

BY SPEED POST

F.No.28/9/2006-ST
Government of India
Ministry of Finance
Department of Revenue
State Taxes Section

New Delhi, dated 31st May 2010

To

The Commissioner, VAT/ Commercial Tax /Sales Tax of all States/ UTs.

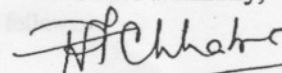
Subject: Proposal for amendments in Central Sales Tax Act, 1956 relating to CST Appellate Authority (CSTAA).

I am directed to refer to this Ministry's letter of even number dated 17.03.2010 on the above subject and to say that the Finance Bill has got the assent of Hon'ble President of India. The relevant part of Finance Act, 2010 is attached. Attention is invited to the provisions of clause 2 of newly inserted section 18 A which provides that any appeal forwarded by the highest appellate authority under the proviso to sub-section (2) of section 25 and pending before such authority immediately before the appointed day shall be transferred, on such appointed day, to the highest appellate authority of the State. For the purpose of this sub-section "appointed day" means such date as the Central Government may, by notification in the official Gazette, appoint.

2. Accordingly, the Central Government has appointed the 1st June 2010 as the appointed day for the purpose of the sub-section (2) of section 18 of the CST Act. Copy of the Notification No. 3/2010 - CST f.No. 28/9/2006-ST published under G.S.R.455 (E) dated 28.05.2010 is sent herewith for your information and necessary action.

Enclosed : As above

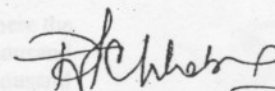
Yours faithfully,


(R.G. Chhabra)

Under Secretary to the Government of India.
Tele.23093068

Copy along with copy of the Notification No. 3/2010 - CST dated 28.05.2010 forwarded to :-

- (i) The Secretary, Finance/Taxation of all States/ UTs
- (ii) The Secretary, AAR (IT), New Delhi
- (iii) Member Secretary, Empowered Committee of State Finance Ministers.


(R.G. Chhabra)

Under Secretary to the Government of India.

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भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड I

PART II—Section I

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 18]

नई दिल्ली, सोमवार, मई 10, 2010/वैशाख 20, 1932

No. 18]

NEW DELHI, MONDAY, MAY 10, 2010 / VAISAKHA 20, 1932

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 10th May, 2010/Vaisakha 20, 1932 (Saka)

The following Act of Parliament received the assent of the President on the 8th May, 2010, and is hereby published for general information:—

THE FINANCE ACT, 2010

No. 14 of 2010

[8th May, 2010.]

An Act to give effect to the financial proposals of the Central Government for the financial year 2010-2011.

Be it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance Act, 2010.
- (2) Save as otherwise provided in this Act, sections 2 to 56 shall be deemed to have come into force on the 1st day of April, 2010.

Short title
and
commence-
ment.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2010, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

Income-tax.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh sixty thousand rupees, then,—

- (a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised

"*Explanation 2.*—For the removal of doubts, it is hereby declared that no penalty under any of the provisions of this Act or the rules made thereunder shall be imposed in respect of payment of service tax under this sub-section and interest thereon."

(D) in section 95, after sub-section (IF), the following sub-section shall be inserted, namely:—

"(1G) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2010, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2010 receives the assent of the President."

32 of 1994.

77. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under sub-clause (zzzz) of clause (105) of section 65 of the Finance Act, 1994, at any time during the period commencing on and from the 1st day of June, 2007 and ending with the day, the Finance Bill, 2010 receives the assent of the President, shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in sub-clause (zzzz) of clause (105) of section 65, by sub-item (i) of item (h) of sub-clause (6) of clause (A) of section 76 of the Finance Act, 2010 had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

Validation of action taken under sub-clause (zzzz) of clause (105) of section 65.

(a) any action taken or anything done or omitted to be taken or done in relation to the levy and collection of service tax during the said period on the taxable service of renting of immovable property, shall be deemed to be and deemed always to have been, as validly taken or done or omitted to be done as if the said amendment had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for the levy and collection of such service tax and no enforcement shall be made by any court of any decree or order relating to such action taken or anything done or omitted to be done as if the said amendment had been in force at all material times;

(c) recovery shall be made of all such amounts of service tax, interest or penalty or fine or other charges which may not have been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded, as if the said amendment had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this amendment not come into force.

CHAPTER VI CENTRAL SALES TAX

74 of 1956.

78. In the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Sales Tax Act), in section 6A,—

Amendment of section 6A.

(a) in sub-section (2), for the portion beginning with the words "are true, he may" and ending with the words "declaration relates shall", the words "are true and that no inter-State sale has been effected, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall, subject to the provisions of sub-section (3)," shall be substituted;

transfers or consignments of goods, in so far as they involve a dispute of inter-State nature."

81. In section 22 of the Central Sales Tax Act,—

Amendment
of section 22

(a) for the word "pre-deposit", wherever it occurs, the word "deposit" shall be substituted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) The Authority may issue direction for refund of tax collected by a State which has been held by the Authority to be not due to that State, or alternatively, direct that State to transfer the refundable amount to the State to which central sales tax is due on the same transaction:

Provided that the amount of tax directed to be refunded by a State shall not exceed the amount of central sales tax payable by the appellant on the same transaction."

82. In section 25 of the Central Sales Tax Act, the proviso to sub-section (2) shall be omitted.

Amendment of
section 25.

CHAPTER VII

CLEAN ENERGY CESS

83. (1) This Chapter extends to the whole of India.

Clean Energy
Cess.

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

(3) There shall be levied and collected in accordance with the provisions of this Chapter, a cess to be called the Clean Energy Cess, as duty of excise, on goods specified in the Tenth Schedule, being goods produced in India, at the rates set forth in the said Schedule for the purposes of financing and promoting clean energy initiatives, funding research in the area of clean energy or for any other purpose relating thereto.

(4) The proceeds of the cess levied under sub-section (3) shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the cess for the purposes specified in sub-section (3), as it may consider necessary.

(5) The cess leviable under sub-section (3) shall be in addition to any cess or duty leviable on the goods specified in the Tenth Schedule under any other law for the time being in force.

(6) The cess leviable under sub-section (3) shall be for the purposes of the Union and the proceeds thereof shall not be distributed among the States and the manner of assessment, collection, utilisation and any other matter relating to cess shall be such as may be prescribed by rules.

(7) The Central Government may, by notification in the Official Gazette, declare that any of the provisions of the Central Excise Act, 1944, relating to levy of and exemption from duty of excise, refund, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary, be applicable in respect of cess levied under sub-section (3).

1 of 1944.

84. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

Power of
Central
Government to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of assessment, collection and utilisation of the cess under sub-section (6) of section 83;

(b) any other matter relating to the cess under sub-section (6) of section 83.

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Nothing contained in sub-section (2) shall preclude reassessment by the assessing authority on the ground of discovery of new facts or revision by a higher authority on the ground that the findings of the assessing authority are contrary to law, and such reassessment or revision may be done in accordance with the provisions of general sales tax law of the State.”.

Insertion of
new Chapter
VA.

79. After Chapter V of the Central Sales Tax Act, the following Chapter shall be inserted, namely:—

‘CHAPTER VA

APPEALS TO THE HIGHEST APPELLATE AUTHORITY OF THE STATE

Appeals to
highest
appellate
authority of
State.

18A. (1) Notwithstanding anything contained in a State Act, any person aggrieved by an order made by the assessing authority under sub-section (2) of section 6A, or an order made under the provisions of sub-section (3) of that section, may, notwithstanding anything contained in the general sales tax law of the appropriate State, prefer an appeal to the highest appellate authority of the State against such order:

Provided that any incidental issues including the rate of tax, computation of assessable turnover and penalty may be raised in such appeal.

(2) An appeal under sub-section (1) shall be filed within sixty days from the date on which the order referred to in that sub-section is communicated to the aggrieved person:

Provided that any appeal forwarded by the highest appellate authority of a State to the first appellate authority under the proviso to sub-section (2) of section 25 and pending before such authority immediately before the appointed day shall be transferred, on such appointed day, to the highest appellate authority of the State and the same shall be treated as an appeal filed under sub-section (1) and dealt with accordingly.

Explanation.—For the purposes of this sub-section, “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) The highest appellate authority of a State may, after giving both the parties an opportunity of being heard, pass appropriate order.

(4) The highest appellate authority of the State may, as far as practicable, hear and decide such appeal within a period of six months from the date of filing of the appeal.

(5) Notwithstanding anything contained in a State Act, the highest appellate authority of a State may, on the application of the appellant and after considering relevant facts, including the deposit of any amount towards local or central sales tax in other States on the same goods, pass an order of stay subject to such terms and conditions as it thinks fit, and such order may, *inter alia*, indicate the portion of tax as assessed, to be deposited prior to admission of the appeal.

Explanation.—For the purposes of this section and sections 20, 21, 22 and 25, “highest appellate authority of a State”, with its grammatical variations, means any authority or tribunal or court, except the High Court, established or constituted under the general sales tax law of a State, by whatever name called.

Amendment
of section 20.

80. In section 20 of the Central Sales Tax Act, for sub-section (1) and the *Explanation* thereunder, the following sub-section shall be substituted, namely:—

“(1) An appeal shall lie to the Authority against any order passed by the highest appellate authority of a State under this Act determining issues relating to stock



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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 296]

नई दिल्ली, शुक्रवार, मई 28, 2010/ज्येष्ठ 7, 1932

No. 296]

NEW DELHI, FRIDAY, MAY 28, 2010/JYAISTHA 7, 1932

वित्त मंत्रालय

(राजस्व विभाग)

अधिसूचना

नई दिल्ली, 28 मई, 2010

सा.का.नि. 455(अ).—केन्द्रीय बिक्री कर अधिनियम, 1956 (1956 का 74) की धारा 18क की उप-धारा (2) के स्पष्टीकरण द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त अधिनियम की धारा 18 की उक्त उप-धारा (2) के प्रयोजन हेतु 1 जून, 2010 को नियत दिन के रूप में निर्धारित करती है।

[फा. सं. 3/2010-सी.एस.टी./फा. सं. 28/9/2006-(राज्य कर)]

आर. जी. छाबड़ा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION

New Delhi, the 28th May, 2010

G.S.R. 455(E).—In exercise of the powers conferred by Explanation to sub-section (2) of Section 18A of the Central Sales Tax Act, 1956 (74 of 1956), the Central Government hereby appoints the 1st June, 2010 as the appointed day for the purposes of the said sub-section (2) of Section 18 of the said Act.

[F.No. 3/2010-CST/F. No. 28/9/2006-(ST)]

R. G. CHHABRA, Under Secy.