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गुरुवार, मार्च १७, १९८८/फाल्गुन २७, शके १९०९

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 17th March 1988:—

L. A. BILL No. V OF 1988:—

A BILL

further to amend certain tax laws 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 Thirty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Maharashtra Tax Laws (Levy and Amendment) Short title Act, 1988.

CHAPTER II

AMENDMENTS TO THE BOMBAY MOTOR VEHICLES TAX ACT, 1958.

Amendment
of section
9 of Bom.
LXV of
1958.

2. In section 9 of the Bombay Motor Vehicles Tax Act, 1958 (hereinafter, in this Chapter, referred to as "the Motor Vehicles Tax Act"),—

Bom.
LXV
of
1958.

(a) in sub-section (6), after the existing proviso, the following proviso shall be added, and shall be deemed to have been added, with effect from the 26th March 1987, namely :—

"Provided further that, the rate of such refund of tax in respect of a motor cycle or tricycle used or kept for use in the State by a person (not being an individual, a local authority, a public trust, a university or an educational institution) shall be at thrice the rate specified in the Fourth Schedule.";

(b) after sub-section (6), the following sub-section shall be inserted, and shall be deemed to have been inserted, with effect from the 26th March 1987, namely :—

"(6A) Notwithstanding anything contained in sub-section (1) and sub-section (3), where a motor cycle or tricycle in respect of which tax has been paid under sub-section (1C) of section 3, is used in such manner as to cause it to become a motor cycle or tricycle in respect of which the tax is leviable at a lower rate, the person who has paid such tax shall be entitled on surrender of the certificate of tax to a refund of a sum equal to the difference between the amount of one time tax already paid and the amount of the one time tax leviable, having regard to the age of the motor cycle or tricycle on the date of such use as aforesaid, on such motor cycle or tricycle at the lower rate; and the Taxation Authority shall cause an entry of such refund to be made in the certificate of taxation.";

(c) in sub-section (7), in clause (a), in sub-clause (iv), after the existing proviso, the following proviso shall be added, and shall be deemed to have been added, with effect from the 26th March 1987, namely :—

" Provided further that, the rate of such refund of tax in respect of a motor cycle or tricycle used or kept for use in the State by a person (not being an individual, a local authority, a public trust, a university or an educational institution) shall be at thrice the rate specified in the Fifth Schedule.".

Amendment
of First
Schedule to
Bom. LXV
of 1958.

3. In the First Schedule to the Motor Vehicles Tax Act, in clause A,—

(a) for sub-clause III, the following sub-clause shall be substituted, namely:—

" III. Motor Vehicles (including tricycles) used for carriage of goods or materials—

(a) Vehicles the registered laden weight of which does not exceed 750 kgs.	275
(b) Vehicles the registered laden weight of which exceeds 750 kgs. but does not exceed 1,500 kgs.	495
(c) Vehicles the registered laden weight of which exceeds 1,500 kgs. but does not exceed 3,000 kgs.	715
(d) Vehicles the registered laden weight of which exceeds 3,000 kgs. but does not exceed 4,500 kgs.	990
(e) Vehicles the registered laden weight of which exceeds 4,500 kgs. but does not exceed 6,000 kgs.	1,320
(f) Vehicles the registered laden weight of which exceeds 6,000 kgs. but does not exceed 7,500 kgs.	1,650
(g) Vehicles the registered laden weight of which exceeds 7,500 kgs. but does not exceed 9,000 kgs.	2,500

(h) Vehicles the registered laden weight of which exceeds 9,000 kgs. but does not exceed 10,500 kgs.	3,000
(i) Vehicles the registered laden weight of which exceeds 10,500 kgs. but does not exceed 12,000 kgs.	3,500
(j) Vehicles the registered laden weight of which exceeds 12,000 kgs. but does not exceed 13,500 kgs.	4,500
(k) Vehicles the registered laden weight of which exceeds 13,500 kgs. but does not exceed 15,000 kgs.	5,000
(l) Vehicles the registered laden weight of which exceeds 15,000 kgs.	The rate specified in (k) above plus Rs. 125 for every 250 kgs. or part thereof in excess of 15,000 kgs:

Provided that, where tax on motor vehicles is levied by any local authority, the maximum rates for motor vehicles registered for use solely within the limits of such local authority shall be two-third of the aforesaid maximum rates.” ;

(b) for sub-clause VII, the following sub-clause shall be substituted, namely :—

“ VII. Motor Vehicles other than those liable to tax under the foregoing provisions of this Schedule or the Third Schedule—

(a) Vehicles not exceeding 750 kgs. in weight, unladen.	400
(b) Vehicles exceeding 750 kgs. but not exceeding 1,500 kgs. in weight, unladen.	500
(c) Vehicles exceeding 1,500 kgs. but not exceeding 2,250 kgs. in weight, unladen.	600
(d) Vehicles exceeding 2,250 kgs. in weight, unladen, permitted to carry fifteen or less number of persons, including the driver.	800
(e) Vehicles exceeding 2,250 kgs. in weight, unladen, permitted to carry more than fifteen persons, including the driver.	The rate specified in (d) above plus Rs. 15 per person in excess of fifteen persons plus ten per cent. thereof.”.

4. In the Second Schedule to the Motor Vehicles Tax Act, for entry 10, the Amendment following entry shall be substituted, namely :—

“ 10. Exceeding 10 metric tonnes	The rate specified in entry 9 above plus Rs. 300 for every tonne or part thereof in excess of 10 tonnes.	The rate specified in entry 9 above plus Rs. 400 for every tonne or part thereof in excess of 10 tonnes.”.	of Second Schedule to Bom. LXV of 1958.
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CHAPTER III

AMENDMENTS TO THE BOMBAY ELECTRICITY DUTY ACT, 1958.

- Amendment of section 3 of Bom. XL of 1958. 5. In section 3 of the Bombay Electricity Duty Act, 1958 (hereinafter, in this Chapter, referred to as "the Electricity Duty Act"), in sub-section (2),—
- (a) in clause (a), in sub-clause (vii), for the portion beginning with the words "begins to manufacture" and ending with the words and bracket "such commencement)" the following shall be substituted, namely :—
- "has begun to manufacture or produce articles for the first time before the commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 1988";
- (b) in clause (b), for the portion beginning with the words "manufactures or produces" and ending with the words and bracket "such commencement)" the following shall be substituted, namely :—
- "has begun to manufacture or produce articles for the first time before the commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 1988".
- Amendment of section 5A of Bom. XL of 1958. 6. In section 5A of the Electricity Duty Act, for the words and letters "Part B, Part E, Part F or Part H" the words and letters "Part B or Part F" shall be substituted.
- Amendment of Schedule to Bom. XL of 1958. 7. In the Schedule to the Electricity Duty Act,—
- (1) in Part A,—
- (a) for the words "In Greater Bombay and the City of Poona and Cantonment of Poona and Kirkee" the words "in the area of each Municipal Corporation" shall be substituted;
- (b) in clause (a),—
- (i) for the figures and words "8½ paise per unit" the figure and words "9 paise per unit" shall be substituted;
- (ii) for the figures and words "7½ paise per unit" the figure and words "8 paise per unit" shall be substituted;
- (c) in clause (b), for the figures and words "10½ paise per unit" the figures and words "12 paise per unit" shall be substituted;
- (d) in clause (c), for the figures and words "16 paise per unit" the figures and words "18 paise per unit" shall be substituted;
- (e) clause (d) shall be deleted;
- (2) in Part B,—
- (a) in clause (3), the word "and" shall be deleted;
- (b) for clause (4), the following clauses shall be substituted, namely :—
- "(4) premises used for sports and social clubs;
- (5) consumption for the purpose of advertisement or display in a public place or in or on premises other than those in which goods or service advertised or displayed are sold, supplied or provided; and
- (6) temporary supply for exhibitions, entertainments or social functions—";
- (c) for sub-clause (a), the following sub-clause shall be substituted, namely :—
- "(a) for every unit of energy consumed in a month in Greater Bombay 27 paise per unit.";
- (d) in sub-clause (b), for the figures and words "20 paise per unit" the figures and words "24 paise per unit" shall be substituted;
- (e) in sub-clause (c), for the figures and words "18 paise per unit" the figures and words "22 paise per unit" shall be substituted;

(3) " Part D " and " Part E " shall be deleted ;

(4) in Part F,—

(a) after the words and bracket " office purpose) " the words " and in respect of consumption for poultry farming or hatcheries " shall be added ;

(b) after the words " class of industrial undertakings " the words " and in respect of consumption for poultry farming or hatcheries " shall be added.

(5) " Part G " and " Part H " shall be deleted.

CHAPTER IV

AMENDMENT TO THE MAHARASHTRA TAX ON SALE OF ELECTRICITY ACT, 1963.

Mah. XXI of 1963. 8. In section 3 of the Maharashtra Tax on Sale of Electricity Act, 1963, in sub-section (1), for the words " one half of a *paisa* " the words " one *paisa* " shall be substituted.

Amendment of section 3 of Mah. XXI of 1963.

CHAPTER V

AMENDMENTS TO THE BOMBAY SALES TAX ACT, 1959.

Bom. LI of 1959. 9. In section 2 of the Bombay Sales Tax Act, 1959 (hereinafter, in this Chapter referred to as " the Bombay Sales Tax Act "),—

Amendment of section 2 of Bom. LI of 1959.

(a) in clause (1), after the words " gathering of fruit " the words " or raising of man-made forests or rearing of seedlings or plants " shall be added, and shall be deemed to have been added, with effect from the 1st July 1981 ;

(b) for clause (2), the following clause shall be substituted, and shall be deemed to have been substituted, with effect from the 1st July 1981, namely :—

" (2) " agriculturist " means a person who cultivates land personally, for the purpose of agriculture ; " ;

(c) in clause (5A),—

(i) the following shall be added, and shall be deemed to have been added, at the end, with effect from the 1st July 1981, namely :—

" and any transaction in connection with, or incidental or ancillary to, the commencement or closure of such trade, commerce, manufacture, adventure or concern ; " ;

(ii) the following *Explanation* shall be added, and shall be deemed to have been added, with effect from the 1st July 1981, namely :—

" *Explanation.*—For the purpose of this clause, the activities of raising of man-made forests or rearing of seedlings or plants shall be deemed to be business ; " ;

(d) in clause (11), in the existing *Explanation*, the portion beginning with the words " each of the following " and ending with the words " any State Government ; " shall be re-numbered as clause (i) thereof; and after clause (i), as so re-numbered, the following clauses shall be added, namely :—

" (ii) an auctioneer, who sells or auctions goods belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal, shall, notwithstanding anything contained in clause (5A) or any other provisions of this Act, be deemed to be a dealer ;

(iii) a factor, broker, commission agent, *del credere* agent or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods belonging to any principal or principals whether disclosed or not, shall, notwithstanding anything contained in clause (5A) or any other provisions of this Act, be deemed to be a dealer ; " ;

(e) to clause (17), the following *Explanation* shall be added, namely :—

“*Explanation.*—For the purposes of this clause, the cutting, sawing, shaping, sizing or hewing of timber, shall be deemed to be manufacture;” ;

(f) to clause (26), the following *Explanation* shall be added, namely :—

“*Explanation.*—For the purpose of this clause, a sale of purchased goods excluding Declared goods shall not be deemed to be a resale, if the seller holds the trade mark or the patent in respect of the goods sold or if such trade-mark or patent is assigned to the seller by the holder of the trade-mark or patent in respect of such goods sold by him;”.

Amendment of section 4 of Bom. LI of 1959. 10. In section 4 of the Bombay Sales Tax Act, in sub-section (1), for the words and figures “sections 7, 8, 11 and 12” the words, figures and letter “sections 7, 8, 8A, 11 and 12” shall be substituted.

Revival and re-enactment of sub-section (3) of section 7 of Bom. LI of 1959. 11. It is hereby declared that, in section 7 of the Bombay Sales Tax Act, sub-section (3), as it stood during the period from the 1st January 1960 to the 30th June 1981 (both days inclusive), shall be deemed to be revived and re-enacted, with certain modifications, during the said period as follows, namely :—

“(3) In order to ensure that after the date of coming into force of section 15 of the Central Sales Tax Act, 1956, tax shall not be levied on the sales or purchases of Declared goods at more than one stage, it is hereby provided that if under this Act or any earlier law, any tax is leviable on the sale or purchase of such goods, then no further tax shall be levied under this Act on any subsequent sale or purchase thereof; and accordingly, for the purpose of arriving at the taxable turnover of sales, or, as the case may be, of purchases, of a dealer, there shall be deducted from his total turnover of sales or, as the case may be, of purchases; such sales or purchases of such Declared goods on which tax has become leviable at any earlier stage.”.

Amendment of section 7 of Bom. LI of 1959. 12. In section 7 of the Bombay Sales Tax Act, for sub-section (2), the following sub-section shall be substituted, and shall be deemed to have been substituted, with effect from the 1st July 1981, namely :—

“(2) In order to ensure that after the date of coming into force of section 15 of the Central Sales Tax Act, 1956, tax shall not be levied on the sales or purchases of Declared goods at more than one stage, it is hereby provided that if under this Act or any earlier law, any tax is leviable on the sale or purchase of such goods, then no further tax shall be levied under this Act on any subsequent sale or purchase thereof; and accordingly, for the purpose of arriving at the taxable turnover of sales, or as the case may be, of purchases, of a dealer, there shall be deducted from his total turnover of sales, or as the case may be, of purchases, such sales or purchases of such Declared goods on which tax has become leviable at any earlier stage.”.

Amendment of section 8 of Bom. LI of 1959. 13. In section 8 of the Bombay Sales Tax Act, to clause (ii), the following proviso shall be added, namely :—

“Provided that, resales of goods purchased by the dealer from a registered dealer during the period commencing on the 1st July 1981 and ending on the day immediately preceding the date of commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 1988, on a declaration furnished under section 8A shall not be deducted from such turnover.”.

14. For section 8A of the Bombay Sales Tax Act, the following section shall be substituted, namely :—

Substitution of section 8A of Bom. LI of 1959.

“ 8A. (1) Notwithstanding anything contained in this Act, but subject to the condition of previous publication, the State Government may, by notification in the *Official Gazette*, and subject to such conditions, if any, as may be stated therein, specify the point of sale at which any goods or class of goods, except Declared goods, may be taxed, and on the issue of any such notification, such goods or class of goods shall be exempt from the levy of tax under section 8.

Power to specify points of sale at which goods may be taxed.

(2) There shall be levied a sales tax on the turnover of sales of goods specified in Schedule C and notified under sub-section (1), at the rate set out against each of them in column 3 of the said Schedule, but after deducting from such turnover—

(a) sales of goods or resales of goods to an Authorised dealer, a Recognised dealer or a commission agent holding a permit, who purchases on behalf of a principal, upon such dealer or commission agent, as the case may be, furnishing a declaration as provided in section 12 ;

(b) sales of goods or resales of goods to a Registered dealer, who certifies in the prescribed declaration that the goods purchased by him are intended for sale by him.”

15. After section 8A of the Bombay Sales Tax Act, the following section shall be inserted, namely :—

Insertion of section 8B in Bom. LI of 1959.

Mah. of 1988.

“ 8B. Nothing in section 8A as it existed before the commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 1988, shall apply or shall be deemed ever to have applied to Declared goods during the period commencing on the 1st July 1981 and ending on the day immediately preceding the date of such commencement.”

Provisions of section 8A not to apply to Declared goods.

16. In section 9 of the Bombay Sales Tax Act, in sub-section (1),—

(a) for the words and figure “ under section 3 ” the words “ under this Act ” shall be substituted, and shall be deemed to have been substituted, with effect from the 13th July 1986 ;

(b) clauses (d) and (e) shall be deleted.

Amendment of section 9 of Bom. LI of 1959.

17. In section 11 of the Bombay Sales Tax Act, in sub-section (2), after the words and figure “ in section 8 ” the words, figures, brackets and letter “ or sub-section (-) of section 8A ” shall be inserted.

Amendment of section 11 of Bom. LI of 1959.

18. In section 12A of the Bombay Sales Tax Act,—

(i) in sub-section (1), the figure and letter “ 8A ” shall be deleted ;

(ii) in sub-section (2), the figure and letter “ 8A ” shall be deleted.

Amendment of section 12A of Bom. LI of 1959.

19. In section 15A-1 of the Bombay Sales Tax Act, in sub-section (1), for the words and figure “ under section 3 ” the words “ under this Act ” shall be substituted, and shall be deemed to have been substituted, with effect from the 1st April 1983.

Amendment of section 15 A-1 of Bom. LI of 1959.

20. In section 24 of the Bombay Sales Tax Act, for the words “ sixty thousand rupees ”, where they occur for the first time, the words “ one lakh rupees ” shall be substituted.

Amendment of section 24 of Bom. LI of 1959.

- Amendment of section 26 of Bom. LI of 1959. **21.** In section 26 of the Bombay Sales Tax Act, for the words "sixty thousand rupees" the words "one lakh rupees" shall be substituted.
- Amendment of section 41 of Bom. LI of 1959. **22.** In section 41 of the Bombay Sales Tax Act, in sub-section (2), after the words "any reason whatsoever," the words "or, in any other case, where such dealer or person was not entitled to issue such declaration," shall be inserted, and shall be deemed to have been inserted, with effect from the 1st July 1981.
- Amendment of section 42 of Bom. LI of 1959. **23.** In section 42 of the Bombay Sales Tax Act, in clause (a),—
 (a) in sub-clause (ii), for the words "purchasing dealer;" the words "purchasing dealer, or" shall be substituted;
 (b) after sub-clause (ii), the following sub-clause shall be added, namely :—
 "(iii) paid or levied or leviable under the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, be granted to a dealer whose principal business is of buying or selling motor vehicles;"
- Amendment of Schedule A to Bom. LI of 1959. **24.** In Schedule A to the Bombay Sales Tax Act,—
 (a) in entry 32, in column 2, for the words, letters and figures "not exceeding Rs. 10 per piece" the words, letters and figures "not exceeding Rs. 25 per piece" shall be substituted;
 (b) in entry 33, in column 3, after the words "Except when" the words "sold in frozen state or," shall be inserted;
 (c) in entry 38, in column 2, after the words "Plantain leaves," the words "palas leaves," shall be inserted;
 (d) after entry 39, in columns 1 and 2, the following entry shall be inserted, namely:—
 "40 Readymade garments and other articles of personal wear (excluding hosiery goods, garments and articles to which entry 39 of this Schedule, and the articles of personal wear to which entry 64 in Part II of Schedule C, applies) prepared from any textile fabrics sold at a price not exceeding thirty rupees per garment or article.";
 (e) after entry 45, in columns 1 and 2, the following entry shall be inserted, namely:—
 "45A (a) Spectacles sold at a price not exceeding Rs. 100 per pair of spectacles;
 (b) Spectacle frames sold at a price not exceeding Rs. 50 per piece of frame;
 (c) Spectacle-lenses sold at a price not exceeding Rs. 50 per pair of lenses."
- Amendment of Schedule B to Bom. LI of 1959. **25.** In Schedule B to the Bombay Sales Tax Act, entry 9 shall be deleted.
- Amendment of Schedule C to Bom. LI of 1959. **26.** In Schedule C to the Bombay Sales Tax Act,—
 (1) in Part I,—
 (a) in entry 12, in column 2, after the word "when" the words "sold in frozen state or," shall be inserted;
 (b) after entry 15, the following entry shall be inserted, namely :—
 "15A. (i) Cotton fabrics, Do. Do."
 (ii) Man-made fabrics,
 (iii) Woollen fabrics,
 (iv) Sugar, and
 (v) Tobacco,
 excluding those specified in entry 12 of Schedule A.

(c) in entry 16, in column 2, for the word and figures "entry 39" the words and figures "entries 39 and 40" shall be substituted ;

(d) in entry 25, in columns 2, 3 and 4, after sub-entry (ii), the following sub-entry shall be added, namely :—

"(iii) Woven sacks made from HDPE Do. Do." ;

(e) after entry 35, the following entry shall be added, namely :—

"36. Goods of incorporeal or intangible character, that is to say—

- (a) Patents, Do. Do." ;
 (b) Trade-marks,
 (c) Import-licences.

(2) in Part II,—

(a) in entry 15, in column 2, the brackets, words, figures and letters "(but excluding spectacles, frames and lenses to which entry 45A of Schedule A applies)" shall be added at the end ;

(b) in entry 62,—

(i) in sub-entry (1), in columns 3 and 4, for the word "Do." the words "Fifteen paise in the rupee" shall be substituted ;

(ii) in sub-entry (2), in clause (a), in columns 3 and 4, for the word "Do." the words "Twelve paise in the rupee" shall be substituted.

27. (1) Notwithstanding anything contained in any judgement, decree or order of any Court or Tribunal to the contrary, any assessment, re-assessment, levy or collection of tax in respect of sales or purchases effected by any dealer made or purporting to have been made, or any action taken or thing done in relation to such assessment, re-assessment, levy or collection, under the provisions of the Bombay Sales Tax Act, 1959 (hereinafter in this section referred to as "the principal Act") during the period commencing on the 1st day of January 1960 and ending on, and including the day immediately preceding the date of commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 1988 (hereinafter, in this section referred to as "the Amendment Act"), shall be deemed to be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been duly made, taken or done under the principal Act, as amended by the Amendment Act, and accordingly,—

(a) 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, re-assessment, levy or collection of any such tax, shall, for all purposes be deemed to be, and to have always been done or taken in accordance with law ;

(b) no suit, appeal, application or other proceedings, shall lie or be maintained or continued in any Court or before any Tribunal, Officer or other authority, for the refund of any tax so paid ; and

(c) no Court, Tribunal, Officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1), shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the principal Act, as amended by the Amendment Act, any assessment, re-assessment, levy or collection of tax referred to in sub-section (1), or

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the principal Act, as amended by the Amendment Act.

(3) Nothing in the Amendment Act shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him, before the commencement of the Amendment Act, if such act or omission was not an offence under the principal Act, but for the amendments made by the Amendment Act, nor shall any person in respect of such act or omission be subject to a penalty greater than that which could have been inflicted on him under the law in force immediately before the commencement of the Amendment Act.

CHAPTER VI

AMENDMENTS TO THE MAHARASHTRA SALES TAX ON THE TRANSFER OF PROPERTY IN GOODS INVOLVED IN THE EXECUTION OF WORKS CONTRACTS ACT, 1985.

Amendment of the Schedule to Mah. XIX of 1985. 28. In the Maharashtra Sales Tax on the transfer of property in goods involved in the execution of Works Contracts Act, 1985, in the Schedule, after entry 17, the following entry shall be added, namely :— Mah. XIX of 1985.

“18. The transfer of property in goods involved in the execution of works contracts other than those specified from time to time in the preceding entries of this Schedule.”

CHAPTER VII

AMENDMENTS TO THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975.

Amendment to section 27A of Mah. XVI of 1975. 29. In section 27A of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (hereinafter, in this Chapter, referred to as “the Professions Tax Act”), in clause (a), after the words “armed forces of the Union” the words and figures “, that is to say, to whom the provisions of the Army Act, 1950, the Air Force Act, 1950, or the Navy Act, 1957, apply” shall be inserted, and shall be deemed to have been inserted, with effect from 1st November 1976. Mah. XVI of 1975, 46 of 1950, 45 of 1950, 62 of 1957.

Amendment of Schedule I to Mah. XVI of 1975. 30. In Schedule I to the Professions Tax Act, for entry 1, the following entry shall be substituted, namely :—

- “1. Salary and Wage earners.
Such persons whose monthly salaries or wages are—
- | | | |
|--|---------|--------------------|
| (a) less than Rs. 800 | | Nil. |
| (b) Rs. 800 or more, but less than Rs. 1,200 | | Rs. 15 per month |
| (c) Rs. 1,200 or above | | Rs. 20 per month.” |

CHAPTER VIII

AMENDMENTS TO THE MAHARASHTRA TAX ON ENTRY OF MOTOR VEHICLES INTO LOCAL AREAS ACT, 1987.

Amendment of section 2 of Mah. XLII of 1987. 31. In section 2 of the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, after clause (e), the following clause shall be inserted, and shall be deemed always to have been inserted, namely :— Mah. XLII of 1987.

“(e1) “dealer in motor vehicles” means a person whose principal business is of buying, selling or both buying and selling, motor vehicles;”

CHAPTER IX

AMENDMENTS TO THE BOMBAY STAMP ACT, 1958.

- Bom. LX of 1958.** 32. In section 2 of the Bombay Stamp Act, 1958 (hereinafter, in this Chapter, referred to as "the Bombay Stamp Act"), in clause (f),— **Amendment of section 2 of Bom. LX of 1958.**
- (a) the words "in Greater Bombay, the Collector of Bombay and elsewhere" shall be deleted;
- (b) the following shall be added at the end, namely :—
"and on whom any or all the powers of the Collector under this Act are conferred by the same notification or any other like notification".
33. In section 10 of the Bombay Stamp Act, in sub-section (3),— **Amendment of section 10 of Bom. LX of 1958.**
- (a) after the words "in cash", wherever they occur, the words "or by demand draft or by pay order" shall be inserted;
- (b) in the proviso, for the words "one month" the words "three months" shall be substituted;
- (c) after the proviso, the following *Explanation* shall be added, namely :—
"*Explanation.*—For the purposes of this sub-section, the expressions "demand draft" and by "pay order" mean the demand draft or pay order issued by the State Bank of India constituted under the State Bank of India Act, 1955 or, a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or, under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 or, any other bank being a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934."
- 23 of 1955, 5 of 1970, 40 of 1980, 2 of 1934.** 34. In section 11 of the Bombay Stamp Act,—
- (a) clause (a) shall be deleted;
- (b) in clause (b), for the word and letters "articles Nos." the word and figure "articles 1," shall be substituted.
35. In section 51 of the Bombay Stamp Act, in clause (a), for the words "rupees five" the words "rupees twenty five" shall be substituted. **Amendment of section 51 of Bom. LX of 1958.**
36. In section 52 of the Bombay Stamp Act, for the words "rupees five" the words "rupees twenty five" shall be substituted. **Amendment of section 52 of Bom. LX of 1958.**
37. In section 69 of the Bombay Stamp Act, in sub-section (2),— **Amendment of section 69 of Bom. LX of 1958.**
- (a) for the words "may regulate,—" the words "may regulate, or provide for, all or any of the following matters, namely :—" shall be substituted;
- (b) in clause (b), the word "and" shall be deleted;
- (c) in clause (c), the word "and" shall be added at the end;
- (d) after clause (c), the following clause shall be inserted, namely :—
(d) the manner of ascertaining the true market value of immovable property :—
38. In Schedule I to the Bombay Stamp Act,— **Amendment of Schedule I to Bom. LX of 1958.**
- (a) in article 5,—
(i) in clause (b), in column 2, after the words "may be" the words "subject to a maximum of rupees one thousand" shall be added;

(ii) under the heading *Exemptions*, clauses (b) and (c) shall be deleted;

(b) in article 6, for clause (1), the following clause shall be substituted, namely :—

“(1) the deposit of title deeds or instrument constituting or being evidence of the title to any property whatever (other than a marketable security), and the value of which—

(i) does not exceed rupees 10,000	.. Fifty rupees.
(ii) exceeds rupees 10,000 but does not exceed rupees 1,00,000.	.. Five hundred rupees.
(iii) exceeds rupees 1,00,000 but does not exceed rupees 5,00,000.	.. Two thousand rupees.
(iv) exceeds rupees 5,00,000 but does not exceed rupees 15,00,000.	.. Five thousand rupees.
(v) exceeds rupees 15,00,000 but does not exceed rupees 20,00,000.	.. Ten thousand rupees.
(vi) exceeds rupees 20,00,000 but does not exceed rupees 50,00,000.	.. Thirty-five thousand rupees.
(vii) exceeds rupees 50,00,000.	.. Fifty thousand rupees.”;

(c) in article 10, in column 1, for the words “ On the share capital ” the words “ Where the company has no share capital ” shall be substituted;

(d) in article 17, in column 2, after the words “ One rupee ” the words “ for every one hundred rupees or a part thereof of the value of the shares, scrip or stock ” shall be added;

(e) in article 25, in column 1, for the words “ market value ” the words “ true market value ” shall be substituted;

(f) in article 43, in clause (g), in column 2, after the words “ may be ” the words “, subject to a maximum of one thousand rupees ” shall be added;

(g) in article 59, in column 2, after the word “ debenture ” the words “, subject to a maximum of ten thousand rupees ” shall be added.

Declaration under the Maharashtra Provisional Collection of Taxes Act, 1962
(Mah. V of 1963).

It is hereby declared that it is expedient in the public interest that provisions of clauses 3, 4, 6, 7, 8, 16, 24(b), 26(1)(a), (d), (e), and (2) (b), 28, 30 and 38 of this Bill shall have immediate effect under the Maharashtra Provisional Collection of Taxes Act, 1962.

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STATEMENT OF OBJECTS AND REASONS.

The Bill proposes to amend the Bombay Motor Vehicles Tax Act, 1958 (Bom. LXV of 1958), the Bombay Electricity Duty Act, 1958 (Bom. XL of 1958), the Maharashtra Tax on Sale of Electricity Act, 1963 (Mah. XXI of 1963), the Bombay Sales Tax Act, 1959 (Bom. LI of 1959), the Maharashtra Sales Tax on transfer of property in goods involved in the execution of Works Contracts Act, 1985 (Mah. XIX of 1985), the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987 (Mah. XLII of 1987) and the Bombay Stamp Act, 1958 (Bom. LX of 1958). Some of these amendments propose levy or increased levy of tax mainly with a view to augment the revenue of the State and to which reference has been made in the Finance Minister's speech and budget proposals. The other amendments are either procedural or found necessary for the purpose of effective implementation of these tax laws and some of them have been given retrospective effect to meet the contingencies which have arisen on account of certain decisions of the Court or Tribunal or to clarify the existing provisions to meet the challenges in pending litigation and thereby to protect revenue.

2. The amendments are proposed to be made *inter alia* for the following purposes which are explained broadly, namely :—

(1) to provide for refund of tax for non-use of motor cycle or tricycle which is used or kept for use in the State by a person (not being an individual, a local authority, a public trust, a university or an educational institution);

(2) to provide for refund of one time tax paid at a higher rate in respect of motor cycle or tricycle, when subsequently such motor cycle or tricycle is used in such manner as to cause it to become a motor cycle or tricycle in respect of which the tax is leviable at a lower rate;

(3) to increase the maximum limits of rates of tax leviable in respect of motor vehicles including tricycles used for carriage of goods or materials and also in respect of other motor vehicles which do not fall in sub-clauses I to VI of clause A in the First Schedule to the Act ;

(4) to withdraw the concession in respect of electricity duty consumed for industrial purpose or process by any new industrial undertaking in the Industrially backward areas in the State in view of the other incentives such as in respect of sales tax, octroi and special capital incentives, etc. made available to industries in the industrially backward areas;

(5) to increase the electricity duty in respect of consumption of electricity in residential premises in corporation areas and also other areas and also to rationalise certain entries for the purposes of levy of uniform rate of duty at a increased rate;

(6) to increase the rate of tax on every unit of energy sold by a bulk licensee, from one half of a *paisa* to one *paisa* of every unit of energy;

(7) to bring into the tax-net certain commercial activities like raising of man-made forests, which were earlier held by Courts to be "agriculture" and were, therefore, escaping the levy of sales tax;

(8) to clarify that the transactions connected with the commencement or closure of business are in the course of business;

- (9) to make the auctioneers and mercantile agents liable to payment of sales tax ;
 - (10) to make a deeming provision in respect of cutting, sawing, shaping, sizing or hewing of timber as being manufacture;
 - (11) to exclude from the definition of the expression " re-sale " the sale of purchased goods by the holder of the trade-mark or the patent;
 - (12) to provide for an independent levy section for goods in respect of which Government is empowered to notify any point of sale for the purpose of levy of sales tax;
 - (13) to rationalise the levy of turnover tax;
 - (14) to provide that any goods purchased on a declaration which is not validly issued shall be liable to payment of purchase tax;
 - (15) to provide for set-off in respect of entry tax paid in respect of motor vehicles;
 - (16) to rationalise or increase sales tax payable in respect of certain goods;
 - (17) to validate the assessment, reassessment, levy or collection of sales tax or purchase tax;
 - (18) to take power to State Government to levy sales tax on the transfer of property in goods involved in the execution of works contracts other than those already specified in the Schedule to the Act;
 - (19) to rationalise the slabs of salaries or wages on the basis of which tax on professions, trades, callings and employments is levied;
 - (20) to increase the stamp duty payable in respect of certain instruments.
3. The Bill seeks to achieve the abovementioned objects.

Bombay, dated 16th March 1988.

SUSHILKUMAR S. SHINDE,
Minister for Finance.

MEMORANDUM REGARDING DELEGATED LEGISLATION

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

Clause 14.—This clause seeks to substitute section 8A of the Bombay Sales Tax Act, 1959, under which power is taken to the State Government,—

(a) to specify by notification in the *Official Gazette*, subject to the condition of previous publication, point of sale at which any goods or class of goods, except Declared Goods, may be taxed;

(b) to prescribe by rules a declaration for the purpose of clause (b) of subsection (2) of section 8A.

Clause 32.—This clause seeks to amend the definition of the expression “Collector” in section 2(f) of the Bombay Stamp Act, 1958. Under that definition “Collector” includes any officer whom the State Government may, by notification in the *Official Gazette*, appoint in this behalf. By amending this definition, it is proposed to take power to the State Government to confer on such officer any or all the powers of the Collector under this Act either by the same notification by which he is so appointed or by any other like notification.

2. The abovementioned delegation of legislative powers is of a normal character.

FINANCIAL MEMORANDUM

With a view to ensure that proper stamp duty is levied and paid on instruments relating to conveyance of immovable property, it is proposed to take power to the State Government to make rules for ascertaining the true market value of the immovable property which is the subject matter of such conveyance. For this purpose it would be necessary to augment the strength of the existing officer and staff in the offices under the control of the Inspector General of Registration. The staff requirements cannot be estimated precisely at this stage and, therefore, it is not possible to estimate the recurring and non-recurring expenditure from the Consolidated Fund, in this behalf.

GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF
THE CONSTITUTION OF INDIA.

(Copy of Government of Maharashtra Order, Law and Judiciary Department)

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 Maharashtra Tax laws (Levy and Amendment) Bill, 1988.

Bombay, dated the 17th March 1988.

BHASKAR SHETYE
Secretary (I),
Maharashtra Legislative Assembly.