

GOVERNMENT OF MAHARASHTRA GAZETTE

Mumbai: 30th March 2015

L. A. BILL No. XVI OF 2015.

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 Sixty-sixth 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, 2015. Short title
and
commencement.

(2) Save as otherwise provided in this Act,—

(a) sections 2 to 5, sub-section (1) of section 6 and sections 7 to 11 shall come into force with effect from the 1st April 2015;

(b) sub-section (2) of section 6 shall come into force with effect from the 1st May 2015.

CHAPTER II

AMENDMENT TO THE MAHARASHTRA PURCHASE TAX ON SUGARCANE ACT, 1962.

Amendment of section 12B of Mah. IX of 1962. **2.** In section 12B of the Maharashtra Purchase Tax on Sugarcane Act, 1962, in clause (e), for the word and figures “year 2013-14” the words and figures “years 2013-14 and 2014-15” shall be substituted. Mah. IX of 1962.

CHAPTER III

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

Amendment of SCHEDULE I of Mah. XVI of 1975. **3.** In SCHEDULE I appended to the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, in entry 1, for clause (b), the following clause shall be substituted, namely :— Mah. XVI of 1975.

“(b) (i) in case of a male, exceed Rs. 7,500 . . 175 per month.
but do not exceed Rs. 10,000 ;

(ii) in case of a female, do not exceed . . Nil.”
Rs. 10,000 ;

CHAPTER IV

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

Amendment of SCHEDULE of Mah. IV of 2003. **4.** In the SCHEDULE appended to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, after entry 16, the following entry shall be added, namely :— Mah. IV of 2003.

“**17.** Goods covered by clauses (iv) and (v) of entry . . 5%.”
55 of Schedule C, appended to the Maharashtra
Value Added Tax Act, 2002.

Mah. IX
of 2005.

CHAPTER V

AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Amendment of section 2 of Mah. IX of 2005. **5.** In section 2 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”),— Mah. IX of 2005.

(1) in clause (20), after *Explanation I*, the following *Explanation* shall be inserted, namely :—

“*Explanation—IA.*—Purchase price shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately by the seller.”; 32 of 1994.

(2) in clause (25), after *Explanation I*, the following *Explanation* shall be inserted, namely :—

“*Explanation—IA.*—Sale price shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately from the purchaser.”. 32 of 1994.

6. In section 20 of the Value Added Tax Act,—
(1) in sub-section (4), in the proviso, for the words “the aforesaid clauses” the words, brackets and letters “clause (a) or, as the case may be, clause (b),” shall be substituted;
(2) in sub-section (6), for the words “two thousand” the words “one thousand” shall be substituted.

Amendment of section 20 of Mah. IX of 2005.

7. In section 23 of the Value Added Tax Act,—
(1) in sub-section (5),—
(a) in clause (a), for the words “During the course of any proceedings under this Act, if the prescribed authority is satisfied” the words “Where the prescribed authority has reason to believe” shall be substituted;
(b) in clause (d), after the proviso, the following proviso shall be added, namely :—

Amendment of section 23 of Mah. IX of 2005.

“Provided further that, in case a notice is issued under this sub-section on or after the 1st April 2015, no order of assessment under this sub-section shall be made after the expiry of six years from the end of the year, containing the transaction or, as the case may be, claim.”;
(2) in sub-section (11), for the brackets, figures and word “(3) or (4)” in both the places where they occur, the brackets, figures and words “(3), (4) or, as the case may be, (5)” shall be substituted;
(3) in sub-section (12), for the brackets, figures and word “(3) or (4)” the brackets, figures and words “(3), (4) or, as the case may be, (5)” shall be substituted.

8. For section 28 of the Value Added Tax Act, the following section shall be substituted, namely :—

Substitution of section 28 of Mah. IX of 2005.

“28. Where any Court or Tribunal or any Appellate authority or any other authority passes an order in appeal or review which has the effect that,—

Modification of tax liability.

(i) any tax assessed under this Act or any other Act should have been assessed under the provisions of an Act other than that under which it was assessed, or
(ii) any claim allowed or disallowed modifies the tax liability under this Act or any other Act,

then in consequence of such order, such turnover or part thereof may be assessed or, as the case may be, tax liability may be determined, under this Act in accordance with the allowance or disallowance of such claim and may be subjected to tax at any time within five years from the date of such order :

Provided that, where any assessment has already been made, the assessment shall be modified after giving the dealer a reasonable opportunity of being heard, notwithstanding that any provision regarding limitation applies to such assessment period.”.

9. In section 30 of the Value Added Tax Act, in sub-section (2), after the proviso, the following proviso shall be added, namely :—

Amendment of section 30 of Mah. IX of 2005.

“Provided further that, in case a dealer files an annual revised return, as provided under clause (b) or, as the case may be, clause (c) of sub-section (4) of section 20, then the interest shall be payable on the excess amount of tax, as per such annual revised return, from the dates mentioned in column (2) of the Table, till the date of payment of such excess amount of tax.

TABLE

Registration status in the year for which annual revised return is filed (1)	Interest to be computed from (2)
(a) Dealer, holding certificate of registration for whole year.	1st October of the year, to which the annual revised return relates.
(b) Certificate of registration granted, effective from any date up to the 30th September of the year to which revised return relates.	1st October of the year, to which the annual revised return relates.
(c) Certificate of registration cancelled, effective on any date after the 30th September of the year to which revised return relates.	1st October of the year, to which the annual revised return relates.
(d) Certificate of registration granted, effective from any date after the 30th September of the year to which revised return relates.	effective date of registration.
(e) Certificate of registration cancelled, effective on any date prior to the 30th September of the year to which revised return relates.	effective date of cancellation of registration.”.

Amendment of
section 44 of
Mah. IX of
2005.

10. In section 44 of the Value Added Tax Act, after sub-section (4), the following sub-section shall be inserted, namely :—

“(4A) For the purposes of this Act, in case of amalgamation, merger or, as the case may be, demerger, the transfer of business shall be deemed to have taken effect either from,

(i) the date of the order of the High Court, the Tribunal or the Central Government, or

(ii) the date on which the Registrar of Companies notifies the amalgamation, merger or as the case may be, demerger, as opted by the company.”.

Amendment of
section 47 of
Mah. IX of
2005.

11. In section 47 of the Value Added Tax Act,—

(1) in sub-section (1),—

(a) for the word “Court” the words “ Court, Tribunal ” shall be substituted;

(b) for the words “ending on the date of the order,” the words “ending on the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the amalgamation,” shall be substituted ;

(2) in sub-section (2), for the words “the date of the said order” in both the places where they occur, the words “such date, as opted by the company under sub-section (4A) of section 44” shall be substituted;

(3) in sub-section (2A),—

(a) in clause (a),—

(i) for the word, “Court” the words “ Court, Tribunal ” shall be substituted;

(ii) for the words “order to the date of the order” the words “order to the date, as opted by the company, to be the date of the order or the date on which the Registrar of Companies notifies the demerger” shall be substituted ;

(b) in clause (b), for the words “ the date of the said order” wherever they occur, the words “such date, as opted by the company under sub-section (4A) of section 44” shall be substituted.

12. In Schedule C appended to the Value Added Tax Act,—
(1) in entry 4, the following *Explanation* shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely:—

Amendment to Schedule C of Mah. IX of 2005.

*“Explanation.—*For the purposes of this entry, as it stood from time to time, the “sewing thread” shall include embroidery thread.”;

(2) in entry 91, the following *Explanation* shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely :—

*“Explanation.—*For the purposes of this entry, as it stood from time to time, “spices” shall include spices in all forms, varieties and mixtures of any of the spices.”.

13. In the Government Notification, Finance Department, No. VAT-1505/CR-234/Taxation-1, dated the 1st September 2005, issued under entry 54 of Schedule C of the Maharashtra Value Added Tax Act, 2002, in the Schedule appended to the said notification, in entry 2, in column (5), for the words “Desi loni” the words “Desi loni, white butter” shall be substituted and shall be deemed to have been substituted with effect from the 1st September 2005.

Amendment to notification issued under entry 54 of Schedule C of Mah. IX of 2005.

CHAPTER VI

VALIDATION AND SAVINGS

14. (1) Notwithstanding anything contained in any judgment, 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 section, referred to as “the Value Added Tax Act”), before the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2015 (hereinafter, in this section, 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,—

Validation and savings.

Mah. IX of 2005.

Mah. of 2015.

(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, 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;

(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 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

(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 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 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 imposed on him under the law in force immediately before the commencement of the Amendment Act.

STATEMENT OF OBJECTS AND REASONS.

With a view to give effect to the proposals obtaining in the Budget Speech for the year 2015-16, to levy tax and streamline the procedural aspects of the administration of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), 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), the State Government considers it expedient to suitably amend the said Acts. It is also proposed to amend the Maharashtra Purchase Tax on Sugarcane Act, 1962 (Mah. IX of 1962), so as to exempt the payment of tax on purchase of sugarcane by the sugar factories for the year 2014-15.

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

(i) the Maharashtra Purchase Tax on Sugarcane Act, 1962 is being amended to empower the State Government to issue notification to exempt the payment of tax for the year 2014-15 to assist the sugar factories in the State to give fair and remunerative price to the farmers;

(ii) the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, is being amended to exempt the salaried women drawing salary upto Rs. 10,000 per month from the payment of profession tax;

(iii) the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, is being amended, to provide for the levy of tax on the goods covered by clauses (iv) and (v) of entry 55 of Schedule C of the Maharashtra Value Added Tax Act, 2002;

(iv) the Maharashtra Value Added Tax Act, 2002, is being amended,—

(a) to exclude the component of service tax from the definition of “purchase price” and “sale price”;

(b) to allow filing of multiple revised returns under clause (c) of sub-section (4) of section 20;

(c) to provide for a limitation period of six years for transaction-wise assessments under sub-section (5) of section 23 and to provide that such assessment can be commenced if the assessing authority has reason to believe that the tax is being evaded, etc. ;

(d) to provide under sub-section (11) of section 23 for cancellation of the *ex-parte* assessment order, passed under sub-section (5) of section 23;

(e) to provide for the modification of tax liability under the Act within a period of five years due to the allowance or disallowance of any claims under any Act ;

(f) to provide for the computation method for interest payable under sub-section (2) of section 30;

(g) to provide for an option to the company to decide the date of transfer of business on account of amalgamation, merger or demerger of companies for the purpose of tax liability;

(h) to clarify that with effect from the 1st April 2005 the sewing thread shall include embroidery thread ;

(i) to clarify that with effect from the 1st April 2005, entry 91 of Schedule C shall cover spices in all forms, varieties and mixtures of spices ;

(j) to include with effect from the 1st September 2005, white butter in the notification issued under entry 54 of Schedule C.

3. The Bill seeks to achieve the above objectives.

Mumbai,
Dated the 26th March 2015.

SUDHIR MUNGANTIWAR,
Finance Minister.

FINANCIAL MEMORANDUM

The Bill proposes to amend the Maharashtra Purchase Tax on Sugarcane Act, 1962, the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 and the Maharashtra Value Added Tax Act, 2002.

There is no provision in the Bill which would involve the recurring or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.