



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक २९]

गुरुवार, मार्च ३०, २०१७/चैत्र ९, शके १९३९

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असाधारण क्रमांक ५५

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) Bill, 2017 (L. A. Bill No. XVIII of 2017), introduced in the Maharashtra Legislative Assembly on the 30th March 2016, 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.

L. A. BILL No. XVIII OF 2017.

A BILL

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, 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 :—

“ 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.
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. 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. 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.
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.

Mah. of 2017.

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.
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. NIL %”.

(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. Mah. of 2017. Mah. IX of 2005. **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.

(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).

STATEMENT OF OBJECTS AND REASONS.

With a view to give effect to the proposals contained in the Budget Speech for the year 2017-18, the State Government considers it expedient to suitably amend the Maharashtra Purchase Tax on Sugarcane Act, 1962 (Mah. IX of 1962), the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Maharashtra Tax on the Entry of Goods into Local Areas Rules, 2003, the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), the Maharashtra Tax on Lotteries Act, 2006 and the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2012 (Mah. VIII of 2012), respectively.

2. Some of the important amendments proposed to be made are explained broadly as follows :—

(1) The Maharashtra Purchase Tax on Sugarcane Act, 1962 is being amended,—

(a) to delete the condition of Mill-wise Indicative Export Quota (MIEQ) for the purpose of exemption from the payment of the tax on the purchase of sugarcane in the year 2015-16 ;

(b) to exempt payment of tax on the purchase of sugarcane in the year 2015-16 and 2016-17 by the sugar factories so as to enable them to give Fair and Remunerative Price.

(2) The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, is being amended—

(a) to provide that the tax liability of an enrolled person shall be restricted to four years instead of eight years, for the un-enrolled period ;

(b) to provide that the tax liability of a registered employer shall be restricted to four years, for the un-registered period ;

(c) to notify the class of employers or organizations, who shall deduct the tax from the class of agents to be notified ;

(d) to provide that the rates of interest, provided under the Maharashtra Value Added Tax Act, shall be applicable for the delay in payment of Profession Tax ;

(e) to provide that service providers, registered for Service Tax shall be liable for enrolment.

(3) The provisions of the Maharashtra Tax on the Entry of Goods into Local Areas Rules, 2003 are being amended, to remove ambiguity related to limitation period of assessment and to make provisions more explicit that the limitation period for assessment of tax as provided under the Maharashtra Value Added Tax Act, 2002, are equally applicable to assessment under the Act.

(4) The Maharashtra Value Added Tax Act, 2002 is being amended,—

(a) to empower the State Government to exempt retrospectively from payment of tax on the transfer of property in goods involved in the sizing and warping of yarn ;

(b) to provide that, the assessing authority shall pass fresh assessment order within eighteen months from the date on which it is remanded back by the first appellate authority ;

(c) to provide that, no application for cancellation of *ex-parte* assessment order can be made to the assessing authority, in case of assessment orders, passed on or after the commencement of this Act;

(d) to enable the first appellate authority to remand back the assessment order for fresh assessment, in case the dealer was not able to attend or remain present at the time of hearing, when the assessment order was passed;

(e) to provide that, an appeal can be filed before the first appellate authority and the tribunal only after an appellant makes the payment of the specified fixed amount and thereafter stay shall be granted for the recovery of remaining disputed dues;

(f) to increase the time limit to file appeal to the High Court from one hundred and twenty days to one hundred and eighty days;

(g) to empower the State Government to remit the interest for failure to pay tax within prescribed time limit due to technical problems of automation system of the Sales Tax Department and in case of a dealer, who obtains registration late;

(h) to clarify that the date of creation of first charge shall be the date specified in the demand notice;

(i) to provide that in case a private company does not have assets, then the company and its directors shall be jointly and severally liable for the dues;

(j) to provide that interest shall be payable if the refund is delayed by sixty days instead of ninety days;

(k) to provide that the processed sweet corn shall be tax-free for the period from the 1st April 2005 to 31st March 2016.

(5) The Maharashtra Tax on Lotteries Act, 2006 is being amended so as to increase the rate of tax on weekly lottery scheme from rupees seventy thousand per draw to rupees one lakh per draw.

(6) The Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2012 is being amended to provide that the date of effect of subsection (2) of section 21 of the said Amendment Act shall be the 8th April 2011 instead of 1st May 2012.

3. The Bill seeks to achieve the above objectives.

Mumbai,

Dated the 26th March 2017.

SUDHIR MUNGANTIWAR,

Finance Minister.

MEMORANDUM OF DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely :—

Clause 4.— Under this clause, which seeks to insert section 4B in the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, in sub-section (1), power is taken to the State Government to issue notification to be published in the *Official Gazette*, providing for the class of persons from whom tax shall be deducted and the person liable to deduct the tax.

Clause 5.— Under this clause, power is taken to the State Government, to provide for the rate of interest to be paid by the persons on delayed payment of tax.

Clause 12.— Under this clause, power is taken to the State Government, to remit the whole or any part of the interest, in respect of any period, payable by any prescribed class of registered dealers by publishing the notification in the *Official Gazette*, subject to such conditions mentioned therein.

2. The above-mentioned proposals for delegation of legislative power are of normal character.

FINANCIAL MEMORANDUM

The Bill proposes to amend the Maharashtra Purchase Tax on Sugarcane Act, 1962 (Mah. IX of 1962), the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Maharashtra Tax on the Entry of Goods into Local Areas Rules, 2003, the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), the Maharashtra Tax on Lotteries Act, 2006 and the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2012, to give effect to the proposals contained in the Budget Speech for the year 2017-18.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.