



# महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

बुधवार, जुलै २५, २००७/श्रावण ३, शके १९२९

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

## भाग आठ

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 2007 (L.A. Bill No. XLIII of 2007), introduced in the Maharashtra Legislative Assembly on the 25th July 2007, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra.

A. M. SHINDEKAR,  
Secretary to Government,  
Law and Judiciary Department.

### L. A. BILL No. XLIII OF 2007.

#### 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 Fifty-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, 2007.

Short title and commencement.

(३७०)

(2) Save as otherwise provided in this Act, it shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

## CHAPTER II

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

Amendment of section 6 of Mah. XVI of 1975. 2. In section 6 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 (1), for the proviso, the following proviso shall be substituted, namely :—

"Provided that, the Commissioner may, subject to such terms and conditions, if any, as may be prescribed, permit any employer to furnish a consolidated return relating to all or any of the places of business of such employer in the State, for such period or periods, to such authority, as he may direct."

Amendment of section 8 of Mah. XVI of 1975. 3. In section 8 of the Profession Tax Act, in sub-section (3), in clause (a), for the words and figures "rupees 1700, 2200 or as the case may be, 2500 per annum" the words and figures "rupees 2500 per annum" shall be substituted.

## CHAPTER III

### AMENDMENT TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987.

Amendment of section 20 of Mah. XLI of 1987. 4. In section 20 of the Maharashtra Tax on Luxuries Act, 1987, in sub-section (1), in clause (iv), for the words "the Deputy Commissioner of Luxury Tax" the words "the Senior Deputy Commissioner of Luxury Tax and the Deputy Commissioner of Luxury Tax" shall be substituted.

## CHAPTER IV

### AMENDMENT TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002.

Revival and re-enactment of Schedule to Mah. IV of 2003 as it existed on 31st March 2005. 5. During the period commencing from the 1st October 2002 and ending on the 31st March 2005, the Schedule to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, as it existed before the 1st April 2005, shall be deemed to have been revived and re-enacted in the same form as it then existed, with certain modifications as follows, namely :—

"In the Schedule so revived and re-enacted, for entry 13, the following entry shall be substituted, namely :—

- " 13. Petroleum fuel oils including- 15 paise in the rupee".
- (a) heavy furnace oil, and  
(b) residual furnace oil.

## CHAPTER V

## AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Mah. IX of 2005: 6. In section 2 of the Maharashtra Value Added Tax Act, 2002, (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"),— Amendment of section 2 of Mah. IX of 2005.

(1) in clause (16), the words "or residence" shall be deleted;

(2) in clause (24); in the *Explanation*, in clause (b), in sub-clause (ii), for the words "works contract namely," the words "works contract including" shall be substituted and shall be deemed to have been substituted with effect from the 20th June 2006.

7. In section 8 of the Value Added Tax Act,—

(1) in sub-section (3), for the words "hundred per cent. export oriented unit", wherever they occur, the words "export oriented unit" shall be substituted; Amendment of section 8 of Mah. IX of 2005.

(2) in sub-section (3B), the following *Explanation* shall be added and shall be deemed to have been added with effect from the 20th June 2006, namely :—

"*Explanation.*—For the purposes of this sub-section, "members of the armed forces" includes ex-servicemen and families of the deceased personnel of the armed forces.";

(3) after sub-section (3B), the following sub-section shall be inserted, namely :—

"(3C) The State Government may, by general or special order published in the *Official Gazette*, and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt fully from payment of tax with effect from the date specified in the order, the transfer of property in goods involved in the processing of textiles described in column (3) of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957.";

58 of 1957.

(4) in sub-section (5), for sub-clause (h), the following sub-clauses shall be substituted, namely :—

13 of 1885.  
17 of 1933.

"(h) any telephone service provider, holding a licence granted under the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933, to establish, install, operate and maintain,—

(a) telephone service upto subscribers terminal connections,  
or

(b) national long distance service network, or

(c) international long distance service network ;

(i) Telecom Infrastructure provider who has been granted registration certificate by the Department of Telecommunications, as Infrastructure Provider Category-1(IP-I)."

Amendment  
of section  
16 of Mah.  
IX of 2005.

8. In section 16 of the Value Added Tax Act,—

(1) to sub-section (2), the following proviso shall be added, namely :—

“Provided that, in the case of an application made by a person who voluntarily desires to get registered, the certificate of registration shall not be granted unless the applicant has deposited an amount of Rs. 25,000 in the Government Treasury as advance towards the tax, interest or penalty, if any, that may become due. The amount so deposited may be adjusted against the tax payable according to the return required to be filed in the year in which the registration is granted or in the succeeding year. The amount of deposit in excess of the amount due from him, by way of tax, interest or penalty, if any, shall be refunded as provided in section 50 or, as the case may be, section 51.”;

(2) in sub-section (6),—

(a) after the first proviso, the following proviso shall be added, namely:—

“Provided further that, where the Commissioner is satisfied that any person who has voluntarily got himself registered has not commenced business within six months from the date of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules.”;

(b) in the second proviso, for the words “Provided further that” the words “Provided also that” shall be substituted.

Amendment  
of section  
19 of Mah.  
IX of 2005.

9. In section 19 of the Value Added Tax Act, in sub-section (2), the portion beginning with the words “if he has” and ending with the words “the application” shall be deleted.

Amendment  
of section  
20 of Mah.  
IX of 2005.

10. In section 20 of the Value Added Tax Act, in sub-section (4), for the words “expiry of a period of eight months” the words “expiry of a period of nine months” shall be substituted.

Amendment  
of section  
22 of Mah.  
IX of 2005.

11. In section 22 of the Value Added Tax Act, sub-section (3) shall be deleted.

Amendment  
of section  
23 of Mah.  
IX of 2005.

12. In section 23 of the Value Added Tax Act, after sub-section (3), the following sub-section shall be inserted, namely :—

“(3A) Where a notice for assessment under sub-section (3) of section 21 has been served on the dealer, the Commissioner shall assess, to the best of his judgement, the amount of tax due from him :

Provided that, no order of assessment under this sub-section shall be made after the expiry of seven years from the end of the year containing the period in respect of which the notice for assessment has been issued. ”.

13. In section 26 of the Value Added Tax Act, in sub-section (1), for the words “ An appeal, from every original order, not being an order mentioned in sub-section (2) of section 85 ”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely :—

Amendment  
of section  
26 of Mah.  
IX of 2005.

“ An appeal from every order, not being an order mentioned in sub-section (2) of this section and sub-section (2) of section 85”.

14. In section 42 of the Value Added Tax Act, in sub-section (4), after the words “ where a dealer is liable to pay tax ” the words “ in respect of any period on or after the appointed day ” shall be inserted.

Amendment  
of section  
42 of Mah.  
IX of 2005.

15. In section 50 of the Value Added Tax Act,—

Amendment  
of section  
50 of Mah.  
IX of 2005.

(1) in sub-section (1), for the words “ penalty and interest, ” the words “ penalty, interest and fee except when the fee is paid by way of court-fee stamp, ” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005 ;

(2) in sub-section (2), the word “ subsequent ” shall be deleted.

16. In section 51 of the Value Added Tax Act,—

Amendment  
of section  
51 of Mah.  
IX of 2005.

(1) in sub-section (1), the word “ subsequent ” shall be deleted;

(2) in sub-section (2),—

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

“ (a) The registered dealer may, after the end of the year to which the return, fresh return or revised return relates, make an application in the prescribed form for grant of refund of the amount claimed refundable as aforesaid. The Commissioner may, within one month of the receipt of the application call for such additional information from the dealer, as he may think necessary. The refunds relating to all the periods contained in one year may be granted by a single order.”;

(b) in clause (b), the second proviso shall be deleted;

(3) in sub-section (3), in clause (a),—

(i) in sub-clause (iii), for the words and figures “ Tourism Projects 1999; ” the words and figures “ Tourism Projects 1999; or ” shall be substituted ;

(ii) after sub-clause (iii), the following sub-clauses shall be added, namely :—

“(iv) selling any goods in the course of inter-State trade or commerce; or

(v) the Canteen Stores Department or the Indian Naval Canteen Services,” ;

(4) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely :—

“(4) The Commissioner shall grant the refund under this section within three months of the receipt of application or receipt of additional information whichever is later. If the additional information is not furnished, then the refund shall be granted within six months of the receipt of the application.”

(5) Notwithstanding anything contained in this section, if the dealer has furnished a bank guarantee for such amount, from such bank, for such period and to such authority as may be prescribed, the Commissioner shall grant the refund due under sub-section (2) or (3), within one month of the furnishing of the bank guarantee, irrespective of whether the additional information has been furnished or not.”

Amendment  
of section  
61 of Mah.  
IX of 2005.

17. In section 61 of the Value Added Tax Act,—

(1) in sub-section (1), in the *Explanation*, for the words and figures “Accountants Act, 1949” the words and figures “Accountants Act, 1949 or a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959” shall be substituted ;

23 of  
1959.

(2) in sub-section (2), the words “or as the case may be, purchases or a sum of one lakh rupees, whichever is less” shall be deleted ;

(3) after sub-section (2), the following sub-section shall be added, namely :—

“(3) Nothing in sub-sections (1) and (2) shall apply to Departments of the Union Government, any Department of any State Government, local authorities, the Railway Administration as defined under the Indian Railways Act, 1989, the Konkan Railway Corporation Limited and the Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950.”

24 of  
1989.

64 of  
1950.

Amendment  
of section  
69 of Mah.  
IX of 2005.

18. In section 69 of the Value Added Tax Act, after sub-section (2), the following sub-section shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely :—

“(3) Where any fresh certificate of registration is prepared

on any automated data processing system and is issued to any dealer; then such fresh certificate of registration shall not be required to be personally signed by any officer and the said certificate shall not be deemed to be invalid only on the ground that it is not personally signed by any such officer.”

19. In section 79 of the Value Added Tax Act, in clause (b), for the words “shall bear a court-fee stamp of such value” the words “shall be charged with such fee” shall be substituted. Amendment  
of section  
79 of Mah.  
IX of 2005.

20. In section 86 of the Value Added Tax Act, for sub-section (3), the following sub-section shall be substituted, namely :— Amendment  
of section  
86 of Mah.  
IX of 2005.

“(3) When a dealer liable to pay tax under this Act, sells any goods to any person, he shall issue to the purchaser either a tax invoice or a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated, and preserve it for a period of three years from the end of the year in which the sale took place :

Provided that, where the value of the goods sold in a single transaction is rupees fifty or less, then it shall not be necessary to issue the said bill or cash memorandum.”

21. In section 91 of the Value Added Tax Act, in sub-section (5), for the words “Entitlement Certificate”, at both the places where they occur, the words and figures “Entitlement Certificate other than an Entitlement Certificate granted under the new package scheme of incentives for Tourism Projects, 1999” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005. Amendment  
of section 91  
of Mah. IX  
of 2005.

## CHAPTER VI

### VALIDATION AND SAVINGS

22. (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 entry of goods into local areas by any importer 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 Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 (hereinafter, in this Chapter, referred to as “the Entry Tax Act”) during the period commencing on the 1st October 2002 and ending on the 31st March 2005 shall be deemed to be 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 Entry Tax Act, and accordingly, — Validation  
and saving.

Mah. IV  
of 2003.

(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 this sub-section shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the Entry Tax Act, as amended by the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2007, any assessment, re-assessment, levy or collection of tax referred to in this sub-section, or

Mah.  
of  
2007.

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Entry Tax Act.

## STATEMENT OF OBJECTS AND REASONS.

It is proposed to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Maharashtra Tax on Luxuries Act, 1987 (Mah. XLI of 1987), the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 (Mah. IV of 2003) and the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), with a view to augmenting the revenue of the State. Certain amendments which are necessary for effective and smooth implementation of the said tax laws have also been incorporated in the Bill.

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

(A) *The Maharashtra State Tax on Profession, Trades, Callings and Employments Act, 1975.*—This Act is being amended to provide for,—

- (i) filing of consolidated returns, and
- (ii) composition of payment of tax.

(B) *The Maharashtra Tax on Luxuries Act, 1987.*—This Act is being amended to provide for taking power of recovery of tax as an arrears of land revenue to the Senior Deputy Commissioner of Sales Tax.

(C) *The Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002.*—This Act is being amended to regularise the levy of entry tax on certain fuel oils during 1st October 2002 to 31st March 2005.

(D) *The Maharashtra Value Added Tax Act, 2002.*—This Act is being amended to provide for,—

- (i) change in the procedure for voluntary registration and the cancellation of voluntary registration by the Commissioner in certain circumstances;
- (ii) refund of excess fees paid;
- (iii) change in the procedure for refund;
- (iv) penalty on account of non-compliance of submission of audit on sales;
- (v) permission to the Cost Accountants to do audit under section 61; and
- (vi) to provide that fresh certificate of registration issued on automated system need not be personally signed by the officer.

3. The Bill is intended to seek the above objectives.

Mumbai,  
Dated the 24th July 2007.

JAYANT PATIL,  
Minister for Finance.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

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

*Clause 1(2).*—By this clause, power is taken to the State Government to appoint, by notification in the *Official Gazette*, the date on which the said Act shall come into force.

*Clause 7(3).*—By this clause, which seeks to insert new sub-section (3C) in section 8 of the Maharashtra Value Added Tax Act, 2002, the power is taken to the State Government to exempt from payment of tax, by an order published in the *Official Gazette*, the transfer of property in goods involved in the processing of textiles described in column (3) of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

*Clause 16(4).*—By this clause, which seeks to substitute sub-sections (4) and (5) of section 51 of the Maharashtra Value Added Tax Act, 2002, the power is taken to the State Government to make rules providing for the details of the bank guarantee to be furnished by a person claiming refund, namely, the amount of bank guarantee, the name of the bank, the period for which such bank guarantee is to be given and the authority to whom it is to be furnished, subject to which the Commissioner shall grant the refund.

*Clause 20.*—By this clause, which seeks to substitute sub-section (3) of section 86 of the Maharashtra Value Added Tax Act, 2002, the power is taken to the State Government to prescribe, by rules, the particulars of the bill or cash memorandum to be issued to the purchaser.

2. The abovementioned proposals for delegation of legislative power are of normal character.