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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 VALUE ADDED TAX (AMENDMENT)

BILL, 2013.

GUJARAT BILL NO. 20 OF 2013.

A BILL

further to amend the Gujarat Value Added Tax Act, 2003.

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 Value Added Tax (Amendment) Act, 2013. Short title and commencement.
(2) It shall come into force on the 1st April, 2013.

**Amendment
of section 7 of
Guj.1 of 2005.**

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in section 7, in sub-section (1A), in clause (i), after the words "serial numbers", the figures and letter "19A," shall be inserted. **Guj.1 of 2005.**

**Amendment of
section 9 of
Guj.1 of 2005.**

3. In the principal Act, in section 9, in sub-section (6), in clause (i), after the words "serial numbers", the figures and letter "19A," shall be inserted.

**Amendment of
section 11 of
Guj. 1 of 2005.**

4. In the principal Act, in section 11, after sub-section (7), the following sub-section shall be inserted, namely:-

"(7A) Notwithstanding anything contained in this section, in no case the amount of tax credit on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into Government treasury:

Provided that, where purchase tax is shown as payable in the return by the claimant dealer on the purchase of the said goods effected by him, it shall be deemed to have been paid into Government treasury for the purpose of this sub-section:

Provided further that, where the tax levied or leviable under this Act or any earlier law is remitted or to be remitted or, deferred or is deferrable under any tax incentive scheme granted by the Government of Gujarat, then the tax shall be deemed to have been paid into the Government treasury for the purpose of this sub-section."

**Amendment of
section 14 of
Guj.1 of 2005.**

5. In the principal Act, in section 14, in sub-section (1),-

- (i) in clause (a), for the words "fifty lakhs", the words "seventy-five lakhs" shall be substituted;
- (ii) in clause (b), for the words "fifty lakhs", occurring at two places, the words "seventy-five lakhs" shall be substituted.

**Amendment of
section 34 of
Guj.1 of 2005.**

6. In the principal Act, in section 34, after sub-section (8), the following sub-section shall be inserted, namely:-

"(8A)(a) During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess tax credit has been claimed by any dealer in respect of any period or periods by not recording or recording in an incorrect manner, any transaction of sale or purchase, or that any claim has been incorrectly made, then in such a case notwithstanding any notice for assessment has been issued under

other provisions of this section or any other section of this Act, the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, initiate assessment of the dealer in respect of such transaction or claim:

Provided that where such proceedings are under section 73 or section 75, the prescribed authority shall transfer the proceedings relating to such transaction or claim directing the concerned assessing authority to assess the dealer in respect of such transaction or claim:

Provided further that the prescribed authority shall, notwithstanding anything contained in section 17, be deemed to have the requisite jurisdiction and power to assess such dealer in respect of such transaction of sale or purchase or claim, covered by clause (a) and such assessment proceedings shall, for all purposes of this Act, be deemed to have been transferred to such authority.

(b) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings in respect of the said period or periods under any other provisions of this Act by any authority who otherwise has the jurisdiction to assess such dealer in respect of other transactions of sale or purchase or any other claim.

(c) The assessment under this sub-section shall be made separately in respect of the transaction or claim relating to the said period or periods to the best of the judgment of the prescribed authority where necessary and irrespective of any assessment made under this sub-section, the dealer may be assessed separately under the other provisions of this section in respect of the said period or periods:

Provided that, once the dealer is assessed under this sub-section, no tax from such transaction or claim and penalty and interest, if any, shall be levied or demanded from such dealer, at the time of assessment to tax under the other provisions of this section in respect of the said period or periods relating to such transaction or claim.

Explanation.- For the purpose of this sub-section, "prescribed authority", "the said authority", "such authority" and "any authority" shall mean, the Commissioner or, as the case may be, the authorities appointed under section 16 and other officers or persons to whom the Commissioner has delegated his power in this behalf.

**Amendment
of Schedule II
to Guj.1 of
2005.**

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

(1) after the entry at serial No. 19, the following entry shall be inserted, namely:-

1	2	3
"19A	Cigarette made from tobacco.	Twenty-seven and a half paise in the rupee";

(2) in the entry at serial No. 41, after the word "DEPB", the words "carbon credit" shall be added;

(3) in the entry at serial No. 76A, the word "cigarette" shall be deleted.

STATEMENT OF OBJECTS AND REASONS

The Finance Minister in his Budget Speech on 20th February, 2013 in the Legislative Assembly for the year 2013-2014 had proposed to raise the limit of turnover for payment of *lumpsum* tax from rupees fifty lakhs to rupees seventy-five lakhs as also to reduce the rate of tax on use of carbon credit and in the case of tax on cigarette made from tobacco had proposed to increase the rate of tax. In order to giving effect to the said proposal, the relevant provisions of the Gujarat Value Added Tax Act, 2003 are proposed to be amended.

An opportunity is taken to amend certain other provisions of the Act so as to remove the difficulties which have arisen during the administration of the Act. For this purpose, **Clause 4** of the Bill seeks to insert new sub-section (7A) in section 11 so as to provide to restrict the amount of tax credit on any purchase of goods to the extent of the amount of tax in respect of the same good, actually paid, if any, under this Act, into Government treasury. **Clause 6** of the Bill seeks to insert new sub-section (8A) in section 34 so as to provide to assess the dealer separately in respect of any period for certain transactions or claim not recorded or recorded in an incorrect manner to evade the tax.

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

Gandhinagar,

NITIN PATEL.

Dated the 14th March, 2013.

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

Gandhinagar,

C. J. GOTHI.

Dated the 15th March, 2013.

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