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PART-V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127-A of the Gujarat Legislative Assembly Rules :-

THE GUJARAT ELECTRICITY DUTY (AMENDMENT) BILL, 2013.

GUJARAT BILL NO. 19 OF 2013.

A BILL

further to amend the Gujarat Electricity Duty Act, 1958.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Electricity Duty (Amendment) Act, 2013. Short title and commencement
- (2) It shall come into force on the 1st April, 2013.

Amendment
of section 2 of
Bom. XL of
1958.

2. In the Gujarat Electricity Duty Act, 1958 (hereinafter referred to as "the principal Act"), in section 2,-

Bom. XL of
1958.

- (1) for sub-clauses (bb) and (c), the following clauses shall be substituted, namely:-

"(bb) "industrial undertaking" means an undertaking engaged predominantly in-

- (i) the manufacture or production of goods, or
- (ii) any job work which results in the manufacture or production of goods,

but does not include an undertaking which manufactures or produces any kind of food or drinks or both meant ordinarily for consumption on the premises of the undertaking.

Explanation I.—"manufacture" with its grammatical variations means change in a non-living physical object or article or thing,-

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure.

Explanation II. -For the purpose of this clause, "premises of the undertaking" includes all premises which are intended for being used for consumption of food or drinks or both.

Explanation III.— For the purpose of this clause, an undertaking engaged in the manufacture or production of goods shall be deemed to be engaged predominantly in the manufacture or production of goods if the gross annual income of such undertaking from such manufacture or production for the accounting year of such undertaking preceding the period in respect of which the duty is levied is greater than the gross annual income of such undertaking for that accounting year from such manufacture or production of goods;

(c) "Licensee" means any person licensed under section 14 of the Electricity Act, 2003 and includes any person who is supplying energy generated by himself;";

36 of 2003.

(2) in clause (cc), the word "office" shall be deleted;

(3) sub-clause (ee) shall be deleted.

3. In the principal Act, in section 3, in sub-section (2),-

Amendment
of section 3
of Bom.XL
of 1958.

(1) in clause (ia), after the words "in the State", the words "including any body corporate constituted by the State Government or the Central Government as the State Government may, by general or special order, specify," shall be inserted;

(2) in clause (v-a), the words "by any person" shall be deleted;

(3) after clause (vii) and *Explanation* thereunder, the following clause and *Explanation* shall be added, namely:-

"(viii) for motive power and lighting in respect of premises used by an additional unit of the industrial undertaking for industrial purpose at different independent and identifiable premises of the existing premises of the industrial undertaking, subject to such terms and conditions, as may be prescribed, for a period of five years from the date -

(a) on which such additional unit of the industrial undertaking begins to manufacture or produce goods for the first time; or

(b) on which such additional unit of the industrial undertaking has begun to manufacture or produce goods for the first time, prior to commencement of the Gujarat Electricity Duty (Amendment) Act, 2013:

Guj..... of
2013.

Provided that no additional unit of the industrial undertaking shall be entitled for exemption from payment of electricity duty under this clause, unless it has obtained a certificate regarding eligibility for such exemption in the prescribed form by making an application in such form, within such period and to such officer as may be prescribed.

Explanation.- For the purpose of this clause "additional unit of the industrial undertaking" means any industrial undertaking which-

(a) is not formed by the splitting up or the reconstruction of a business or undertaking already in existence in the State; or

(b) is not formed by transfer to a new business or undertaking of a building, machinery or plant previously used in India for any industrial purpose, of such value in relation to total value of the aforesaid investments, as the State Government may, by notification in the *Official Gazette*, specify."

Amendment
of section 12
of Bom.XL of
1958.

4. In the principal Act, in section 12, in sub-section (2),-

(i) for clause (a-2), the following clause shall be substituted, namely:-

“(a-2) prescribe the terms and conditions subject to which the new industrial undertaking under clause (vii) and the additional unit of the industrial undertaking under clause (viii) of sub-section (2) of section 3 shall be entitled for exemption from payment of electricity duty;”;

(ii) in clause (a-1), after the word, brackets and letters “clause (vii)”, the words, brackets and letters “and clause (viii)” shall be inserted.

Amendment
of Schedule
I to Bom.
XL of 1958.

5. In the principal Act, in Schedule I, -

(1) for the existing PART I, the following shall be substituted, namely:-

“PART I		
(1)	For energy consumed by a consumer in respect premises used for residential and educational purposes-	
	(a) in rural areas;	7.50 per cent. of consumption charges.
	(b) in urban areas.	15 per cent. of consumption charges.
<p>Explanation.—“Educational purpose” means the purpose of imparting education by an approved school as defined in clause (2) of section 2 of the Gujarat Primary Education Act, 1947, a recognised school or a registered school as defined in clause (g) or, as the case may be, clause (s) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972 or a University established by a law for the time being in force in the State, or a College affiliated to, or an institution recognised or approved by, such University.</p>		
(2)	For energy consumed by Hostels for students-	
	(a) in rural areas;	7.50 per cent. of consumption charges.
	(b) in urban areas.	11.25 per cent. of consumption charges.
(3)	For energy consumed by an industrial undertaking, other than energy consumed in respect of any of its premises used for residential purposes-	
	(a) where an industrial undertaking consumes high tension energy;	15 per cent. of consumption charges.

Bom.LXI of
1947.

Guj.18 of
1973.

	(b) where an industrial undertaking consumes exclusively low tension energy.	10 per cent. of consumption charges.
Explanation I.- Any energy consumed by an industrial undertaking for installation of any additional plants, machineries and equipments of such industrial undertaking shall be construed as energy consumed by such industrial undertaking.		
Explanation II.- For the purpose of this item- (a) "high tension energy" means any energy supplied, the voltage of which exceeds 650 volts under normal conditions; (b) "low tension energy" means any energy supplied, the voltage of which does not exceed 650 voltage under normal conditions.		
(4)	For energy consumed in respect of any premises not falling under any of the items (1), (2) and (3) above.	25 per cent. of consumption charges.
Explanation.- For the purposes of this PART, the expression "consumption charges" means the charges payable by a consumer to a licensee but shall not include any of the following charges, namely:- (i) Meter charges; (ii) Interest on delayed payment; (iii) Fuse-off call charges and reconnection charges; (iv) the losses of energy sustained in transmission or transformation by a licensee or person before supply to a consumer: Provided that- (a) where no energy has been consumed by a consumer, minimum charges payable by him shall not be deemed to be consumption charges; (b) where the units of energy actually consumed by a consumer are less than the units of energy for which, prescribed minimum charges are payable "consumption charges" shall, in the case of such consumer, mean the charges for the units of energy actually consumed by him and not the prescribed minimum charges; (c) where any person supplies electrical energy to any other person (hereinafter referred to as "the receiving person"), the charges payable by the receiving person for such quantum of power to the distribution licensee under section 14, who is engaged in the business of supplying energy within the area where the receiving person is located, shall be deemed to be consumption charges for such supply of energy.";		

(2) in PART II, in clause (i), for the words "service undertaking", the words "additional unit of the industrial undertaking" shall be substituted.

6. In the principal Act, in Schedule II,-

(1) for the existing PART I, the following shall be substituted, namely:-

Amendment
of Schedule II
to Bom. XL
of 1951.

"PART I		
(1)	For energy consumed by a consumer in respect premises used for residential and educational purposes-	
	(a) in rural areas;	10 paise per unit ;
	(b) in urban areas.	20 paise per unit.
Explanation: "Educational purpose" means the purpose of imparting education by an approved school as defined in clause (2) of section 2 of the Gujarat Primary Education Act, 1947, a recognised school or a registered school as defined in clause (q) or, as the case may be, clause (s) of section 2 of the Gujarat Secondary and Higher Secondary Education Act, 1972 or a University established by a law for the time being in force in the State, or a College affiliated to, or an institution recognised or approved by, such University.		
(2)	For energy consumed for the use of- (a) (i) hall or (ii) auditorium used for commercial purpose or let out for any purpose, or (b) (i) cinema house or (ii) theatre.	25 paise per unit;
(3)	For energy consumed by hotels including residential hotels, restaurants, eating houses and lodging and boarding houses.	30 paise per unit.
(4)	For energy consumed by an industrial undertaking other than energy consumed in respect of any of its premises used for residential purposes.	55 paise per unit.
Explanation.- Any energy consumed by the industrial undertaking for installation of additional plants, machineries and equipment of such industrial undertaking shall be construed as energy consumed by the industrial undertaking.		
(5)	For energy consumed in respect of any premises not falling under any of the items (1) to (4) above.	40 paise per unit.
Explanation.- For the purposes of this PART, in determining the units of energy consumed, the losses of energy sustained in transmission or transformation by a licensee or any person who generates energy, before supply to a consumer, shall be excluded."		

Bom.LXI of
1947.

Guj.18 of
1973.

(2) in PART II, in clause (i), for the words "service undertaking", the words "additional unit of the industrial undertaking" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Gujarat Electricity Duty Act, 1958 (Bom. XL of 1958) with a view to giving effect to the budget proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 20th February, 2013 of increasing the present rate of Electricity Duty by 15 paise per unit in respect of self-generation of electricity by industrial undertaking.

Further the Bill, besides the proposal contained in the budget speech, provides for, among other, duties payable on consumption of electrical energy by the service undertakings. However, the Gujarat Electricity Regulatory Commission in its tariff order dated the 6th September, 2011 has held that there are only two categories of consumers *i.e.* residential and non-residential. In view of this, it is considered necessary to remove the provisions relating to service undertakings from the Act.

It is also considered necessary to exempt from levy of electricity duty in respect of additional units of the industrial undertaking for motive power and lighting in respect of premises used by such industrial undertaking for industrial purpose at different independent and identifiable premises of the existing premises of the industrial undertaking for a period of five years from the date it begins to manufacture or produce goods for the first time; or it has begun to manufacture or produce goods for the first time prior to commencement of this amendment Act of 2013.

It is also considered necessary to encourage non-conventional generation of electricity and therefore the provision is amended so as to exempt from electricity duty in respect of those who consume non-conventional energy.

The term "industrial undertaking" is amended so as to explain the term "manufacture". It is also considered necessary to empowering the State Government for not levying any duty in respect of Boards or Corporations owned or controlled either by the Central Government or by the State Government for the purpose of public water works and sewage works. It is also considered necessary to merge different categories having same rates of electricity duty into a single category and therefore both the Schedules to the Act are suitably amended.

This Bill seeks to amend the said Act of 1958 to achieve the aforesaid objects.

SAURABH PATEL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects, namely:-

Clause 3.— (i) New clause (viii) proposed to be inserted in sub-section (2) of section 3 by this clause empowers the State Government to prescribe by rules, the terms on which and the conditions subject to which electricity duty shall not be leviable on the units of energy consumed for motive power and lighting in respect of premises used by an additional unit of the industrial undertaking for industrial purpose at different independent and identifiable premises of the existing premises of the industrial undertaking for a period of five years;

(ii) proviso to new clause (viii) proposed to be inserted in sub-section (2) of section 3 by this clause empowers the State Government to prescribe by rules, the form in which, the period within which and the officer to whom the application shall be made by the additional unit of the industrial undertaking, for obtaining the certificate regarding eligibility for exemption from payment of electricity duty;

(iii) *Explanation* after new clause (viii) proposed to be inserted in sub-section (2) of section 3 by this clause empowers the State Government to specify by notification in the *Official Gazette*, the value in relation to total value of a new business or undertaking, of a building, machinery or plant previously used in India for any industrial purpose.

Clause 4.— Clause (a-2) of sub-section (2) of section 12 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the terms on which and the conditions subject to which a new industrial undertaking and the additional unit of the industrial undertaking shall be entitled for exemption from payment of electricity duty.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Gandhinagar,
Dated the 12th March, 2013.

SAURABH PATEL.

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

Gandhinagar,
Dated the 13th March, 2013.

C. J. GOTH,
Secretary to the Government of Gujarat,
Legislative and Parliamentary
Affairs Department.