



**KARNATAKA LEGISLATIVE ASSEMBLY
FOURTEENTH LEGISLATIVE ASSEMBLY
FIRST SESSION ADJOURNED MEETING**

**THE KARNATAKA VALUE ADDED TAX (SECOND AMENDMENT)
BILL, 2013
(L.A. Bill No. 08 of 2013)**

A Bill further to amend the Karnataka Value Added Tax Act, 2003.

Whereas it is expedient further to amend the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004) for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Sixty fourth year of the Republic of India, as follows.-

1. Short title and commencement.- (1) This Act may be called the Karnataka Value Added Tax (Second Amendment) Act, 2013.

(2) It shall come into force with effect from the First day of August, 2013.

2. Amendment of section 40.- In the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004) (hereinafter referred to as the principal Act), in section 40, for sub-sections (1) and (2), the following shall be and shall be deemed to have been substituted with effect from the first day of April, 2005, namely:-

“(1) An assessment under section 38 or re-assessment under Section 39 of an amount of tax due for any prescribed tax period shall not be made after five years after the end of the prescribed tax period.

Provided that an assessment or reassessment relating to any tax period upto the period ending 31st day of March, 2007 shall be made within a period of eight years after the end of the prescribed tax period.

Provided further that an assessment or reassessment relating to any tax period commencing from the 1st day of April, 2007 upto the period

ending 31st day of March, 2012 shall be made within a period of seven years after the end of the prescribed tax period.

(2) Notwithstanding anything contained in sub-section (1), if any tax is, not paid by a dealer who has failed to get registered though liable to do so or fraudulently evaded attracting punishment under Section 79, an assessment or reassessment may be made within eight years from the end of the prescribed tax period.

Provided that an assessment or reassessment relating to any tax period upto the period ending 31st day of March, 2007 shall be made under this sub-section within a period of ten years after the end of the prescribed tax period.”

3. Amendment of section 60.- In section 60 of the principal Act,

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

“(2A) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the assessing or registering authority concerned and call for its finding on the clarification sought or question raised and also any information or records.

(2B) The Authority may, after examining the application and any records called for, by order, either, admit or reject the application.

Provided that the Authority shall not allow the application where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or Appellate Tribunal or any Court;

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

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

(2C) A copy of every order made under sub-section (2B) shall be sent to the applicant and the officer concerned.

(2D) Where an application is admitted under sub-section (2B), the Authority shall after examining such further material as may be placed before it by the applicant or obtained by the Authority, pass such order as deemed fit on the questions specified in the application, after giving an opportunity to the applicant of being heard, if he so desires and also to the assessing authority or registering authority concerned. The authority shall pass an order within ninety days of the receipt of any application and a copy of such order shall be sent to the applicant and to the officer concerned."

(ii) in sub-section (7), after the words "the provisions of", the words, figures, letter and brackets "sub-section (4) of section 59," shall be inserted;

(iii) after sub-section (7) so amended, the following shall be inserted, namely:-

"(8) Notwithstanding any clarification or any ruling given by the 'Authority for Clarification and Advance Rulings' under sub-section (2D) pertaining to any particular goods, the rate of tax payable in respect of such goods by the applicant shall be at such rate as may be clarified by the Commissioner under sub-section (4) of section 59, from the date of its publication in the official Gazette."

4. Amendment of First Schedule.- In First Schedule of the principal Act, the entries relating to serial number 47 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend the Karnataka Value Added Tax Act, 2003 to give effect to the proposals made in the Budget particularly to,

- (i) clarify that the time limit specified for assessment or re-assessment under section 39 as amended by Act No.17 of 2012 is of retrospective effect; and
- (ii) specify that any clarification issued by the Commissioner of Commercial Taxes overrides the clarification of the Authority for Clarification and Advance Rulings.

Certain consequential and incidental amendments including amendments to rationalise certain current provisions are also made.

Hence the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed legislative measure.

SIDDARAMAIAH

Chief Minister

P. OMPRAKASHA

Secretary

Karnataka Legislative Assembly

ANNEXURE**EXTRACT OF THE KARNATAKA VALUE ADDED TAX ACT, 2003
(KARNATAKA ACT NO. 32 OF 2004)**

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40. Period of limitation for assessment.- (1) An assessment under Section 38 or re-assessment under Section 39 of an amount of tax due for any prescribed tax period shall not be made after five years after the end of the prescribed tax period.

Provided that an assessment or reassessment relating to any tax period upto the period ending 31st day of March, 2007 shall be made within a period of eight years after the end of the prescribed tax period:

Provided further that an assessment or reassessment relating to any tax period commencing from the 1st day of April, 2007 upto the period ending 31st day of March, 2012 shall be made within a period of seven years after the end of the prescribed tax period.

(2) Notwithstanding anything contained in sub-section (1), if any tax is, not paid by a dealer who has failed to get registered though liable to do so or fraudulently evaded attracting punishment under Section 79, an assessment or reassessment may be made within eight years from the end of the prescribed tax period:

Provided that an assessment or reassessment relating to any tax period upto the period ending 31st day of March, 2007 shall be made under this sub-section within a period of ten years after the end of the prescribed tax period.

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60. Clarification and Advance Rulings.- (1) The Commissioner may constitute an 'Authority for Clarification and Advance Rulings', consisting of atleast three Additional Commissioners, to clarify the rate of tax in respect of any goods or the exigibility to tax of any transaction or eligibility of deduction of input tax or liability of deduction of tax at source under the Act, in respect of any case or class of cases as the Commissioner may specify.

(2) Any registered dealer seeking clarification or advance ruling under this section, shall make an application to the Authority in such form, accompanied by proof of payment of such fee, paid in such manner as may be prescribed.

(3) No officer or any other authority of the Department or the Appellate Tribunal shall proceed to decide any issue in respect of which an application has been made by an applicant under this Section.

(7) Subject to the provisions of sub-section (2) of Section 64 and Section 66, every order passed under this section shall be final.

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FIRST SCHEDULE
(Goods exempted from tax under sub-section (1) of Section 5)

Serial Number	Description of Goods.
1	2
1.	Agricultural implements manually operated or animal driven.
	XX XX XX
47.	Sugar other than sugar candy, confectionery and the like.
	XX XX XX