



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक २९]

मंगळवार, एप्रिल २६, २०१६/वैशाख ६, शके १९३८

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असाधारण क्रमांक ४८

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2016 (Mah. Act No. XV of 2016), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

N. J. JAMADAR,

Secretary and R.L.A. to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XV OF 2016.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 26th April 2016).

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-seventh Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2016. Short title and commencement.

(2) Save as otherwise provided in this Act,—

(a) sections 5, 6 and 8 shall come into force with effect from the 1st April 2016 ;

(b) sections 9, 13, 16 and 17 shall come into force with effect from the 1st May 2016 ;

Amendment
of section 3
of LXV of
1958.

2. In section 3 of the Maharashtra Motor Vehicles Tax Act (hereinafter, in this Chapter, referred to as “ the Motor Vehicles Tax Act ”), in sub-section (1C), in clause (c), for the portion beginning with the words “ Notwithstanding anything ” and ending with the words “ at thrice the rate ” the following shall be substituted, namely :—

“Notwithstanding anything contained in clause (a), there shall be levied and collected the one time tax specified in Part I or Part II of the Second Schedule,—

(i) on a motor cycle or tri-cycle used or kept for use in the State by a person not being an individual, a local authority, a public trust, a university or an educational institutions, at twice the rate ;

(ii) on all imported motor cycles and tri-cycles, at twice the rate.”.

Amendment
of SECOND
SCHEDULE
of LXV of
1958.

3. In the SECOND SCHEDULE appended to the Motor Vehicles Tax Act, in PART I, for entry 1, the following entry shall be substituted, namely :—

“1 Motor cycles and tri-cycles,
including those used for
drawing a trailer or a side car,—

- | | |
|--|--|
| (a) whose engine capacity is upto 99cc ; | 8% of the cost of vehicle subject to a minimum of rupees 1,500 ; |
| (b) whose engine capacity is above 99cc and upto 299cc ; | 9% of the cost of vehicle subject to a minimum of rupees 1,500 ; |
| (c) whose engine capacity is more than 299cc. | 10% of the cost of vehicle subject to a minimum of rupees 1,500.”. |

CHAPTER III

AMENDMENT TO THE MAHARASHTRA PURCHASE TAX ON SUGARCANE ACT,1962.

Amendment
of section
12B of
Mah. IX of
1962.

4. Section 12B of the Maharashtra Purchase Tax on Sugarcane Act, 1962 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be added, namely :—

“ (2) The tax payable on the purchases of sugarcane in the year 2015-2016, by a sugar factory shall be exempted, if such sugar factory exports sugar in the year 2015-2016 to the extent of the Mill-wise Indicative Export Quota (MIEQ), as per the policy laid down by the Government of India.”.

CHAPTER IV

AMENDMENTS TO THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975.

Amendment
of section
3 of Mah.
XVI of
1975.

5. In section 3 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975,(hereinafter,in this Chapter, referred to as “ the Profession Tax Act ”), after sub-section (2), the following sub-section shall be added, namely :—

LXV
of
1958.

Mah.
IX of
1962.

Mah.
XVI
of
1975.

the Central Reserve Police Force Act, 1949 applies and the armed members of the Border Security Force, to whom the Border Security Force Act, 1968 applies and serving in the State.”.

CHAPTER V

AMENDMENT TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002.

- Mah. IV
of 2003. **7.** After section 6 of the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, the following section shall be inserted, namely :—
- Insertion
of section
6A in Mah.
IV of 2003.
- Mah. IX
of 2005. “ 6A. Subject to the provisions of this Act and the rules made thereunder in this behalf, the provisions of the Maharashtra Value Added Tax Act, 2002, and the rules made thereunder, in so far as they relate to the electronic filing of returns, electronic payment of tax or any amount payable under this Act or electronic application, appeal or any other electronic documents shall, *mutatis mutandis* apply for the purposes of this Act.”.
- Application
of certain
provisions
of
Maharashtra
Value Added
Tax Act,
2002 and
rules
made
thereunder.

CHAPTER VI

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

- Mah. IX
of 2005. **8.** In section 8 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “ the Value Added Tax Act ”), after sub-section (3C), the following sub-section shall be inserted, namely:-
- Amendment
of section 8
of Mah. IX
of 2005.
- “ (3D) The State Government may, by general or special order published in the *Official Gazette* and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt fully or partially from payment of tax with effect from the date specified in the order, the transfer of property in goods involved in the sizing and warping of yarn.”.
- 9.** In section 10 of the Value Added Tax Act, in sub-section (9), after the word brackets and figure “ sub-section (2) ” the words and figures “ and Advance Ruling Authority, constituted under section 55 ” shall be inserted.
- Amendment
of section 10
of Mah. IX
of 2005.
- 10.** In section 16 of the Value Added Tax Act,—
- Amendment
of section 16
of Mah. IX
of 2005.
- (1) in sub-section (3), for the existing proviso, the following provisos shall be substituted, namely :—
- “ Provided that, on finding that,—
- (i) the application is not complete, or
- (ii) the documents prescribed for grant of registration certificate have not been uploaded on the department’s web site *i.e.* www.mahavat.gov.in,
or
- (iii) the documents submitted are inconsistent with the information contained in the

the prescribed authority, then the application rejected earlier under the first proviso shall stand restored. However, the applicant shall be eligible to comply with the discrepancies under this proviso only once.”;

(2) in sub-section (6), for the second proviso, the following proviso shall be substituted, namely :—

“ Provided further that, where the Commissioner is satisfied that any person,—

(a) who has voluntarily got himself registered has not commenced business within six months from the date of registration, or

(b) has obtained registration by fraud or by misrepresentation of facts,

the Commissioner may, after giving the person a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules.”.

Amendment
of section
20 of Mah.
IX of 2005.

11. In section 20 of the Value Added Tax Act, in sub-section (4),—

(1) in clause (a), for the words “ of ten months from the end of the year ” the words “ prescribed for furnishing the audit report under section 61 for the year ” shall be substituted ;

(2) in the proviso, the words, brackets and letter “ each of clause (a) or, as the case may be,” shall be deleted.

Amendment
of section
23 of Mah.
IX of 2005.

12. In section 23 of the Value Added Tax Act, —

(1) after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) Where all the returns for the period commencing on or after the 1st April 2012 are filed by a registered dealer for any year within the period for filing revised return under clause (a) of sub-section (4) of section 20 and if the taxes as per these returns has also been paid within the said period and if the Commissioner is satisfied that the returns furnished by such dealer are correct and complete, he may assess the amount of tax due from such dealer on the basis of such returns :

Provided that, if no such order of assessment is made within four years from the end of the year to which such returns relate, then such returns shall be deemed to have been accepted.”;

(2) after sub-section (5), the following sub-sections shall be inserted, namely :—

“(5A) After initiation of proceedings under sub-section (2), (3), (4) or, as the case may be, under sub-section (5), the Commissioner may, after

files the return or, as the case may be, a revised return under clause (c) of sub-section (4) of section 20 and also makes the full payment of tax as per such returns and also applicable interest, then a confirmation order shall be passed in the prescribed manner under this sub-section and the assessment proceedings shall be deemed to have been closed.

(5B) The provisions of sub-section (5A) shall also be applicable to the assessment proceedings under sub-section (2), (3), (4) or, as the case may be, (5) pending on the 1st April 2016.”

13. In section 26 of the Value Added Tax Act, in sub-section (1), in clause (c), for the words “ Additional Commissioner ” the words “ Additional Commissioner, Advance Ruling Authority ” shall be substituted. Amendment of section 26 of Mah. IX of 2005.

14. After section 28 of the Value Added Tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st April 2011, namely :— Insertion of section 28A in Mah. IX of 2005.

“ 28A. During the course of any proceedings under the Act, if the Commissioner is of the opinion that any transaction entered into by any dealer for sales price, which is below the prescribed fair market price for commodity for a prescribed class of dealers, so as to be liable, to pay tax less than the tax, which would have been otherwise become payable on such sales or purchases, then the Commissioner shall determine the tax liability as per the fair market price of such transaction while passing an order in the said proceedings.” Determination of tax liability as per fair market price.

15. In section 31 of the Value Added Tax Act,—

(1) for sub-section (4), the following sub-section shall be substituted, namely :— Amendment of section 31 of Mah. IX of 2005.

“ (4) Any amount or any sum deducted on or after the 1st April 2016 in accordance with the provisions of this section and paid to the State Government may be,—

(i) claimed as a payment of tax by the person making the said supply to the employer, or

(ii) transferred as a credit to the sub-contractor in the prescribed manner, if sub-contract has been awarded, in respect of the concerned contract.

The principal contractor shall be eligible to claim credit of such amount or sum, in the period in which the certificate for payment is furnished to him by the person deducting tax. The sub-contractor may claim the credit of such amount in the period in which the principal contractor has transferred the credit of such amount to him or in any subsequent period.”;

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

“ (8) Every employer liable to deduct tax at source shall in the prescribed

and not transferred to the sub-contractor. Similarly, the sub-contractor shall not be called upon to pay tax himself to the extent to which the tax has been transferred to him.”;

(4) after sub-section (9), the following sub-sections shall be added, namely:-

“(10) The employer, who has deducted and paid any amount in any period under the provisions of this section, shall in the prescribed form and manner by such date as may be prescribed, file return for the said period.

(11) The employer who has furnished a return under this section, discovers any omission or incorrect statement therein, may furnish a revised return in respect of the period covered by the said return on or before the expiry of a period of nine months from the end of the year to which the return relates.

(12) Where the employer has failed to apply for the sales tax deduction account number, as required under sub-section (8), then the Commissioner may, after giving the employer a reasonable opportunity of being heard, impose upon him, by way of penalty, a sum upto the amount of tax deductible by the employer, for the period during which he had failed to obtain the sales tax deduction account number.

(13) Where the employer has failed to file the return as provided under sub-section (10) within the prescribed time, the Commissioner shall impose on him a sum upto rupees five thousand by way of penalty.”.

Substitution
of section
55 of Mah.
IX of 2005.

16. For section 55 of the Value Added Tax Act, the following section shall be substituted, namely :—

Advance
Ruling.

“**55.** (1) The applicant may make an application to the Commissioner for Advance Ruling on the questions prescribed.

(2) The applicant desirous of obtaining Advance Ruling under this section may make an application to the Commissioner in prescribed form and manner, stating any question prescribed under sub-section (1) on which the Advance Ruling is sought.

(3) The Commissioner shall constitute the Advance Ruling Authority, comprising three officials, not below the rank of Joint Commissioner by notification in the *Official Gazette*, for giving Advance Rulings. He may allot any of the questions or, as the case may be, all the questions prescribed under sub-section (1) to such Advance Ruling Authority.

(4) The Commissioner may also allot any application or question in such application made under section 56 and pending on the date of effect of this amendment or, as the case may be, any class of applications, to such Advance Ruling Authority.

(7) (a) No application shall be accepted where the question raised in the application,—

(i) is already pending before the Tribunal, Bombay High Court or, as the case may be, the Supreme Court in respect of the applicant, or

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax.

(b) The Commissioner or, as the case may be, the Advance Ruling Authority, may call for a report from the concerned officer, in the prescribed manner .

(c) The communication regarding the acceptance of the application shall be made to the applicant within thirty days from the date of submission of the application.

(d) No application shall be rejected under this sub-section unless an opportunity of being heard has been given to the applicant and where the application is rejected, reasons for such rejections shall be recorded in the order.

(8) (a) The Advance Ruling of the Commissioner shall be binding on all the officers, including the appellate authority or, as the case may be, on the Advance Ruling Authority in respect of the similarly situated persons.

(b) The Advance Ruling of the Advance Ruling Authority shall be binding on all the officers, including the appellate authority, other than the Commissioner, in respect of the similarly situated persons.

(9) The Commissioner or, as the case may be, the Advance Ruling Authority, may direct that the Advance Ruling shall not affect the liability of the applicant or, if the circumstances so warrant of any other person similarly situated, as respects any sale or purchase effected prior to the Advance Ruling.

(10) The appeal against the Advance Ruling order shall lie to the Tribunal and shall be subject to the conditions prescribed.

(11) Notwithstanding anything contained in this Act, no appeal shall be entertained under any circumstances whatsoever, after the date of expiry of period of thirty days from the date of communication of the Advance Ruling order to the applicant.

(12) The Advance Ruling order passed by the Advance Ruling Authority shall be subject to any directions or, as the case may be, instructions, issued under sub-section (10) of section 10 by the Commissioner and any order passed by the Commissioner under section 56, as it existed.

(13) The Commissioner or, as the case may be, the Advance Ruling Authority

a period of sixty days from the date of receipt of the Advance Ruling by the applicant.

(14) (a) The Commissioner may, on his own motion call for the record of any Advance Ruling issued by the Advance Ruling Authority to examine as to whether the said ruling is erroneous in so far as it is prejudicial to the interests of revenue. The Commissioner may, by serving on the applicant a notice in the prescribed form pass such order as he thinks just and proper.

(b) The Commissioner may also, for reasons to be recorded in writing on his own motion, review the Advance Ruling passed by him under this section and pass such order as he thinks just and proper. However, before initiating any action under this clause, the Commissioner shall obtain prior permission of the State Government. Such permission shall also be obtained when the Advance Ruling order is proposed to be made contrary to the order passed by the Commissioner under section 56.

(c) The Commissioner may direct that, the order of review shall not affect the liability of the person in whose case review is made in respect of any sale or purchase effected prior to the review and may likewise, if the circumstances so warrant, direct accordingly in respect of any other person similarly situated.

(d) No order shall be passed,—

(i) under clause (a), after the expiry of a period of six months from the end of the year containing the date of Advance Ruling ;

(ii) under clause (b), after the expiry of a period of three months from the end of the month in which the State Government gives permission to initiate action under clause (b) :

Provided that, no order under this sub-section shall be passed unless an opportunity of being heard is given to the applicant.

(15) The regulations regarding the procedure to be followed shall be formulated by the Commissioner.”.

Deletion
of section
56 of
Mah. IX of
2005.

17. Section 56 of the Value Added Tax Act shall be deleted.

Amendment
of section
70 of Mah.
IX of 2005.

18. In section 70 of the Value Added Tax Act, after sub-section (2), the following sub-section shall be added, namely :—

“(3) Any person, who fails to furnish information as provided in this section within the prescribed period, shall be liable to pay by way of penalty a sum not exceeding rupees one lakh and in case of continuing default, for a period beyond two months, a further penalty of rupees one thousand for every day of such continuance.”.

Amendment
of section
88 of Mah.
IX of 2005.

19. In section 88 of the Value Added Tax Act, in clause (a-1), after the words “ Mega Unit ” the words “ and Ultra Mega Unit ” shall be inserted.

valid Identification Certificate ;

(ii) the Very Large Unit or, as the case may be, the Mega Unit, holding a Certificate of Entitlement, availing incentives by way of deferment of payment of tax under the Package Scheme of Incentives, 1993 ;

(iii) the immediate purchaser or, as the case may be, the subsequent purchasers, purchasing goods, originally manufactured by the dealers mentioned in clauses (i) and (ii).

(4) Where the dealer mentioned in sub-section (3A) fails to incorporate the prescribed declaration applicable to him, the Commissioner shall, after giving a reasonable opportunity of being heard, by order in writing impose upon him, in addition to any tax payable by him, a penalty equal to the amount of tax contained in the said invoice.”.

CHAPTER VII

AMENDMENT TO THE MAHARASHTRA TAX ON LOTTERIES ACT, 2006.

Mah. XLIII of 2006. **21.** In section 3 of the Maharashtra Tax on Lotteries Act, 2006, in sub-section (1), in the TABLE,—

(a) in entry 1, in column (3), for the figures “ 60,000 ” the figures “ 70,000 ” shall be substituted ;

(b) in entry 2, in column (3), for the figures “ 1,25,000 ” the figures “ 1,50,000 ” shall be substituted ;

(c) in entry 3, in column (3), for the figures “ 2,50,000 ” the figures “ 3,50,000 ” shall be substituted ;

(d) in entry 4, in column (3), for the figures “ 12,00,000 ” the figures “ 14,00,000 ” shall be substituted.

Amendment of section 3 of Mah. XLIII of 2006.

CHAPTER VIII

VALIDATION AND SAVINGS.

Mah. IX of 2005. **22.** (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 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, 2016 (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,—

Validation and savings.

(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

(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 sub-section (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 have greater than that which could have been imposed on him under the law in force immediately before the commencement of the Amendment Act.

(4) Notwithstanding the deletion of section 56 of the Value Added Tax Act, the provisions of said section and the rules made thereunder shall, subject to the other provisions of the said Act, continue to have effect in so far as they apply to the,—

(a) applications pending prior to the date (hereinafter referred to as “ the said date ”) of effect of section 17 of the Amendment Act,

(b) proceedings which have been completed prior to the said date, and

(c) proceedings which may commence after the said date.