulgated by the Governor on January 6, 1970. This Bill is accordingly introduced to replace the said Ordinance.