



The Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002

Act 4 of 2003

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

CONTENTS

PREAMBLE.

SECTIONS.

CHAPTER I

PRELIMINARY.

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

**REGISTRATION, LEVY OF TAX AND ESTABLISHMENT OF CHECK
POSTS.**

3. Levy of tax.
4. Registration.
5. Setting up of check posts.

CHAPTER III

**TAX AUTHORITIES, RETURNS, ASSESSMENTS, PAYMENTS, RECOVERY AND
REFUND OF TAX, APPEALS, REVIEW AND REVISIONS.**

6. Levy and collection of tax, penalties and interest.

CHAPTER IV

OFFENCES AND PENALTIES

7. Offence.
8. Penalties.

CHAPTER V

MISCELLANEOUS

9. Indemnity.
10. Power to make rules.
11. Removal of difficulties.
12. Repeal of Mah. Ord. XI of 2002 and saving.

SCHEDULE.

MAHARASHTRA ACT No. IV OF 2003¹.

[THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002.]

(This Act received the assent of the Governor on the 7th January 2003; assent was first published in the *Maharashtra Government Gazette*, Part IV, on the 8th January 2003.)

Amended by Mah. 13 of 2004.

An Act to provide for levy and collection of tax on entry of certain goods into local areas in the State of Maharashtra and for the matters connected therewith or incidental thereto.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS Shri Chunnilal Karsandas Thakker, discharging the functions of the Governor of Maharashtra, was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law to provide for the levy and collection of tax on entry of certain goods into local areas in the State of Maharashtra and for the matters connected therewith or incidental thereto; and, therefore, promulgated the Maharashtra Tax on the Entry of Goods into Local Areas Ordinance, 2002, on the 1st October 2002;

Mah.
Ord.
XI of
2002.

AND WHEREAS it is expedient to replace the said Ordinance by an Act of the State Legislature, with the incorporation of some modifications; it is hereby enacted in the Fifty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002.

Short title, extent and commencement.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall be deemed to have come into force on the 1st October 2002.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) “assessing authority” means,—

(i) in the case of an importer who is a dealer registered or, as the case may be, liable to be registered under the

1. For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, dated the 12th December 2002, Part V-A, Extraordinary, page 340.

Sales Tax Act, the assessing authority under the Sales Tax Act; and

(ii) in the case of an importer other than the said dealer, the officer, in charge of the check-post, through which the goods enter the local area, or the assessing authority under the Sales Tax Act having jurisdiction in the area in which such importer ordinarily resides or uses, consumes or sells the goods;

(b) "entry of goods", with all its grammatical variations and cognate expressions means entry of goods into a local area from any place outside the State, for consumption, use or sale therein;

(c) "General Sales Tax Act" means any Sales Tax Law in force in any State which provides for the levy of taxes on the sale or purchase of goods generally or on any specified goods expressly mentioned in that behalf or any class of transactions expressly specified in that behalf;

(d) "goods vehicle" means any motor vehicle constructed or adapted for the carriage of goods and shall include any other motor vehicle not so constructed or adapted, when used for the carriage of goods solely or in addition to passengers;

(e) "the Government" means the Government of Maharashtra;

(f) "import", with all its grammatical variations and cognate expressions means bringing or causing to be brought or receiving any goods into a local area from a place outside the State;

(g) "importer", in relation to any goods, means,—

(i) a person who imports any goods whether on his own account or on account of a principal or any other person, into a local area for consumption, use or sale therein;

(ii) any owner of the goods at the time of the import of such goods into a local area;

(h) "local area" means the area for the time being included within the limits of,—

(i) the Municipal Corporation of *Brihan Mumbai*, Bom. established under the *Mumbai Municipal Corporation Act*; Bom. III of 1888.

(ii) a Municipal Corporation, established under the Bom. Provincial Municipal Corporations Act, 1949; Bom. LIX of 1949.

C. P. &
Berar II
of 1950.

(iii) the Corporation of the City of Nagpur, established under the City of Nagpur Corporation Act, 1948 ;

Mah.
V of
1962.

(iv) a *Zilla Parishad*, established under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 ;

Act 2
of
1924.

(v) a Cantonment Board, established under the Cantonments Act, 1924 :

Provided that, the areas within the limits of the Poona Cantonment Board and the Kirkee Cantonment Board, the Aurangabad Cantonment Board and the Ahmednagar Cantonment Board shall be deemed to be included in the limits of the Municipal Corporation of the City of Pune, the Municipal Corporation of City of Aurangabad and the Ahmednagar Municipal Council, respectively.

Mah.
V of
1962.

Explanation.—For the purposes of sub-clause (iv), the local area within the limits of District for a *Zilla Parishad* established under the provisions of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, shall, notwithstanding anything contained in sub-section (1) of section 4 of that Act, be deemed to include the area within the limits of every 'A' Class, 'B' Class and 'C' Class Municipal Councils, established under the Maharashtra Municipal Councils, *Nagar Panchayats* and Industrial Townships Act, 1965 and a *Village Panchayat* established under the Bombay Village Panchayats Act, 1958, falling within the area of such district ;

Mah.
XL of
1965.

Bom.
III of
1959.

(i) "prescribed" means prescribed by the rules made under this Act ;

Bom.
LI of
1959.

(j) "the Sales Tax Act" means the Bombay Sales Tax Act, 1959 and includes the Bombay Sales Tax Rules, 1959 ;

(k) "Schedule" means the Schedule appended to this Act ;

(l) "State" means the State of Maharashtra ;

(m) "tax" means the tax payable under this Act ;

(n) "value of the goods" means the purchase value of the imported goods, that is to say, the purchase price at which the goods have been purchased inclusive of the cost of transportation, packing, forwarding and handling charges, commission, insurance, taxes, duties and the like excluding octroi or entry tax paid under any other law for the time being in force or if such goods are not purchased by the importer, the value of the goods as recorded in the documents accompanying the goods or the value of the goods as may be determined by the assessing authority having regard to the price at which goods of a like description and quality are ordinarily sold in the absence of any document.

(2) Words and expressions used but not defined in this Act but defined in the Sales Tax Act, or the Bombay Sales Tax Rules, 1959 shall have the meanings respectively assigned to them under that Act or those Rules.

CHAPTER II

REGISTRATION, LEVY OF TAX AND ESTABLISHMENT OF CHECK POSTS

Levy of tax.

3. (1) There shall be levied and collected a tax on the entry of the goods specified in column (2) of the Schedule, into any local area for consumption, use or sale therein, at the rates respectively specified against each of them in column (3) thereof and different rates may be specified in respect of different goods or different classes of goods or different categories of persons in the local area. The tax shall be levied on the value of the goods as defined in clause (n) of sub-section (1) of section 2. The State Government may, by notification in the *Official Gazette*, from time to time, add, modify or delete the entries in the said Schedule and on such notification being issued, the Schedule shall stand amended accordingly :

Provided that, the rate of tax to be specified by the Government in respect of any commodity shall not exceed the rate specified for that commodity under the Sales Tax Act, the Bombay Sales of Motor Spirit Taxation Act, 1958 or as the case may be, the Maharashtra Purchase Tax on Sugarcane Act, 1962 :

Bom.
LXVI
of
1958.
Mah.
IX of
1962.

Provided further that, the tax payable by the importer under this Act shall be reduced by the amount of tax paid, if any, under the law relating to General Sales Tax in force in the Union Territory or the State, in which the goods are purchased, by the importer :

Provided also that, no tax shall be levied and collected on specified goods entering into a local area for the purpose of such process as may be prescribed, and if such processed goods are sent out of the State.

Explanation.—No tax shall be levied under this Act on entry of any fuel or other consumables contained in the fuel tank fitted to the vehicle for its own consumption while entering into any local area.

(2) Notwithstanding anything contained in sub-section (1), there shall also be levied a tax in addition to the tax leviable in accordance with sub-section (1) on the entry of Petrol and High Speed Diesel Oil in any local area for consumption, use or sale therein at the rate of one rupee per litre.

(3) Any importer who is not liable for registration under this Act or rules made thereunder, shall not be liable to pay tax under this Act and any importer who during the course of any year becomes liable for registration under this Act shall not be required to pay the tax on any entry of goods effected by him into a local area immediately before the time he becomes so liable for registration.

(4) The tax levied under sub-section (1) or (2) shall be payable by the importer in such manner and within such time as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or (2), no tax shall be levied on the specified goods, imported by a dealer registered under the Sales Tax Act, who brings such goods into any local area for the purpose of resale in the State or sale in the course of inter-State trade or commerce or export out of the territory of India :

Provided that, if any such dealer, after importing the specified goods for the purpose of resale in the State or sale in the course of inter-State trade or commerce or export out of the territory of India, consumes such goods in any form or deals with such goods in any other manner except reselling the same, he shall inform the assessing authority before the 25th day of the month, succeeding the month in which such goods are so consumed or dealt with and pay the tax, which would have been otherwise leviable under sub-section (1) or (2) :

¹[Provided further that, a sale in the course of inter State trade or commerce or resale in the State shall not include a sale to which clause (b) of section 3 or, as the case may be, sub-section (2) of section 6 of the Central Sales Tax Act, 1956, applies.]

74 of
1956.

(6) If any dealer having imported the specified goods for the ostensible purpose of resale or, as the case may be, sale, deals with such goods in any other manner or consumes the same and does not inform the assessing authority as provided in sub-section (5) or does not pay the tax as required under sub-section (5) within the specified period, the assessing authority shall assess the amount of tax which the dealer is liable to pay under sub-section (1) or (2) and also levy penalty equal to the amount of tax due.

1. This proviso was added by Mah. 13 of 2004, s. 59.

(7) The tax levied and collected under sub-section (1) and (2) shall be in addition to the tax levied and collected as octroi or entry tax by any authority including the local authority, specified in sub-clauses (i) to (v) in clause (h) of sub-section (1) of section 2, in the State.

Registra-
tion.

4. (1) (a) Every importer, who is liable to pay tax under this Act, shall, if he is a dealer registered or liable for registration under the Sales Tax Act, within such time as may be prescribed for the purpose, make an application in the prescribed form for registration under this Act to the assessing authority.

(b) An importer, other than a dealer covered by clause (a), shall, if the value of the specified goods imported by him at any time in a financial year exceeds rupees ten thousand, within such time and in such form as may be prescribed, make an application for registration under this Act to the assessing authority.

(2) The authority to whom an application is made under sub-section (1) on being satisfied that the application is in conformity with the provisions of this Act and the rules made thereunder, shall register the applicant and grant the applicant a certificate of registration, in the prescribed form.

(3) A registered importer may apply, in the prescribed manner, to the assessing authority for the cancellation of his registration and the said authority shall, on being satisfied that the applicant has,—

(a) ceased to be an importer, or

(b) transferred the business in accordance with the provisions of sub-section (4) of section 19 of the Sales Tax Act, or

(c) effected changes in the ownership of the said business, or

(d) disposed off the business wholly, or

(e) discontinued any additional place of business, or

(f) shifted the place of business outside the local area, cancel the certificate of registration and such cancellation shall take effect from the first day of the month succeeding the month in which the order of cancellation is passed.

Setting up of
check posts.

5. (1) The State Government may, by notification in the *Official Gazette*, establish a check-post at the entry point of every local area specifying in such notification also the officer who shall be in-charge of such check-post and his area of jurisdiction.

(2) The Officer-in-charge of the check-post may require any person in-charge of a goods vehicle carrying the specified goods to stop the vehicle for checking, for such reasonable time as may be necessary.

(3) The Officer-in-charge of the check post may inspect the goods being carried in the goods vehicle and the documents pertaining to the goods carried by the said person to ascertain whether any specified goods are being carried in the vehicle and whether they are being imported for the purpose of consumption, use or sale within the local area.

CHAPTER III

TAX AUTHORITIES, RETURNS, ASSESSMENTS, PAYMENTS, RECOVERY AND REFUND OF TAX, APPEALS, REVIEW AND REVISIONS.

6. (1) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of tax under the Sales Tax Act shall assess, re-assess, collect and enforce payment of tax including any interest or penalty, payable by an importer under this Act, as if the tax or interest or penalty payable by such dealer or importer under this Act is a tax or interest or penalty payable under the Sales Tax Act; and for this purpose they may exercise all or any of the powers they have under the said Act and the provisions of that Act including provisions relating to returns, imposition of the tax liability of a person carrying on the business on the transferee of, or successor to, such business, transfer or liability of any firm or Hindu Undivided Family, to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, rectification, re-assessment, revisions, references, refunds, penalties, charging or payment of interest, inspection of business premises, seizure of documents, compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly.

Levy and
collection of
tax,
penalties
and
interest.

(2) All the provisions relating to offences, interest and penalties including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence under the Sales Tax Act shall, with necessary modifications, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of any tax required to be collected under this Act, or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act was a tax under the Sales Tax Act.

CHAPTER IV

OFFENCES AND PENALTIES

Offences. 7. (1) Any importer registered or liable to be registered under this Act, who,—

(a) fails to pay, within the time allowed, any tax assessed or any penalty imposed or any interest levied on him under this Act, or

(b) willfully acts in contravention of the provisions of this Act or the rules made thereunder,
shall, on conviction, be liable to be punished with fine which may extend to two thousand rupees.

(2) Any importer registered or liable to be registered under this Act, who,—

(a) willfully submits an untrue return or fails to submit a return as required by the provisions of this Act or the rules made thereunder; or

(b) fraudulently evades the payment of any tax and other amount due from him under this Act,
shall, on conviction, be liable to be punished, if it is a first offence, with a fine which may extend to two thousand rupees, and if it is a second or subsequent offence, with simple imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.

(3) Any person who makes any statement or declaration before any check-post officer or any other authority including the assessing authority in connection with any imported goods specified in the Schedule or the movement or import of the said goods, which statement or declaration he knows or has reason to believe to be false, shall, on conviction, be liable to be punished with simple imprisonment, which may extend to six months or with fine which may extend to two thousand rupees or with both.

(4) Any person, who is in any way knowingly concerned in any fraudulent evasion or attempt at evasion or abetment of evasion of any tax payable under this Act shall, on conviction, be liable to be punished with simple imprisonment, which may extend to six months or with fine which may extend to two thousand rupees or with both.

Penalties. 8. Where any dealer or importer issues or produces a false bill or purchase or sale voucher, declaration, certificate or other document with a view to support or make any claim that he is not liable to be taxed under this Act, the assessing

authority shall, on detecting that such document was false, direct the importer to pay as penalty,—

(i) in the case of first such detection in any financial year, double the amount of tax levied or leviable in respect of such goods ; and

(ii) in the case of second and subsequent detection in the same financial year, an amount equal to three times the tax levied or leviable in respect of such goods :

Provided that, an opportunity of being heard shall be afforded to the importer before issuing any direction for the payment of penalty under this section.

CHAPTER V

MISCELLANEOUS

9. (1) No suit, prosecution or other legal proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done in good faith under this Act, without the previous sanction of the Government. Indemnity.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties imposed on him or in the discharge of the functions entrusted to him by or under this Act.

10. (1) The power to make rules under this Act shall be exercisable by the State Government, by notification in the *Official Gazette*, subject to the condition of previous publication of such rules : Power to make rules.

Provided that, when the rules are being made for the first time, the same may be made, dispensing with the condition of previous publication.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act, and such rules may include rules for levy of fees for any of the purposes of this Act.

(3) Without prejudice to any provision made in this behalf, any rule made under this Act, may be made so as to be retrospective to any date not earlier than the day on which this Act comes into force.

(4) In making any rules, the State Government may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(5) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of the notification in the *Official Gazette* of such decision have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything done or omitted to be done under that rule.

Removal of
difficulties.

11. (1) If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the doubt or difficulty:

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

Repeal of
Mah. Ord.
XI of 2002
and saving.

12. (1) The Maharashtra Tax on the Entry of Goods into Local Areas Ordinance, 2002, is hereby repealed.

Mah.
Ord.
XI of
2002.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification issued or nomination, appointment or rules made) under the said Ordinance shall be deemed to have been done, taken, issued or made, as the case may be, under the corresponding provisions of this Act.

SCHEDULE

[See sections 2(1)(k) and 3(1)(a)]

Serial No.	Description of goods	Rate of tax
(1)	(2)	(3)
1	High Speed Diesel Oil,—	
	(a) imported into local area of the Municipal Corporation of the Brihan Mumbai, Thane and Navi Mumbai;	Thirty-four paise in the rupee.
	and	

Schedule—contd.

(1)	(2)	(3)
	(b) imported into local area other than mentioned in clause (a) above.	Thirty-one <i>paise</i> in the rupee.
2	Aviation Turbine Fuel (Duty paid) (other than that covered by entry 3).	Twenty-five <i>paise</i> in the rupee.
3	Aviation Turbine Fuel (Duty paid) as specified in clause (ii-d) of section 14 of the Central Sales Tax Act, 1956.	Four <i>paise</i> in the rupee.
4	Aviation Turbine Fuel (Bonded).	Thirty <i>paise</i> in the rupee.
5	Aviation Gasoline (Duty paid).	Ten <i>paise</i> in the rupee.
6	Aviation Gasoline (Bonded)	Twenty-four <i>paise</i> in the rupee.
7	Any other kind of Motor Spirit,—	
	(a) imported into local area of the Municipal Corporations of the Brihan Mumbai, Thane and Navi Mumbai; and	Thirty <i>paise</i> in the rupee.
	(b) imported into local area other than mentioned in clause (a) above.	Twenty-nine <i>paise</i> in the rupee.
8	Bitumen	Fifteen <i>paise</i> in the rupee.
9	Light Diesel Oil	Fifteen <i>paise</i> in the rupee.
10	Naphtha	Fifteen <i>Paise</i> in the rupee.
11	Low Sulphur Heavy Stock	Fifteen <i>Paise</i> in the rupee.
12	Kerosene-Non-PDS	Twenty <i>paise</i> in the rupee.
13	Furnace Oil including Heavy Furnace Oil and Residual Furnace Oil.	Fifteen <i>Paise</i> in the rupee.



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष १, अंक २१]

शनिवार, एप्रिल १८, २०१५/चैत्र २८, शके १९३७

[पृष्ठे ६, किंमत : रुपये २७.००

असाधारण क्रमांक ४४

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, 2015 (Mah. Act No. XVII of 2015), is hereby published under the authority of the Governor.

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

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

MAHARASHTRA ACT No. XVII OF 2015.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 18th April 2015).

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-sixth 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, 2015.

Short title and commencement.

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

(a) sections 2 to 5, sub-section (1) of section 6 and sections 7 to 11 shall come into force with effect from the 1st April 2015;

(b) sub-section (2) of section 6 shall come into force with effect from the 1st May 2015.

CHAPTER II

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

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

2. In section 12B of the Maharashtra Purchase Tax on Sugarcane Act, 1962, in clause (e), for the word and figures “year 2013-14” the words and figures “years 2013-14 and 2014-15” shall be substituted.

Mah. IX of 1962.

CHAPTER III

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

Amendment of SCHEDULE I of Mah. XVI of 1975.

3. In SCHEDULE I appended to the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, in entry 1, for clause (b), the following clause shall be substituted, namely :—

Mah. XVI of 1975.

“(b) (i) in case of a male, exceed Rs. 7,500 . . 175 per month. but do not exceed Rs. 10,000 ;

(ii) in case of a female, do not exceed . . Nil.”. Rs. 10,000 ;

CHAPTER IV

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

Amendment of SCHEDULE of Mah. IV of 2003.

4. In the SCHEDULE appended to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, after entry 16, the following entry shall be added, namely :—

Mah. IV of 2003.

“**17.** Goods covered by clauses (iv) and (v) of entry . . 5%.”. 55 of Schedule C, appended to the Maharashtra Value Added Tax Act, 2002.

Mah. IX of 2005.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment of section 2 of Mah. IX of 2005.

5. In section 2 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”),—

Mah. IX of 2005.

(1) in clause (20), after *Explanation I*, the following *Explanation* shall be inserted, namely :—

“*Explanation—IA.*—Purchase price shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately by the seller.”;

32 of 1994.

(2) in clause (25), after *Explanation I*, the following *Explanation* shall be inserted, namely :—

“*Explanation—IA.*—Sale price shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately from the purchaser.”.

32 of 1994.

6. In section 20 of the Value Added Tax Act,—

Amendment of section 20 of Mah. IX of 2005.

(1) in sub-section (4), in the proviso, for the words “the aforesaid clauses” the words, brackets and letters “clause (a) or, as the case may be, clause (b),” shall be substituted;

(2) in sub-section (6), for the words “two thousand” the words “one thousand” shall be substituted.

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

Amendment of section 23 of Mah. IX of 2005.

(1) in sub-section (5),—

(a) in clause (a), for the words “During the course of any proceedings under this Act, if the prescribed authority is satisfied” the words “Where the prescribed authority has reason to believe” shall be substituted;

(b) in clause (d), after the proviso, the following proviso shall be added, namely :—

“Provided further that, in case a notice is issued under this sub-section on or after the 1st April 2015, no order of assessment under this sub-section shall be made after the expiry of six years from the end of the year, containing the transaction or, as the case may be, claim.”;

(2) in sub-section (11), for the brackets, figures and word “(3) or (4)” in both the places where they occur, the brackets, figures and words “(3), (4) or, as the case may be, (5)” shall be substituted;

(3) in sub-section (12), for the brackets, figures and word “(3) or (4)” the brackets, figures and words “(3), (4) or, as the case may be, (5)” shall be substituted.

8. For section 28 of the Value Added Tax Act, the following section shall be substituted, namely :—

Substitution of section 28 of Mah. IX of 2005.

“28. Where any Court or Tribunal or any Appellate authority or any other authority passes an order in appeal or review which has the effect that,—

Modification of tax liability.

(i) any tax assessed under this Act or any other Act should have been assessed under the provisions of an Act other than that under which it was assessed, or

(ii) any claim allowed or disallowed modifies the tax liability under this Act or any other Act,

then in consequence of such order, such turnover or part thereof may be assessed or, as the case may be, tax liability may be determined, under this Act in accordance with the allowance or disallowance of such claim and may be subjected to tax at any time within five years from the date of such order :

Provided that, where any assessment has already been made, the assessment shall be modified after giving the dealer a reasonable opportunity of being heard, notwithstanding that any provision regarding limitation applies to such assessment period.”.

9. In section 30 of the Value Added Tax Act, in sub-section (2), after the proviso, the following proviso shall be added, namely :—

Amendment of section 30 of Mah. IX of 2005.

“Provided further that, in case a dealer files an annual revised return, as provided under clause (b) or, as the case may be, clause (c) of sub-section (4) of section 20, then the interest shall be payable on the excess amount of tax, as per such annual revised return, from the dates mentioned in column (2) of the Table, till the date of payment of such excess amount of tax.

TABLE

Registration status in the year for which annual revised return is filed (1)	Interest to be computed from (2)
(a) Dealer, holding certificate of registration for whole year.	1st October of the year, to which the annual revised return relates.
(b) Certificate of registration granted, effective from any date up to the 30th September of the year to which revised return relates.	1st October of the year, to which the annual revised return relates.
(c) Certificate of registration cancelled, effective on any date after the 30th September of the year to which revised return relates.	1st October of the year, to which the annual revised return relates.
(d) Certificate of registration granted, effective from any date after the 30th September of the year to which revised return relates.	effective date of registration.
(e) Certificate of registration cancelled, effective on any date prior to the 30th September of the year to which revised return relates.	effective date of cancellation of registration.”.

Amendment of
section 44 of
Mah. IX of
2005.

10. In section 44 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be inserted, namely :—

“(4A) For the purposes of this Act, in case of amalgamation, merger or, as the case may be, demerger, the transfer of business shall be deemed to have taken effect either from,

(i) the date of the order of the High Court, the Tribunal or the Central Government, or

(ii) the date on which the Registrar of Companies notifies the amalgamation, merger or as the case may be, demerger, as opted by the company.”.

Amendment of
section 47 of
Mah. IX of
2005.

11. In section 47 of the Value Added Tax Act,—

(1) in sub-section (1),—

(a) for the word “Court” the words “ Court, Tribunal ” shall be substituted;

(b) for the words “ending on the date of the order,” the words “ending on the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the amalgamation,” shall be substituted ;

(2) in sub-section (2), for the words “the date of the said order” in both the places where they occur, the words “such date, as opted by the company under sub-section (4A) of section 44” shall be substituted;

(3) in sub-section (2A),—

(a) in clause (a),—

(i) for the word, “Court” the words “ Court, Tribunal ” shall be substituted;

(ii) for the words “order to the date of the order” the words “order to the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the demerger” shall be substituted ;

(b) in clause (b), for the words “ the date of the said order” wherever they occur, the words “such date, as opted by the company under sub-section (4A) of section 44” shall be substituted.

12. In Schedule C appended to the Value Added Tax Act,—

(1) in entry 4, the following *Explanation* shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely:—

*“Explanation.—*For the purposes of this entry, as it stood from time to time, the “sewing thread” shall include embroidery thread.”;

(2) in entry 91, the following *Explanation* shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely :—

*“Explanation.—*For the purposes of this entry, as it stood from time to time, “spices” shall include spices in all forms, varieties and mixtures of any of the spices.”.

Amendment to Schedule C of Mah. IX of 2005.

13. In the Government Notification, Finance Department, No. VAT-1505/CR-234/Taxation-1, dated the 1st September 2005, issued under entry 54 of Schedule C of the Maharashtra Value Added Tax Act, 2002, in the Schedule appended to the said notification, in entry 2, in column (5), for the words “Desi loni” the words “Desi loni, white butter” shall be substituted and shall be deemed to have been substituted with effect from the 1st September 2005.

Mah. IX of 2005.

Amendment to notification issued under entry 54 of Schedule C of Mah. IX of 2005.

CHAPTER VI

VALIDATION AND SAVINGS

14. (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 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, 2015 (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,—

Mah. IX of 2005.

Mah. XVII of 2015.

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 law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,—

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



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष २, अंक २९]

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

[पृष्ठे १०, किंमत : रुपये २७.००

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 ;

(c) sections 2, 3, sub-section (1) of section 10 and sub-section (2) of section 15 shall come into force from such date as the State Government may by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions ;

(d) remaining sections shall come into force on the date of publication of this Act in the *Official Gazette*.

CHAPTER II

AMENDMENTS TO THE MAHARASHTRA MOTOR VEHICLES TAX ACT.

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 :—

"(3) Notwithstanding anything contained in the third proviso of sub-section (2), where an application for enrolment is filed between the 1st April 2016 and 30th September 2016 or is pending on the 1st April 2016, the liability to pay tax under this section for the period for which he has remained so un-enrolled shall not be for any period prior to the 1st April 2013."

6. In section 27A of the Profession Tax Act, after clause (g), the following clause shall be added, namely :—

66 of
1949.
47 of
1968.

“(h) the armed members of the Central Reserve Police Force to whom 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.”.

Amendment
of section
27A of Mah.
XVI of 1975.

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) such documents are not consistent with the information contained in the application or are not legible, or

(iv) the prescribed conditions are not fulfilled,

the prescribed authority may pass the rejection order without giving an opportunity of being heard and shall intimate the applicant accordingly in the prescribed manner :

Provided further that, if the applicant complies with all the discrepancies intimated in the rejection order within thirty days from the date of intimation of rejection order and if such compliance is approved by 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 considering all the documents or evidence produced by the dealer or, as the case may be, available with the Department, send his observations about the tax liability, by an intimation in the prescribed form, to the dealer before passing an assessment order under the respective sub-section. Such intimation shall be communicated in the prescribed manner to the dealer not later than

six months before the date of expiry of the period of limitation for assessment under the respective sub-section under which the assessment order could be passed. If the dealer agrees with all the observations in the intimation and 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 manner apply to the Commissioner for allotment of a sales tax deduction account number. The number shall be mentioned in documents, statements and returns to be filed by him :

Provided that, if an employer is registered under the Act, then he shall not be required to apply under this sub-section.”;

(3) in sub-section (9), after the words "in respect of the said supply" the following portion shall be added, namely:—

"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.

(5) The Commissioner or, as the case may be, the Advance Ruling Authority shall, subject to rules, make Advance Ruling, within ninety days from the date of acceptance of the application by the Commissioner or, as the case may be, the Advance Ruling Authority.

(6) The applicant may withdraw his application within thirty days from the date of submission of the application.

(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 may on his own motion, rectify any mistake apparent from the record and may rectify any order passed by it before the order so issued has been given effect to by the officer concerned. The applicant may also bring to the notice of the Commissioner or, as the case may be, Advance Ruling Authority, any such mistake within thirty days from the date of receipt of the said order :

Provided that, no such rectification shall be done unless the applicant has been given a reasonable opportunity of being heard :

Provided further that, an order under this sub-section shall be passed within 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.

Amendment
of section
89 of Mah.
IX of 2005.

20. In section 89 of the Value Added Tax Act, for sub-sections (3) and (4), the following sub-sections shall be substituted, namely :—

“ (3) The invoice issued by a dealer, specified in sub-section (3A), shall contain a prescribed declaration in respect of the goods other than declared goods, covered by the Eligibility Certificate.

(3A) The restrictions specified in sub-section (3) shall be applicable to the following,—

(i) the Mega Unit or, as the case may be, the Ultra Mega Unit, holding a 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.

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,—

(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 law ;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any Court or before any Tribunal, officer or other authority, for the refund of any tax so paid ; and

(c) no Court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person,-

(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.



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक ३६(६)]

शनिवार, एप्रिल १५, २०१७/चैत्र २५, शके १९३९

[पृष्ठे ७, किंमत : रुपये २७.००

असाधारण क्रमांक ७४

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, 2017 (Mah. Act No. XXXI of 2017), is hereby published under the authority of the Governor.

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

PRAKASH H. MALI,
Principal Secretary to Government,
Law and Judiciary Department.

MAHARASHTRA ACT No. XXXI OF 2017

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 15th April 2017).

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-eighth 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, 2017. Short title and commencement.

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

(a) sections 3, 4, 5 and 6 shall come into force with effect from the 1st April 2017 ; and

(b) remaining sections shall come into force on the date of publication of this Act in the *Official Gazette*.

CHAPTER II

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

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

2. In section 12B of the Maharashtra Purchase Tax on Sugarcane Act, 1962,—

Mah. IX
of 1962.

(1) in sub-section (1), in clause (e), for the word and figures “and 2014-15” the figures and word “,2014-15, 2015-16 and 2016-17” shall be substituted ;

(2) sub-section (2) shall be deleted.

CHAPTER III

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

Amendment
of section 3
of Mah. XVI
of 1975.

3. 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”), in sub-section (2), in the third proviso, for the portion beginning with the words “ exceed eight years” and ending with the words “whichever is earlier” the following shall be substituted, namely :—

Mah.
XVI of
1975.

“ exceed :

(a) four years, in case where certificate of enrollment is granted on or after the 1st April 2017,

(b) eight years, in any other case,

from the end of the year immediately preceding the year in which certificate of enrollment has been granted, or the year in which the proceeding for enrollment is initiated against him, whichever is earlier.”.

Insertion of
sections 4A
and 4B in
Mah. XVI of
1975.

4. After section 4 of the Profession Tax Act, the following sections shall be inserted, namely :—

Restricted
liability to
pay tax.

“4A. An employer, who has been granted certificate of registration on or after the 1st April 2017, shall not be liable to pay tax for a period of more than four years from the end of the year immediately preceding the year in which the certificate of registration has been granted or the year in which the proceeding for registration is initiated against him, whichever is earlier.

Liability to
deduct and
pay tax in
certain cases.

4B. (1) The State Government may, from time to time, by notification published in the *Official Gazette*, provide for the class of persons who shall deduct the tax out of the amount of the commission paid or payable to an agent, to be mentioned in the said notification, before the payment of such commission. The person so notified to deduct the tax shall pay the tax, in the manner provided in the said notification and at the rate specified in entry 1A of SCHEDULE I of the Act.

(2) All the provisions related to an employer and employee under the Act shall apply *mutatis mutandis* to the person liable to deduct the tax and the person from whom such tax is to be deducted under sub-section (1).”.

5. In section 9 of the Profession Tax Act, in sub-section (2), for the portion beginning with the words “pay simple interest” and ending with the words “remains unpaid” the words “pay by way of simple interest, in addition to the amount of such tax, a sum calculated at the prescribed rate on the amount of such tax, for each month or part thereof, after the last date by which he should have paid the tax” shall be substituted.

Amendment of section 9 of Mah. XVI of 1975.

6. In Schedule I appended to the Profession Tax Act,—

Amendment to Schedule I of Mah. XVI of 1975.

(1) after entry 1, the following entry shall be inserted, namely :—

“ 1A. Persons as notified under section 4B. 2,500 per annum.”;

(2) after entry 20, the following entry shall be inserted, namely :—

“20A. Service provider, registered under the Finance Act, 1994. 2,500 per annum.”.

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS RULES, 2003.

7. In rule 8 of the Maharashtra Tax on the Entry of Goods into Local Areas Rules, 2003,—

Amendment of rule 8 of rules made under Mah. IV of 2003.

(1) sub-rule (1) shall be deleted and shall be deemed to have been deleted with effect from the 1st April 2005 ;

(2) for sub-rule (3), the following sub-rule shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

“(3) The assessment of an unregistered importer shall be made by the assessing authority in whose jurisdiction, the specified goods are found or detected to have been consumed, used or sold.”.

CHAPTER V

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”), in sub-section (3D), for the words “with effect from the date specified in the order” the words “either prospectively or retrospectively” shall be substituted.

Amendment of section 8 of Mah. IX of 2005.

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

Amendment of section 23 of Mah. IX of 2005.

(1) in sub-section (7),—

(a) for the portion beginning with the words “such assessment shall be” and ending with the words “to the Commissioner” the following shall be substituted, namely :—

“such assessment shall be made within a period of eighteen months, if the said order is made by the appellate authority in first appeal and in any other case, within a period of thirty-six months from the date of communication of such finding or direction contained in the said order to the assessing authority or, as the case may be, to the Commissioner”;

(b) in the proviso, for the portion beginning with the words “the dealer concerned” and ending with the words “the period of thirty-six months” the following shall be substituted, namely :—

“the dealer concerned to the assessing authority or, as the case may be, to the Commissioner earlier than the said date of communication, then the said period of eighteen months or, as the case may be, of thirty-six months”;

(2) in sub-section (11), after the second proviso, the following proviso shall be added, namely :—

“Provided also that, no application under this sub-section shall be entertained, in case the assessment order is passed, on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017.”.

Mah.
XXXI
of 2017.

Amendment
of section 26
of Mah. IX
of 2005.

10. In section 26 of the Value Added Tax Act,—

(1) in sub-section (5), in clause (a), after the proviso, the following proviso shall be added, namely :—

“Provided further that, in respect of any appeal against an order of assessment, wherein dealer was not able to attend or remain present before the assessing authority at the time of hearing when the assessment order had been passed, then the appellate authority in first appeal may set-aside the said assessment order,—

(i) within nine months from the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, if the appeal is filed prior to the date of commencement of the said Act,

Mah.
XXXI
of
2017.

(ii) within six-months from the date on which the said appeal has been filed, if the appeal is filed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017,

Mah.
XXXI
of
2017.

and refer the case back to the assessing authority for making a fresh assessment under sub-section (7) of section 23.”;

(2) after sub-section (6), the following sub-sections shall be inserted, namely :—

“(6A) No appeal against an order, passed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, shall be filed before the appellate authority in first appeal, unless it is accompanied by the proof of payment of an aggregate of the following amounts, as applicable,—

Mah.
XXXI
of
2017.

(a) in case of an appeal against an order, in which claim against declaration or certificate, has been disallowed on the ground of non-production of such declaration or, as the case may be, certificate then, amount of tax, as provided in the proviso to sub-section (6),

(b) in case of an appeal against an order, which involves disallowance of claims as stated in clause (a) above and also tax liability on other grounds, then, an amount equal to 10 per cent. of the amount of tax, disputed by the appellant so far as such tax liability pertains to tax, on grounds, other than those mentioned in clause (a),

(c) in case of an appeal against an order, other than an order, described in clauses (a) and (b) above, an amount equal to 10 per cent. of the amount of tax disputed by the appellant,

(d) in case of an appeal against a separate order imposing only penalty, deposit of an amount, as directed by the appellate authority, which shall not in any case, exceed 10 per cent. of the amount of penalty, disputed by appellant :

Provided that, the amount required to be deposited under clause (b) or, as the case may be, clause (c), shall not exceed rupees fifteen crores.

(6B) No appeal shall be filed, before the Tribunal, against an order, which is passed on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, unless it is accompanied by the proof of payment of an aggregate of following amounts, as applicable,—

(a) in case of an appeal against an order, in which claim against declaration or certificate has been disallowed on the grounds of non-production of such declarations or, as the case may be, certificates then, amount of tax, as provided in the proviso to sub-section (6),

(b) in case of an appeal against an order, which involves disallowance of claims as stated in clause (a) above and also tax liability on other grounds, then, an amount equal to 10 per cent. of the balance amount of disputed tax, so far as such tax liability pertains to tax, on grounds, other than those mentioned in clause (a),

(c) in case of an appeal against an order, other than an order, described in clauses (a) and (b) above, an amount equal to 10 per cent. of the balance amount of disputed tax,

(d) in case of an appeal against any other order, an amount, as directed by the Tribunal :

Provided that, the amount required to be deposited under clause (b) or, as the case may be, clause (c), shall not exceed rupees fifteen crores.

Explanation.— For the purposes of clause (b) or clause (c) of sub-section (6B), the expression, “balance amount of disputed tax” shall mean an amount of disputed tax, which remains outstanding, after considering the amount paid, as directed by the appellate authority in first appeal under clause (b) or, as the case may be, clause (c), respectively of sub-section (6A).

(6C) The appellate authority or, as the case may be, Tribunal shall stay the recovery of the remaining disputed dues, in the prescribed manner, on filing of an appeal under sub-section (6A) or, as the case may be, sub-section (6B).”.

11. In section 27 of the Value Added Tax Act, in sub-section (2), in clause (a), for the words “one hundred and twenty days” the words “one hundred and eighty days” shall be substituted.

Amendment of section 27 of Mah. IX of 2005.

Amendment
of section
30 of Mah.
IX of 2005.

12. In section 30 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be added, namely :—

“(5) The State Government may, from time to time, by notification published in the *Official Gazette*, subject to such conditions mentioned therein, remit the whole or any part of the interest, in respect of any period, payable by any prescribed class of registered dealers,—

(i) who were not able to pay the tax during the prescribed period, due to technical problems of the automation system of the Sales Tax Department, or

(ii) who obtained registration late.”.

Amendment
of section 37
of Mah. IX
of 2005.

13. Section 37 of the Value Added Tax Act 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 first charge as mentioned in sub-section (1) shall be deemed to have been created on the expiry of the period specified in sub-section (4) of section 32, for the payment of tax, penalty, interest, sum forfeited, fine or any other amount.”.

Amendment
of section 40
of Mah. IX
of 2005.

14. In section 40 of the Value Added Tax Act, after the words, brackets and figure “sub-section (6)” the word, brackets, figure and letter “or, as the case may be, sub-section (6C)” shall be inserted.

Amendment
of section 44
of Mah. IX
of 2005.

15. In section 44 of the Value Added Tax Act, after sub-section (5), the following sub-section shall be added, namely :—

“(6) Subject to the provisions of the Companies Act, 2013, where any tax or other amount recoverable under this Act from a private company, whether existing or wound up or under liquidation, for any period, cannot be recovered, for any reason whatsoever, then, every person who was a director of the private company during such period shall be jointly and severally liable for the payment of such tax or other amount unless, he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the said company.”.

18 of
2013.

Amendment
of section 53
of Mah. IX
of 2005.

16. In section 53 of the Value Added Tax Act, in sub-section (1), after *Explanation*, the following sub-section shall be inserted, namely :—

“(1A) In case of refunds, which become due on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017, the provisions of sub-section (1) shall be applicable, if the delay in granting refund is more than sixty days.”.

Mah.
XXXI
of 2017.

Amendment
to Schedule
'A' appended
to Mah. IX
of 2005.

17. In SCHEDULE ‘A’ appended to the Value Added Tax Act, after entry 63, the following entry shall be added, namely :—

“64 Sale, during the period from the 1st April 2005 to the 31st March 2016, of processed, semi-processed, semi-cooked, ready-mix, ready to eat, shelled sweet corn, whether or not sold,—

(1) Tax should not have been collected from the customer.

(2) Tax should not have been paid into the Government Treasury.

(a) in a frozen state, or

(b) in a sealed container, or

(c) under a brand name, except when served for consumption.

CHAPTER VI

AMENDMENT TO THE MAHARASHTRA TAX ON LOTTERIES ACT, 2006.

Mah. XLIII of 2006. **18.** In section 3 of the Maharashtra Tax on the Lotteries Act, 2006, in sub-section (1), in the TABLE, in entry 1, in column (3), for the figures “70,000” the figures “1,00,000” shall be substituted. Amendment of section 3 of Mah. XLIII of 2006.

CHAPTER VII

AMENDMENT TO THE MAHARASHTRA TAX LAWS (LEVY, AMENDMENT AND VALIDATION) ACT, 2012.

Mah. VIII of 2012. **19.** In the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2012, in section 1, in sub-section (2),— Amendment in section 1 of Mah. VIII of 2012.
 (1) in clause (a), for the word and figures “sections 21” the words, bracket and figures “sub-section (1) of section 21” shall be substituted and shall always be deemed to have been substituted ;
 (2) after clause (a), the following clause shall be inserted and shall always be deemed to have been inserted, namely :—
 “(a-1) sub-section (2) of section 21 shall be deemed to have been come into force with effect from the 8th April 2011.”

CHAPTER VIII

VALIDATION AND SAVING.

Mah. IV of 2003. **20.** (1) Notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal to the contrary, any assessment or any action taken or thing done in relation to such assessment, under the provisions of the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 and the rules made thereunder (hereinafter, in this Chapter, referred to as “the law relating to the Entry Tax”), at any time before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2017 (hereinafter, in this Chapter, referred to as “the Amendment Act”), if made within the time limit provided under section 23 of the Maharashtra Value Added Tax Act, 2002, as it exists on the date of such assessment, or any action taken or thing done in relation to such assessment, shall be deemed to be valid and effective as if such assessment or action taken or thing had been duly made, taken or done under the law relating to the Entry Tax, as amended by the Amendment Act, and accordingly, 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, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with the law. Validation and saving.
 Mah. XXXI of 2017.
 Mah. IX of 2005. (2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing a person, from questioning in accordance with the law relating to the Entry Tax, as amended by the Amendment Act, any assessment referred to in sub-section (1).