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PART V

Bills introduced in the Gujarat Legislative Assembly

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

THE GUJARAT TAX ON ENTRY OF SPECIFIED GOODS INTO LOCAL AREAS (AMENDMENT) BILL, 2016.

GUJARAT BILL NO. 26 OF 2016.

A BILL

further to amend the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.

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

1. (1) This Act may be called the Gujarat Tax on Entry of Specified Goods into Local Areas (Amendment) Act, 2016. Short title and commencement.
- (2) It shall come into force on the 1st April, 2016.

Amendment
of section 2
of Guj. 22
of 2001.

2. In the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 (hereinafter referred to as "the principal Act"), in section 2, for clause (e), the following clause shall be substituted, namely:-

Guj. 22 of
2001.

“(e) “importer” means a person who brings or facilitates to bring any of the specified goods into a local area from any place outside the State but not being a place outside the territory of the Union of India, through any means including the on-line purchase, web-based software application or by tele-shopping platform, for consumption, use or sale therein;”.

Amendment
of section 3
of Guj. 22 of
2001.

3. In the principal Act, in section 3, after sub-section (2), the following sub-section shall be inserted, namely:-

“(2A) Notwithstanding anything contained in sub-section (2), an importer who facilitates to bring any of the specified goods into a local area from any place outside the State through the means of on-line purchase, web-based software application or by teleshopping platform shall collect the tax from the person for whom such facilitation has taken place and shall pay the same in such manner and within such time limit as may be prescribed.”.

Insertion
of new
section 10A
in Guj. 22
of 2001.

4. In the principal Act, after section 10, the following section shall be inserted, namely :-

Special
mode of
recovery.

“10A. (1) Notwithstanding anything contained in any law or contract to the contrary, the Assessing Authority may at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the importer at his last known address, require,-

- (a) any person from whom any amount of monies is due, or may become due, to an importer on whom notice has been served under sub-section (1), or
- (b) any person who holds or may subsequently hold monies for or on account of such importer,

to pay to the Assessing Authority, either forthwith upon the monies becoming due or being held or within the time specified in the notice (but not before the monies becomes due or is held as aforesaid) so much of the monies as is sufficient to pay the amount due by the importer in respect of the arrears of tax or penalty under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation. – For the purposes of this sub-section, the amount of monies due to an importer from, or monies held for or on account of an importer by any person, shall be calculated by the

such importer to such person.

- (2) The Assessing Authority may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.
- (3) Any person making any payment in compliance with the notice under this section shall be deemed to have made the payment under the authority of the importer, and the receipt thereof by the Assessing Authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.
- (4) Any person discharging any liability to the importer after receipt of the notice referred to in this section, shall be personally liable to the Assessing Authority to the extent of the liability discharged or to the extent of the liability of the importer for tax and penalty, whichever is less.

- (5) Where a person to whom a notice under this section is sent objects to it by a statement in writing that the sum demanded or any part thereof is not due or payable to the importer or that he does not hold any monies for or on account of the importer, the Assessing Authority shall hold an inquiry and after giving to such person or importer a reasonable opportunity of being heard, make such order as he thinks fit.
- (6) Any amount of monies which the aforesaid person is required to pay to the Assessing Authority, or for which he is personally liable to the Assessing Authority under this section shall, if it remains unpaid, be recoverable as an arrears of land revenue.
- (7) The Assessing Authority may apply to the court in whose custody there is monies belonging to the importer for payment of the amount of such monies towards the outstanding amount of tax and penalty payable by the importer.”.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 has been enacted to provide for level playing field to the local business of the State. Due to recent development with regard to the purchase of goods through the means of on-line purchase, web-based software application or by teleshopping platform which does not attract any tax under the said Act, the local business is being found to be adversely affected. The Hon'ble Finance Minister has, while presenting the Budget for the year 2016-2017 stated that the said Act would be amended to provide level playing field to the dealers of the State. Therefore, the existing definition of the term "importer" has been proposed to be amended so as to bring within the purview of the said Act, the purchases whereby goods are brought in the local area from outside the State through the e-commerce. A new sub-section (2A) is proposed to be inserted in section 3 of the said Act in order to cast the duty on the person who facilitates the goods to be brought into the local area from outside the State through e-commerce. *Clause 3* of the Bill provides for the same. *Clause 4* of the Bill seeks to insert new section 10A so as to provide for the provisions for special mode of recovery.

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

SAURABH PATEL,

MEMORANDUM REGARDING DELEGATED LEGISLATION

~~Clause 3:- Sub-section (2A) proposed to be inserted in section 3 of the Act~~
by this clause empowers the State Government to prescribe by rules, the manner in which and the time limit within which the importer, who has facilitated to bring any specified goods into a local area from any place outside the State through on-line purchase, web-based software application or by tele-shopping platform, shall pay the tax.

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

Dated the 19th March, 2016.

SAURABH PATEL.

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

Gandhinagar

Dated the 19th March, 2016.

C. J. Gotri,

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