



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक ४१(२)]

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असाधारण क्रमांक ८७

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 Goods and Services Tax (Compensation to the Local Authorities) Bill, 2017 (L. A. Bill No. XXXIV of 2017), introduced in the Maharashtra Legislative Assembly on the 20th May 2017, 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. XXXIV OF 2017.

A BILL

to provide for compensation to the Municipal Corporation of Brihan Mumbai and other local authorities for loss of revenue arising on account of abolition of octroi and local body tax, due to implementation of the goods and services tax and for matters connected therewith or incidental thereto.

WHEREAS, it is expedient to provide for compensation to the Municipal Corporation of Brihan Mumbai and other local authorities for loss of revenue arising on account of abolition of octroi and other local body tax, due to implementation of the goods and services tax and for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-eighth Year of the Republic of India as follows :—

1. (1) This Act may be called the Maharashtra Goods and Services Tax (Compensation to the Local Authorities) Act, 2017.

Short title, extent and commencement.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

(१)

Definitions.

2. (1) In this Act unless the context otherwise requires,—

(a) “appointed date” means the date on which the Maharashtra Goods and Services Tax Act, 2017 comes into force ; Mah. of 2017.

(b) “base year” means the year specified in section 4 of the Act ;

(c) “base year revenue” means the revenue collected by the local authorities as specified in section 5 of the Act ;

(d) “compensation” means an amount determined under section 8 of the Act ;

(e) “Goods and Services Tax Act” means the Maharashtra Goods and Services Tax Act, 2017 ; Mah. of 2017.

(f) “local authority” means the local authorities specified in the Schedule of the Act;

(g) “projected growth rate” means the rate of growth projected as per section 3 of the Act ;

(h) “projected revenue” means the revenue calculated as per sections 6 and 7 of the Act;

(i) “Schedule” means the Schedule appended to the Act.

(2) Words and expressions used and not defined in this Act but defined in the Maharashtra Goods and Services Tax Act, 2017 shall have the same meanings respectively assigned to them in that Act.

Projected growth rate.

3. The projected nominal growth rate of revenue, in perpetuity, for a local authority shall be 8% per annum to be compounded annually.

Base year.

4. For the purpose of calculating the compensation amount payable in any financial year to a local authority, the financial year ending on the 31st March 2017 shall be taken as the base year.

Base year revenue.

5. (1) The base year revenue for the Municipal Corporation of Brihan Mumbai shall be the revenue collected by it in the base year, net of refunds, with respect of octroi levied and collected under the erstwhile entry 52 of List-II (State List) of the Seventh Schedule to the Constitution of India, as it stood prior to bringing into effect the provisions of the Constitution (One Hundred and First Amendment) Act, 2016.

(2) The base year revenue for a local authority other than Municipal Corporation of Brihan Mumbai shall be the revenue of the base year, net of refunds, with respect to entry tax, octroi, local body tax, cess or any other tax levied and collected under the erstwhile entry 52 of List-II (State List) of the Seventh Schedule to the Constitution of India, as it stood prior to bringing into effect the provisions of the Constitution (One Hundred and First Amendment) Act, 2016 :

Provided that, if the local authority is notified after the financial year ending on the 31st March 2016 then the base year revenue for that local authority shall be specified by the State Government.

Explanation.— For the purpose of this Act, an amount the local authority is eligible to receive, on account of abolition of local body tax in respect of an importer having turnover not exceeding rupees 50 crores per annum from the 1st August 2015, shall form part of the base year revenue.

(3) The base year revenue for the purpose of this section shall be as audited by the Local Fund Accounts Audit of the State.

6. The projected revenue for the period in the first year for a local authority, shall be calculated by applying the projected growth rate over the base year revenue of that local authority reduced by the amount of revenue collected, net of refunds, as specified in section 5 upto the appointed date. Projected revenue for first year.

7. The projected revenue, not being first year, for any year for a local authority, shall be calculated by applying the projected growth rate over the base year revenue of that local authority, net refunds, by applying the principle of compounded growth rate as per section 3. Projected revenue for any other year.

Illustration.— If the base year revenue for 2016-17 for a concerned local authority, calculated as per section 5, is Rs. 200, then the projected revenue for, say, financial year 2018-19 shall be as follows :—

$$\text{Projected Revenue for 2018 — 19} = 200 \left(1 + \frac{8}{100} \right)^2$$

8. (1) The compensation payable to a local authority shall be provisionally calculated and released on monthly basis and shall be finally calculated for every financial year after the receipt of final revenue figures, as audited by the Local Fund Accounts Audit. Calculation and release of compensation.

(2) The total compensation payable for any financial year to any local authority shall be calculated as follows :—

(a) The projected revenue for any financial year shall be calculated as per section 6 or, as the case may be, section 7.

(b) The revenue accruable to the local authority shall be calculated and which shall be the revenue accruable on account of the taxes, fees or other source of revenues assigned after the commencement of this Act to the local authority by the State Government and the revenue accruable on account of increase in rate of tax, amount of fees or increase in rate of other means of source of revenue assigned before the commencement of this Act to the local authority by the State Government.

Explanation.—For the purpose of this section, the revenue accruable to a local authority means the revenue which the State Government could have collected from the area within the jurisdiction of that local authority had the taxes, fees or other source of revenue not been assigned to that local authority and the State in this regard shall, specify such amount of revenue.

(c) Total compensation payable in any financial year shall be the difference between the projected revenue for that financial year and the revenue accruable for that year to a local authority as specified in clause (b).

Illustration

I. Ist year

Base year revenue for the year 2016-17.	100
Projected revenue for 2017-18 i.e. 8% growth.	108.00
Less amount of LBT/Octroi collected upto the date of implementation of this Act e.g. 1/4/2017 to 30/6/2017	20.00
Less accruable revenue assigned for the period from 01/07/2017 to 31/03/2018.	20.00
Compensation payable	68.00

II. Subsequent year

Base year revenue for the year 2016-17	100
Projected revenue for 2018-19 i.e. 8% growth.	116.64
Less accruable revenue assigned.	30.00
Compensation payable	86.64

(3) The loss of revenue at the end of every month in any year for a local authority shall be calculated as follows :—

(a) The projected revenue that could have been earned by the local authority for a monthly period of the respective financial year would be calculated on *pro-rata* basis as a percentage of the total projected revenue for any financial year, as calculated as per section 6 or 7.

Illustration.—If the projected revenue for any year calculated as per section 6 or 7 is Rs.100, the projected revenue that could be earned for monthly period for the purpose of this sub-section shall be $100 \times 1/12 =$ Rs. 08.33.

(b) The provisional compensation payable for every three months period from the appointed date to any local authority shall be paid on or before the fifth of the relevant month in advance, in any financial year and shall be the amount as calculated in clause (a). The amount of provisional compensation so payable shall be credited in the bank account so designated by the Municipal Corporation of Brihan Mumbai on or before fifth of every month, in advance and failing which, the designated bank will be authorised to credit the account of Municipal Corporation of Brihan Mumbai by an amount of compensation payable for that month against the guarantee to be issued by the State Government.

(c) In every fourth month, the provisional compensation payable to any local authority shall be the difference between projected revenue for the fourth month and revenue accruable to a local authority in the period of previous three months :

Provided that, if the amount of revenue accruable to a local authority in a period of previous three months is more than the amount of provisional compensation payable in the fourth month, then the excess amount shall be reduced from the amount of compensation payable for the fifth month and so on.

(4) In case of any difference between the final compensation amount payable to a local authority calculated as per provisions of sub-section (2) and the total provisional compensation amount released to a local authority, in the said financial year, as per sub-section (3), the same shall be adjusted against release of compensation to the local authority in the subsequent financial year, in the manner to be specified by the State Government.

Amendment
of Schedule.

9. The State Government may, from time to time, by notification in the *Official Gazette*, amend the Schedule by adding or modifying or deleting any entry therein and thereupon the Schedule shall stand amended accordingly, from such date as may be specified therein, for the purposes of this Act.

Power to
make rules.

10. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) Without prejudice to any provision made in this behalf, any rule made under this Act may be made so as to be retrospective from any date not earlier than the appointed day.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette*, the rule shall, from the date of publication of such decision in the *Official Gazette*, have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

11. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order, published in the *Official Gazette*, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty: Power to remove difficulties.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

SCHEDULE

[See sections 2(1) (i) and 9]

- (1) Ahmednagar Municipal Corporation
- (2) Amravati Municipal Corporation
- (3) Aurangabad Municipal Corporation
- (4) Akola Municipal Corporation
- (5) Bhiwandi-Nijampur Municipal Corporation
- (6) Chandrapur Municipal Corporation
- (7) Dhule Municipal Corporation
- (8) Jalgaon Municipal Corporation
- (9) Kalyan-Dombivli Municipal Corporation
- (10) Kolhapur Municipal Corporation
- (11) Latur Municipal Corporation
- (12) Municipal Corporation of Brihan Mumbai.
- (13) Mira-Bhaindar Municipal Corporation
- (14) Malegaon Municipal Corporation
- (15) Navi Mumbai Municipal Corporation
- (16) Nashik Municipal Corporation
- (17) Nagpur Municipal Corporation
- (18) Nanded-Waghala Municipal Corporation
- (19) Pune Municipal Corporation
- (20) Pimpri-Chinchwad Municipal Corporation
- (21) Parbhani Municipal Corporation
- (22) Panvel Municipal Corporation
- (23) Sangli-Miraj-Kupwad Municipal Corporation
- (24) Solapur Municipal Corporation
- (25) Thane Municipal Corporation
- (26) Ulhasnagar Municipal Corporation
- (27) Vasai-Virar Municipal Corporation

STATEMENT OF OBJECTS AND REASONS.

The local authorities are functioning under different Acts, namely, the Mumbai Municipal Corporation Act, the Maharashtra Municipal Corporations Act, the Maharashtra Village Panchayats Act and the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. The local authorities were empowered to levy and collect the octroi, cess and local body tax on the entry of goods into their limits for consumption, use or sale therein under the respective Acts.

2. The Constitution (One hundred and First Amendment) Act, 2016 has changed the taxation powers of the Central Government, State Government and local authorities. New article 246A is added and entries 52 (tax on the entry of goods into a local area for consumption, use or sale therein) and 55 (tax on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television) have been omitted and entries 54 and 62 of List II of the Seventh Schedule of the Constitution have been substituted. In consequences of the said amendments, the local authorities are no more empowered to levy and collect the octroi, cess and local body tax. To compensate the loss of revenue to the local authorities the Government has decided to enact a law.

3. As octroi and local body tax are an important sources of revenue for the local authorities including Municipal Corporation of Brihan Mumbai, it has become necessary to compensate them for the loss on account of deletion of the entry relating to octroi, local body tax, entry tax, etc. Several statutory functions that includes water supply and sanitation, urban planning, street lighting, roads and storm water drains, running public hospitals and dispensaries, maintenance of markets, solid waste management, etc. are performed by local authorities through revenues generated by way of octroi or, as the case may be, local body tax.

4. The metropolis of Mumbai houses important financial institutions, premier technical and scientific organizations. Being an important financial, commercial and entertainment capital of the country, it is essential to ensure its financial security so that it continues to discharge its statutory obligations of providing all civic services without any hindrance. At the same time it is necessary to provide a mechanism by providing Bank Guarantee so the financial autonomy of Municipal Corporation of Brihan Mumbai is not compromised. The compensation amount so payable to the Municipal Corporation will be treated akin to a charged expenditure as provided in the Appropriation Bill.

5. The Act makes it mandatory on the part of the State Government to provide such an amount to the Corporations, in time, so as to enable it to carry out its assigned functions.

Accordingly, this Bill *inter alia*, provides for the following, namely :—

(a) that the financial year 2016-17 shall be taken as the base year for the purpose of calculating compensation amount payable to the Municipal Corporation of Brihan Mumbai and the other local authorities;

(b) that the revenue to be compensated for Municipal Corporation of Brihan Mumbai shall consist of revenues from octroi levied by the Municipal Corporation, which is now proposed to be subsumed under the goods and services tax, as audited by the Local Fund Accounts Audit of the State;

(c) that the compensation provided by the State Government to the local authority on account of abolition of local body tax in the year 2016-17 and the amount collected as local body tax by the respective local authority in the year 2016-17 be taken as the compensation amount for the base year to be paid to the local authorities;

(d) the projected nominal growth rate of revenue subsumed for Municipal Corporation of Brihan Mumbai and the other local authorities shall be at the compounded rate of eight per cent. per annum;

(e) that the compensation shall be released on or before fifth of every month in advance against the figures given by the Local Funds Account Audit provisionally and final adjustment shall be done after getting audited accounts of the year from the Local Fund Accounts Audit;

(f) the amount of compensation shall be credited to the designated bank account of Municipal Corporation of Brihan Mumbai and other local authorities.

6. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 9th May 2017.

SUDHIR MUNGANTIWAR,
Minister for Finance.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for payment of compensation to the local authorities. The Bill also provides that the base year revenue shall be calculated on the basis of the figures of revenue collected, net of refunds, given in that year, as audited by the Local Fund Accounts Audit of the State. The amount of compensation payable to the local authority shall be reduced to the extent of tax collected by the local authority on account of the tax assigned to the local authority by the State Government.

It is not possible at this stage to estimate the exact recurring and non-recurring expenditure from the Consolidated Fund of State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 1(3).—Under this clause, power is taken to the State Government, to bring into force the provisions of the Act by notification in the *Official Gazette*.

Clause 9.—Under this clause, power is taken to the State Government, to amend the Schedule by notification in the *Official Gazette*.

Clause 10.—Under this clause, the power is taken to the State Government, to make rules, by notification in the *Official Gazette*, to carry out the purposes of the Act.

Clause 11.—Under this clause, the power is taken to the State Government, to remove, by an order published in the *Official Gazette*, any difficulty which may arise in giving effect to the provisions of this Act.

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