

L. A. BILL No. XIV OF 2009.

A BILL

furth~~er~~ to amend certain tax laws in operation in the State of Maharashtra.

- 5 WHEREAS it is expedient further to amend certain tax laws in operation in the State of Maharashtra, for the purpose hereinafter appearing; it is hereby enacted in the Sixtieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

10

1. (1) This Act may be called the Maharashtra Tax Laws Short title and commencement.
(Levy, Amendment and Validation) Act, 2009.

(2) (g) Sections 1 to 4 shall come into force on such date as the state Government may, by notification in the Official Gazette, appoint.

- 15 (2) (a) Sections 1 to 4 shall come into force on such date as the state Government may, by notification in the Official Gazette, appoint.

(b) Save as otherwise provided in this Act, the remaining sections shall come into force with effect from the 1st July 2009.

11803-1

CHAPTER II

AMENDMENTS TO THE BOMBAY STAMP ACT, 1958.

2. In SCHEDULE I appended to the Bombay Stamp Act, 1958,—

(a) in article 5, in clause (h), for sub-clause (A), the following clause shall be substituted, namely :—

Amendment
of
SCHEDULE I
of Bom. LX
of 1958.

"(A) If relating to,—

(i) any advertisement on mass media, made for promotion of any product; or programme or event with an intention to make profits or business out of it,—

10

(a) if the amount agreed does not exceed rupees ten lakhs; Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.

(b) in any other case

Five rupees for every rupees 1,000 or part thereof on the amount agreed in the contract.

20

(ii) conferring exclusive rights of telecasting, broadcasting or exhibition of an event or a film,—

25

(a) if the amount agreed does not exceed rupees ten lakhs; Two rupees and fifty paise for every rupees 1,000 or part thereof on the amount agreed in the contract subject to minimum of rupees 100.

(b) in any other case

Five rupees for every rupees 1,000 or part thereof on the amount agreed in the contract.

35

- (iii) specific performance
by any person or a group of
persons where the value of
contract exceed rupees
5 1,00,000,—
- (a) if the amount agreed does Two rupees and fifty
not exceed rupees ten lakhs; *paise* for every rupees
1,000 or part thereof on
10 the amount agreed in
the contract subject to
minimum of rupees 100.
- (b) in any other case Five rupees for every
rupees 1,000 or part
thereof on the amount
15 agreed in the contract
- (iv) creation of any obligation,
right or interest and having
monetary value, but not
covered under any other
20 article,—
- (a) if the amount agreed does One rupee for every
not exceed rupees ten lakhs; rupees 1,000 or part
thereof on the amount
25 agreed in the contract
subject to minimum of
rupees 100.
- (b) in any other case Two rupees for every
rupees 1,000 or part
thereof on the amount
30 agreed in the contract.
- 44 of 1957 (v) assignment of copyright
under the Copyright Act, 1957,—
- (a) if the amount agreed does Two rupees and fifty
not exceed rupees ten lakhs; *paise* for every rupees
1,000 or part thereof on
35 the amount agreed in
the contract subject to
minimum of rupees 100.

(b) in any other case

Five rupees for every
rupees 1,000 or part
thereof on the amount
agreed in the contract.

5

(vi) project under Built, Operate
and Transfer (BOT) system,
whether with or without toll
or fee collection rights, -

(a) if the amount agreed does
not exceed rupees Five lakhs;

One rupee for every
rupees 1,000 or part
thereof on the amount
agreed in the contract
subject to minimum of
rupees 100.

10

(b) in any other case

Two rupees for every
rupees 1,000 or part
thereof on the amount
agreed in the contract."

15

(b) in article 6,—

(i) for clauses (1) and (2), the following clauses shall be
substituted, namely :—

(1) The deposit of the title deeds
or instrument constituting or
being evidence of the title to
any property whatever (other
than a marketable security),
where such deposit has been
made by way of security for
the repayment of money
advanced or to be advanced
by way of loan or an existing
or future debt,—

25

(a) if the amount secured by
such deed does not exceed
rupees five lakhs;

One rupee for every
one thousand or part
thereof for the amount
secured by such deed
subject to the minimum
of one hundred rupees.

30

Mah.
XV
of
1958.

37

(b) in any other case

Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed.

5 (2) The pawn, pledge or hypothecation of movable property, where such pawn, pledge or hypothecation has been made by way of security for their
10 repayment of money advanced or to be advanced by way of loan or an existing or future debt,—

15 (a) if the amount secured by such deed does not exceed rupees five lakhs; One rupee for every one thousand or part thereof for the amount secured by such deed subject to the minimum of one hundred rupees.

20 (b) in any other case Two rupees for every rupees 1,000 or part thereof for the amount secured by such deed.”.

(ii) the existing *Explanation II* shall be deleted.

CHAPTER III

25 AMENDMENTS TO THE BOMBAY MOTOR VEHICLES TAX ACT, 1958.

Mah.
LXV
of
1958. 30 3. In the THIRD SCHEDULE to the Bombay Motor Vehicles Tax, Act, 1958, in Part I, in column (2), for the figure, sign and words “7% of the cost of vehicle” the following figures and words shall be substituted namely :—

Amendment
of THIRD
SCHEDULE
to B.M.V.
Act of
1958.

“(a) 7 per cent. of the cost of vehicle, if the cost of the vehicle is upto Rs. 10 lakhs;

(b) 8 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs. 10 lakhs but does not exceed Rs. 20 lakhs;

35 (c) 9 per cent. of the cost of vehicle, if the cost of the vehicle exceeds Rs. 20 lakhs.”.

CHAPTER IV

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

Amendment to SCHEDULE I of Mah. XVI of 1975 4. In SCHEDULE I appended to the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, for entry 1, the following entry shall be substituted, namely :—

"1 Salary and wage earners — Such persons whose monthly salaries or wages,—	10	1
(a) do not exceed rupees 5,000	Nil.	
(b) exceed rupees 5,000 but do not exceed rupees 10,000	175 per month.	15
(c) exceeds rupees 10,000	2,500 per annum, to be paid in the following manner :—	15
	(a) rupees two hundred per month except for the month of February ;	20
	(b) rupees three hundred for the month of February."	25

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA VALUE
ADDED TAX ACT, 2002.

Amendment of section 20 of Mah. IX of 2005 5. In section 20 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), for sub-section (4), the following sub-section shall be substituted, namely :—

- "(4) Any person or dealer who, having furnished a return or, as the case may be, a revised return,—
- (a) discovers any omission or incorrect statement therein, may furnish, a revised return in respect of the period covered by the return at any time before a notice for assessment is served on him in respect of the period covered by the said return or before the expiry of a period of nine months from the end of the year to which the return or, as the case may be, the revised return relates, whichever is earlier ;

(b) discovers as a result of the report of audit of his accounts prepared for the purpose of section 61, any omission or incorrect statement therein, may furnish a revised return as regards the period in respect of which the omission or incorrect statement is discovered, after the expiry of the period of thirty days from the date prescribed for furnishing the said report;

(c) agrees with the observation contained in any intimation received by him under section 63, that the return, fresh return or, as the case may be, revised return, filed by him contains any omission or incorrect statement, may furnish a revised return in respect of the period covered by the said return within thirty days from the date of service on him of the said intimation."

6. In section 29 of the Value Added Tax Act, for sub-section (8), the following sub-section shall be substituted, namely:—

Amendment of section 29 of Mah. IX of 2005

"(8) Where, any person or dealer has failed to file within the prescribed time, a return for any period as provided in section 20, the Commissioner shall impose on him, a sum of rupees five thousand by way of penalty. Such penalty shall be without prejudice to any other penalty which may be imposed under this Act."

7. In section 30 of the Value Added Tax Act, after sub-section (3), the following sub-section shall be added, namely:—

Amendment of section 30 of Mah. IX of 2005

"(4) If,—

(a) after the commencement of,—

(i) audit of the business of the dealer in respect of any period, or

(ii) inspection of the accounts, registers and documents pertaining to any period, kept at any place of business of the dealer, or

(iii) entry and search of any place of business or any other place where the dealer has kept his accounts, registers, documents pertaining to any period or stock of goods,

(b) in consequence of any intimation issued under sub-section (7) of section 63,

the dealer files one or more returns or, as the case may be, revised returns in respect of the said period, then he shall be

AX

State & Mah.
Act, XVI of
1975.

10

be 15
ng

dred
the
20

nth

25

Act, Mah.
IX of
2005.

30

urn

ent
the
for 35
red
ine
as
is

40

liable to pay by way of interest, in addition to the amount of tax, if any, payable as per the return or, as the case may be, revised return, a sum equal to 25 per cent. of the additional tax payable as per the return or, as the case may be, revised return.”.

5

Amendment
of section 63
of Mah. IX
of 2005.

8. In section 63 of the Value Added Tax Act, after sub-section (6), the following sub-section shall be added, namely:—

“(7) If during the course of any proceedings in the case of any dealer or otherwise, it appears to the Commissioner 10 that the quantum of tax payable or, as the case may be, the amount of set-off or refund as disclosed in the returns filed by the dealer or, as the case may be, recorded in the books of accounts of that dealer is incorrect, then the Commissioner may send an intimation in the prescribed 15 Form to such dealer communicating the likely additional quantum of tax, if any, which should have been paid, or the likely reduction in the quantum of set-off or refund and may advise him to file a return or, as the case may be, revised return after taking into account the contents of the 20 intimation.”.

Amendment
of section 85
of Mah. IX
of 2005.

9. In section 85 of the Value Added Tax Act, in sub-section (2), after clause (b-1), the following clause shall be inserted, namely:—

“(b-2) an order levying penalty under sub-section (3) of 25 section 29, or;”.

Amendment
of
SCHEDULE
A appended
to Mah. IX
of 2005.

10. In SCHEDULE A appended to the Value Added Tax Act, after entry 54, the following entries shall be added, namely:—

55	Incense sticks commonly known as, <i>agurbatti</i> , <i>dhoop</i> , <i>dhupkadi</i> or <i>dhupbatti</i> .	Nil%	30
56	Solar energy devices as may be notified, from time to time, by State Government in the <i>Official Gazette</i> , and spare parts thereof	Nil%.”	35

11. In SCHEDULE B appended to the Value Added Tax Act, after entry 3, the following entry shall be added, namely:—

Amendment of SCHEDULE B appended to Mah. IX of 2005.

"4 Imitation Jewellery, beads of glass. 1%." plastics or of any metal other than precious metals and parts and components thereof.

12. In SCHEDULE C appended to the Value Added Tax Act,—

Amendment of SCHEDULE C appended to Mah. IX of 2005

(1) in entry 41, in column (2), after the words "Gypsum of all forms and description" the words "excluding gypsum boards" shall be added;

(2) for entry 51, the following entry shall be substituted, namely:—

"51 Hair pins. 4%."

(3) entry 52 shall be deleted;

(4) entry 74 shall be re-numbered as sub-entry (a) thereof; and after sub-entry (a) as so re-numbered, the following sub-entry shall be added, namely:—

"(b) Plastic mats (*Chatai*) 4%."

(5) in entry 105, in column (2), the brackets, letters and words "(xi) glass beads;" shall be deleted;

(6) in entry 108, in sub-entry (2), for the figures, letters and word "31st March 2009" the figures, letters and word "31st March 2010" shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2009;

(7) after entry 109, the following entries shall be added, namely:—

"110 Clearing nuts (*Shitekar*) and Soap 4% nuts (*Ritha*) in whole or powder form.

111 Compact Fluorescent Lamps. 4%

112 LPG Stoves for domestic use; parts, 4% components and accessories thereof.

113 Cotton ginning and pressing machinery 4% covered by sub-heading 8445 19 10 of the Central Excise Tariff Act, 1985.

114 Composting Machinery. 4%."

Amendment of SCHEDULE D appended to the Value Added Tax Act, 2002

- (1) in entry 1, in column (3), for the figures and sign "20%" the figures and sign "25%" shall be substituted;
- (2) in entry 2, in column (3), for the figures and sign "20%" the figures and sign "25%" shall be substituted;
- (3) in entry 3, in column (3), for the figures and sign "20%" the figures and sign "25%" shall be substituted;
- (4) after entry 11, the following entry shall be added,

"12 Tobacco, manufactured tobacco and products thereof including cigar and cigarettes but excluding those to which entry 45A of SCHEDULE A and entry 101 of SCHEDULE C applies."

CHAPTER VI

VALIDATION AND SAVINGS

14. (1) Notwithstanding anything contained in any judgement, decree or order of any Court or Tribunal to the contrary, any assessment, review levy or collection of tax in respect of sales or purchases effected by any dealer or person, or any action taken or thing done in relation to such assessment, review, levy or collection under the provisions of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as "the Value Added Tax Act"), before the date of the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2009 (hereinafter, in this Chapter, referred to as "the Amendment Act"), shall be deemed to be valid and effective as if such assessment, review, levy or collection or action or thing had been duly made, taken or done under the Value Added Tax Act, as amended by the Amendment Act, and accordingly,—

(a) all acts, proceedings or thing 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, review, 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 the law;

Mah IX
of 2005.

Mah
of
2009.

(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

5 (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
10 a person,—

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

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

(3) Nothing in the Value Added Tax Act, as amended by
20 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 Value Added Tax Act but for the amendments
25 made by the Amendment Act; nor shall any person in respect of such act or omission be subject to a penalty have greater than that which could have been imposed on him under the law in force immediately before the commencement of the Amendment Act.

Mah. IX
of 2005.

Mah.
of
2009.

STATEMENT OF OBJECTS AND REASONS.

With a view to give effect to the Budget proposals, some of the important amendments which are proposed to be made in the certain tax laws are explained broadly as follows :—

(a) the Bombay Stamp Act, 1958, is being amended to restructure the stamp duty on certain instruments like contract for advertisement, rights of telecasting films, copy rights, etc.,

(b) the Bombay Motor Vehicles Tax Act, 1958, is being amended to restructure the one time tax to be levied on the motor cars and omni buses used or kept for use in the State,

(c) the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 is being amended to,—

(i) increase the threshold limit of income for levy of Profession Tax from Rs. 2,501 to Rs. 5,001;

(ii) rationalize the tax structure,

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

(i) simplify the procedure for filing of revised returns;

(ii) provide for additional interest of 25% of the additional tax amount found due;

(iii) reduce the penalty for non-filing of returns within the prescribed time;

(iv) exempt, reduce or enhance the tax on certain goods.

2. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 10th June 2009.

DILIP VALSE-PATIL,
Minister for Finance.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative powers 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 certain provisions of the Act shall come into force.

Clause 8.— Under this clause, which seeks to add sub-section (7) to section 63 of the Maharashtra Value Added Tax Act, 2002, power is taken to the Commissioner to send intimation in the prescribed Form to the dealer communicating the likely additional quantum of tax which he should pay.

Clause 10.— Under this clause, which seeks to add entry 56 in SCHEDULE A appended to the Maharashtra Value Added Tax, 2002, the power is taken to the State Government to notify, from time to time, in the *Official Gazette*, the Solar Energy Devices and the spare parts thereof.

2. The above mentioned proposals for delegation of legislative powers are of a normal character.

**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, Amendment and Validation) Bill, 2009.