

४३

बुधवार, नोव्हेंबर २९, १९७८/अग्रहायण ८, शके १९००

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 29th November 1978 :

L. A. BILL No. LIII OF 1978

A BILL

further to amend the Bombay Motor Vehicles Tax Act, 1958.

Bom.
LXV
of
1958.

WHEREAS it is expedient further to amend the Bombay Motor Vehicles Tax Act, 1958, for the purposes hereinafter appearing; It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Bombay Motor Vehicles Tax (Amendment) Act, 1978.

Bom.
LXV
of
1958.

2. In section 2 of the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), after clause (2), the following clause shall be, and shall be deemed always to have been, inserted, namely:—

IV of
1939.

"(2A) "motor vehicle" means a motor vehicle as defined in the Motor Vehicles Act, 1939, whether using motor spirit or using fuel other than motor spirit;"

Amendment
of section 2
of Bom.
LXV of
1958.

Amendment
of section 3
of Bom.
LXV of
1958.

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) in the first proviso, after the words “Provided that” the brackets and letter “(a)” shall be, and shall be deemed always to have been, inserted;

(ii) at the end of the said first proviso, after the word and figures “Act, 1939” the following shall be, and shall be deemed always to have been, added, namely:—

“and (b) in the case of any motor vehicle using fuel other than motor spirit, the tax leviable under the provisions of this sub-section, as amended from time to time, shall be levied and collected as in the case of any other motor vehicle of the same class, and 50 per cent of the amount of tax so leviable shall also be levied and collected in the case of such motor vehicle using fuel other than motor spirit, so, however, that this additional amount of tax shall in no case exceed Rs. 800 or such lower sum as may be fixed by the State Government, by notification in the *Official Gazette*”;

(iii) in the second proviso, the words and figure “of Part I”, at both places where they occur, shall be, and shall be deemed always to have been, deleted;

(b) in sub-section (1A), the words and figure “of Part I” shall be, and shall be deemed always to have been, deleted.

Amendment
of first
Schedule
Bom. LXV
of 1958.

4. In the First Schedule to the principal Act,—

(a) the heading “*Part I—Motor Vehicles using motor spirit.*” shall be, and shall be deemed always to have been, deleted;

(b) the heading “*Part II—Motor vehicles using fuel other than motor spirit.*”, and the entry opposite the said heading, shall be, and shall be deemed always to have been, deleted.

STATEMENT OF OBJECTS AND REASONS

Section 3(1) of the Bombay Motor Vehicles Tax Act, 1958, provides that there shall be levied and collected, on all motor vehicles used or kept for use in the State, a tax at the rates fixed by the State Government, by notification in the *Official Gazette*, but not exceeding the maximum rates specified in the First Schedule. The First Schedule is divided into two parts. Part I gives the maximum annual rates of tax for vehicles using motor spirit or petrol, and Part II gives the maximum annual rates of tax for vehicles using fuel other than motor spirit e.g. diesel. For the purposes of both Parts, the maximum rates are the same, but the only difference is that Part II lays down that, despite this maximum limit, the vehicles using fuel other than motor spirit shall also be liable to pay surcharge of 50 per centum, which shall in no case exceed Rs. 800. The actual rates of tax for both kinds of vehicles are fixed by notification under section 3, and the First Schedule merely indicates the maximum limits of tax and the additional liability of vehicles using fuel other than motor spirit to pay a surcharge.

2. After its enactment in 1958, the Act has been amended by Maharashtra Act XIV of 1974 and by Maharashtra Act XVII of 1975. By the first Act, a second proviso has been inserted in section 3(1), to prescribe higher rates of tax in respect of certain classes of motor vehicles mentioned in Part I of the First Schedule. By the second Act, a new Sub-section (1A) has been inserted in section 3 and a further tax has been levied on certain classes of motor vehicles mentioned in Part I of the First Schedule. As these amendments refer to certain entries in Part I of the First Schedule, it may be argued that the additional taxes are levied only on vehicles using motor spirit and not on vehicles using fuel other than motor spirit.

3. While enacting the Act and amending it subsequently, the intention all along has been that the vehicles using fuel other than motor spirit should bear the burden of all kinds of taxes levied on vehicles using motor spirit, plus a surcharge of 50 per cent, not exceeding Rs. 800 in any case.

4. To clarify the position and to remove all doubts, it is necessary to rearrange and amend the relevant provisions of the Act and the First Schedule suitably. Since the additional taxes are already being levied and paid on vehicles using fuel other than motor spirit according to the intention as stated above, to leave no scope for any doubt or dispute, it is necessary to give retrospective effect to all the proposed amendments.

5. The Bill is intended to achieve these objects.

H. V. UPADHYAYA,

Nagpur, dated the 27th November 1978,

Minister for Transport.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207(1)
OF THE CONSTITUTION OF INDIA

(Copy of Government of Maharashtra Order, Law and Judiciary Department,
dated the 27th November 1978)

In exercise of the powers conferred upon him by clause (1) of article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly the consideration of the Bill further to amend the Bombay Motor Vehicles Tax Act, 1958.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Under new clause (b) of the first proviso to sub-section (1) of section 3 of the principal Act, proposed to be inserted by clause 3 of the Bill, the maximum additional amount of tax to be levied and collected in the case of any motor vehicle using fuel other than motor spirit will be prescribed at Rs. 800 by the Act itself and the State Government is empowered to fix a lower sum by notification in the *Official Gazette*. The proposal for delegation of the legislative power in question is of a normal character.

G. S. NANDE,
Secretary,

Nagpur. dated 29th November 1978. Maharashtra Legislative Assembly.