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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 122]

भोपाल, बुधवार, दिनांक 20 मार्च 2013—फाल्गुन 29, शक 1934

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 20 मार्च 2013

क्र. 2299-100-इक्कीस-अ(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, मध्यप्रदेश वेट (संशोधन) विधेयक, 2013 (क्रमांक 7 सन् 2013) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव.

MADHYA PRADESH BILL

No. 7 OF 2013

THE MADHYA PRADESH VAT (AMENDMENT) BILL, 2013

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MADHYA PRADESH BILL

NO. 7 OF 2013

THE MADHYA PRADESH VAT (AMENDMENT) BILL, 2013

A Bill further to amend the Madhya Pradesh Vat Act, 2002.

Be it enacted by the Madhya Pradesh Legislature in the sixty-fourth year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Madhya Pradesh Vat (Amendment) Act, 2013.

(2) (a) The provisions of section 5 of this amending Act shall be deemed to have come into force from 1st April, 2012.

(b) The provisions of clause (vii) of section 8 of this amending Act shall be deemed to have come into force from 17th September, 2012.

(c) The provisions of clause (ii) of section 19 of this amending Act shall be deemed to have come into force from 1st April, 2006.

(d) The remaining provisions of this amending Act shall come into force from 1st April, 2013.

Amendment of section 2

2. In section 2 of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) (hereinafter referred to as the principal Act),—

(i) after clause (e), the following clause shall be inserted, namely:—

“(ea) “Casual Dealer” means a person who whether as principal, agent or in any other capacity carries on occasional transactions involving buying, selling, supplying or distributing goods or conducting any exhibition-cum-sale in the State of Madhya Pradesh, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration;”;

(ii) in clause (v), in explanation, after clause (v), the following new clause shall be inserted, namely:—

“(vi) The amount of valuable consideration received or receivable by a dealer, for the sale of liquor, as specified in Part-III A of Schedule II, shall be deemed to be equivalent to the minimum sale price as fixed by the Competent Authority

under the Madhya Pradesh Excise Act, 1915 (No. 2 of 1915) read with rule XVI of the General License Conditions.”.

- (iii) in clause (y), for full stop, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that the liquor as specified in Part-III A of Schedule II, on which tax is payable under section 9 and which have been purchased by a dealer other than a dealer who holds F.L.2/F.L.3/F.L.3-A/F.L.4/F.L.4-A license under the Madhya Pradesh Excise Act, 1915 (No. 2 of 1915), from a registered dealer inside the State of Madhya Pradesh within the meaning of section 4 of the Central Sales Tax Act, 1956 (No. 74 of 1956), shall be “tax-paid goods” for the purpose of this clause.”.

3. In section 7 of the principal Act, in sub-section (1), after clause (c), the following clause shall be inserted, namely :—

Amendment of section 7.

- “(d) If the contractor proves in the prescribed manner to the satisfaction of the Commissioner that the sub-contractor has opted for composition under section 11-A in respect of the works contract being executed in whole or in part, as the case may be, by the sub-contractor, the contractor shall not be liable to pay tax on the turnover of the goods supplied in the execution of the whole or part, as the case may be, of the works contract.”.

4. In section 9-B of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely :—

Amendment of section 9-B.

- “(4A) Notwithstanding anything to the contrary contained in sub-section (4), where a builder makes an application for grant of an enrolment certificate under sub-section (3) after the prescribed period but before 30th June, 2013, he shall be eligible to claim or be allowed input tax rebate in accordance with the provisions of this section.”.

5. In section 9-C of the principal Act, in sub-section (4), after clause (e), the following clause shall be inserted, namely :—

Amendment of section 9-C.

- “(f) If a consignor or consignee fails to deduct, or after deducting fails to pay, the whole or any part of the tax as required by or under this sub-section, he shall be deemed to be a transporter liable to pay tax under sub-section (1), in default in respect of such tax.”.

6. In section 10 of the principal Act, in sub-section (1), in explanation, for full stop, a colon shall be substituted and thereafter the following provisos shall be inserted, namely :—

Amendment of section 10.

“Provided that in respect of the goods referred to in clause (b) consumed in manufacture or processing of goods specified in Schedule I notified under second proviso to clause (a) of sub-section (1) of section 14 and the goods so manufactured or processed are disposed off otherwise than by way of sale in the course of export out of the territory of India, such tax shall be levied at the rate of 2 percent:

Provided further that in respect of the goods referred to in clause (c) consumed in manufacture of goods specified in Schedule II notified under first proviso to clause (a) of sub-section (1) of section 14 and the goods so manufactured are disposed off otherwise than by way of sale within the State of Madhya Pradesh or in the course of inter-state trade or commerce or in the course of export out of the territory of India, such tax shall be levied at the rate of 2 percent.”.

Amendment of section 11.

7. In section 11 of the principal Act, in sub-section (1), for the words “sixty lacs”, the words “ rupees one crore” shall be substituted.

Amendment of section 14.

8. In section 14 of the principal Act, —

(i) in sub-section (1), after clause (a), the following provisos shall be inserted, namely:—

“Provided that in respect of the goods consumed in manufacture of goods specified in Schedule II as may be notified and the goods so manufactured are disposed off otherwise than by way of sale within the State of Madhya Pradesh or in the course of inter-state trade or commerce or in the course of export out of the territory of India, he shall claim or be allowed input tax rebate of the amount of such input tax, which is in excess of 2 percent:

Provided further that in respect of the goods consumed in manufacture or processing of goods specified in Schedule I as may be notified and the goods so manufactured or processed are disposed off otherwise than by way of sale in the course of export out of the territory of India, he shall claim or be allowed input tax rebate of the amount of such input tax, which is in excess of 2 percent.”;

(ii) in sub-section (1AA), the words “which is in excess of 5 percent of the purchase price, net of input tax, of such natural gas” shall be omitted;

(iii) for sub-section (1AF), the following sub-section shall be substituted, namely:—

“(1AF) Subject to such restrictions and conditions as may be prescribed, where a registered dealer purchases timber as specified in Part-III A of Schedule II within the State of Madhya Pradesh from another such dealer after payment to him input tax, and consumes the timber so purchased in manufacture of goods specified in Schedule II other than ready to use furniture, and the goods so manufactured are sold within the State of Madhya Pradesh, he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate of the amount of such input tax.”;

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

“(1AG) Notwithstanding anything to the contrary contained in clause (ix) of sub-section (6) and subject to such restrictions and conditions as may be prescribed, where a registered dealer purchases goods notified under section 9-A within the State of Madhya Pradesh from another such dealer after payment to him input tax and consumes the goods so purchased in manufacture of goods specified in Schedule II, and the goods so manufactured are sold within the State of Madhya Pradesh, he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate of the amount of such input tax.”;

(v) in sub-section (5), in clause (a), after sub-clause (i), the following proviso shall be inserted, namely :—

“Provided that in case of goods manufactured being goods notified under first proviso of clause (a) of sub-section (1), the amount at the rate of 2 percent shall be payable.”;

(vi) in sub-section (6), in clause (iv), the word, figure and letter “and 11-A” shall be omitted;

- (vii) in sub-section (6A), for full stop, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that if a registered dealer (selling dealer) has furnished return of a period, the tax in respect of the purchases made by a registered dealer from the selling dealer during the period shall ordinarily be deemed to have been paid for the purpose of this sub-section, unless it is found otherwise.”

9. In section 17 of the principal Act, in sub-section (4), for clause (a), the following clause shall be substituted, namely:—

Amendment of section 17.

- “(a) On receipt of the application for grant of a registration certificate as required by sub-section (1) or sub-section (2), the Commissioner shall grant the applicant a registration certificate in the prescribed form within one working day from the date of receipt of the application.”

10. In section 18 of the principal Act,—

Amendment of section 18.

- (i) in sub-section (1), in clause (a), proviso shall be omitted;

- (ii) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) If a registered dealer fails to comply with the requirement of furnishing details of purchases and sales along with return, the Commissioner may after giving such dealer a reasonable opportunity of being heard direct him to pay by way of penalty a sum equal to 1 percent of the turnover of such sales and purchases, subject to the maximum of rupees ten thousand.”

11. In section 20 of the principal Act, in sub-section (6), in clause (a), for full stop, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

Amendment of section 20.

“Provided that where a dealer voluntarily gets himself registered after the prescribed period and pays tax pertaining to the unregistered period along with interest, presuming quarterly liability to pay tax, at the rate specified under sub-section (4) of section 18, the penalty leviable under this sub-section shall be a sum equivalent to twenty five percent of the amount of tax assessed.”

12. After section 21 of the principal Act, the following section shall be inserted, namely:—

Insertion of section 21-A.

“21-A. Special provision relating to casual dealers

Notwithstanding anything to the contrary contained in this Act, the Commissioner may, on payment of tax, permit a casual dealer to bring goods from outside the State.”

13. In section 26 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amendment of section 26.

- “(2A) The Commissioner shall enroll a person other than a dealer registered under this Act, responsible for deduction of tax under sub-sections (1) and (2), in the prescribed manner.”

14. After section 37 of the principal Act, the following section shall be inserted, namely:—

Insertion of section 37-A.

“37-A. Provisional refund

- (1) A registered dealer who claims refund of input tax rebate under clause (ii) of sub-section (4) of section 14 in his returns for a year, may make an application

to the Commissioner for grant of provisional refund pending assessment, of the unadjusted input tax rebate after end of the year within sixty days.

- (2) After making such enquiry as the Commissioner deems necessary and on furnishing an irrevocable Bank Guarantee, the Commissioner may grant provisional refund pending assessment, subject to the maximum of 75 percent of the refund claimed, within two calendar months from the date of receipt of the application.
- (3) The assessment under section 20 of the year pertaining to the provisional refund shall be made as early as possible, not later than twelve calendar months from the date of receipt of the application.
- (4) If, on assessment, the refund granted under sub-section (2) is found to be in excess of the refund determined, then such excess shall be recovered as if it is a tax due under this Act and the interest on such tax shall be charged at the rate as specified under sub-section (4) of section 18, for the period from the date of grant of provisional refund to the date of assessment.”.

Amendment of Section 57.

15. In Section 57 of the principal Act, in sub-section (1), for the words “he shall be assisted by other category of officials”, the words “he shall be assisted by other category of officials or officials of an agency authorised by the Commissioner” shall be substituted.

Amendment of Section 58.

16. In Section 58 of the principal Act,—

(i) in sub-section (1),—

(a) for the words “a vehicle” occurring at the first place, the words “a vehicle carrying goods” shall be substituted;

(b) for full stop, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:—

“Provided that if the transporter transporting goods carries with him an electronically obtained transit pass, particulars of which including date and approximate time of entering the State of Madhya Pradesh, have been uploaded completely on the official web portal of the department before entering the State of Madhya Pradesh, alongwith the documents, he shall be deemed to have complied with the requirement of obtaining transit pass from the check post officer of the first check post after his entry into the State.”;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The check post officer at the entry point who issues the transit pass shall intimate the information contained in the transit pass issued by him to the check post officer of the check post or barrier near the point from which the transporter declares that the goods shall be taken out of the State. If within a week, in case of transshipment 15 days, of entry into the State with receipt of the transit pass the vehicle or the goods covered by the transit pass do not report at the exit point, the check post officer of the check post / barrier at the exit point or the entry point or any officer authorised under sub-section (5) of Section 57, whoever comes to know, shall then initiate action to recover the penalty which could have been levied under the provisions of Section 57 from the transporter :

Provided that in case of trans-shipment, the Commissioner may, on an application, extend the period of fifteen days.”;

- (iii) sub-section (3) shall be renumbered as sub-section (4) and before sub-section (4) as so renumbered, the following sub-section shall be inserted, namely:—

“(3) When goods coming from any place outside the State and bound for any other place outside the State passing through the State, are carried by road as well as by rail and vice-versa, and trans-shipment takes place within the State, the provisions of this section shall mutatis mutandis apply to such movement of goods.”.

17. In Section 62 of the principal Act,—

Amendment of Section 62.

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

“(1A) Person transporting goods involved in trans-shipment in the State of Madhya Pradesh of goods notified under sub-section (2) of Section 57 carried from a place outside the State to a place outside the State, shall get himself enrolled in such manner and within such time as may be prescribed and furnish statement of the goods trans-shipped in such form, in such manner, for such period, by such date and to such authority as may be prescribed.”;

- (ii) in sub-section (3),—

- (a) for the words “said sub-section”, the words, bracket, figure and letter “said sub-section or sub-section (1A)” shall be substituted;
- (b) in clause (i), the word “and” shall be omitted;
- (c) clause (ii) shall be renumbered as clause (iii) and before clause (iii) as so renumbered, the following clause shall be inserted, namely:—

“(ii) three thousand rupees if the contravention is of the provisions of sub-section (1A); and”.

18. In Section 71 of the principal Act, in sub-section (2),-

Amendment of Section 71.

- (i) for clause (ea), the following clause shall be substituted, namely:—

“(ea) the manner in which the payment of tax by sub-contractor, and contractor or sub-contractor opting for composition shall be proved under sub-section (1) of Section 7;”;

- (ii) in clause (l), sub-clause (viii-a) shall be renumbered as sub-clause (viii-b) and before sub-clause (viii-b) as so renumbered, the following sub-clause shall be inserted, namely:—

“(viii-a) the manner in which a person shall be enrolled under sub-section (2A) of Section 26;”;

- (iii) in clause (w), in sub-clause (iv), after item (d), the following item shall be inserted, namely:—

“(e) the manner and time within which a person shall get himself enrolled, and the form and manner in which, the period for which, the date by which and the authority to which the statement shall be furnished, under sub-section (1A) of Section 62;”.

**Amendment of
Schedule I****19. In Schedule I to the principal Act, —**

- (i) after serial number 1, the following serial number and entry relating thereto shall be inserted, namely :—

(1)	(2)	(3)
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“1A. Rotavator”;

- (ii) after serial number 13, the following serial number and entries relating thereto shall be inserted, namely :—

(1)	(2)	(3)
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“13A. Electrical energy meters When provided by the Madhya Pradesh Poorv Kshetra Vidyut Vitaran Company Limited or Madhya Pradesh Madhya Kshetra Vidyut Vitaran Company Limited or Madhya Pradesh Pashchim Kshetra Vidyut Vitaran Company Limited or any distribution licensee or distribution franchisee or any other person by whatever name called, authorised to distribute electricity under the provisions of the Electricity Act, 2003 (36 of 2003), in the State of Madhya Pradesh, to the customers and rent or other valuable consideration by whatever name called charged for.”;

- (iii) for serial number 47 and entries relating thereto, the following serial number and entries relating thereto shall be substituted, namely :—

(1)	(2)	(3)
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“47. Goods on which duty is or may be levied under the Madhya Pradesh Excise Act, 1915 (No. 2 of 1915) other than,—

- (i) medicinal and toilet preparations specified for the time being in the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (No. 16 of 1955); and

- (ii) liquor”.

**Amendment of
Schedule II****20. In Schedule II to the principal Act,-**

- (i) in part-II, —

- (a) after serial number 16, the following serial number and entries relating thereto shall be inserted, namely :—

(1)	(2)	(3)
-----	-----	-----

“16A. Emulsified bitumen 5”;

(b) in serial number 30, against item (i), in column (2), for the words “a Turbo-Prop Aircraft”, the words “an aircraft with a maximum take-off mass of less than forty thousand kilograms operated by scheduled airlines” shall be substituted;

(c) against serial number 51, in column (2),—

(1) after entry (1)(xi), the following entries shall be inserted, namely :—

“(xii) Tablet computer

(xiii) Convertible lap top computer”;

(2) after entry (3)(vii), the following entries shall be inserted, namely :—

“(viii) Solid state drives

(ix) Memory cards”;

(d) after serial number 55, the following serial numbers and entries relating thereto shall be inserted, namely :—

(1)	(2)	(3)
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“56. Liquor when sold by a dealer who holds F.L.2/F.L.3/F.L.3-A/ F.L.4/ F.L.4-A license under the Madhya Pradesh Excise Act, 1915		5
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56A. Milking machine		5”;
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(e) after serial number 59, the following serial number and entries relating thereto shall be inserted, namely :—

(1)	(2)	(3)
-----	-----	-----

“60. Naphtha		5”;
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(f) after serial number 62, the following serial number and entries relating thereto shall be inserted, namely :—

(1)	(2)	(3)
-----	-----	-----

“62A. Oxygen		5”;
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(g) after serial number 66A, the following serial number and entries relating thereto shall be inserted, namely :—

(1)	(2)	(3)
-----	-----	-----

“66B. Pre-fabricated steel structure		5”;
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(h) after serial number 83, the following serial number and entries relating thereto shall be inserted, namely :—

(1)	(2)	(3)
-----	-----	-----

“83A. Steel barbed wire, steel wire welded mesh and steel chain link		5”;
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- (i) after serial number 84A, the following serial number and entries relating thereto shall be inserted, namely :—
- | (1) | (2) | (3) |
|-------|--|-----|
| “84B. | All kinds of namkeen
(excluding biscuits and
bakery goods) | 5”; |
- (j) after serial number 86, the following serial number and entries relating thereto shall be inserted, namely :—
- | (1) | (2) | (3) |
|------|--|-----|
| “87. | Toffee, lozenges, chocolate candy,
bubble gum, chewing gum and
peppermint drops, sale price of
which does not exceed rupees
100 per kilogram | 5”; |
- (ii) in part-III A, after serial number 5, the following serial number and entries relating thereto shall be inserted, namely :—
- | | | |
|-----|--|-----|
| “6. | Liquor - when sold by a dealer other than a dealer who
holds F.L.2/F.L.3/ F.L.3-A/F.L.4/F.L.4-A license under the
Madhya Pradesh Excise Act, 1915. | 5”. |
|-----|--|-----|

STATEMENT OF OBJECTS AND REASONS

In order to implement the tax proposals contained in part II of speech delivered by the Finance Minister while presenting the budget in the Legislative Assembly for the year 2013-14, and to make provisions for certain other issues like facilitating casual dealers to bring goods from outside the State of Madhya Pradesh, ensuring collection of tax deducted under section 9-C, discouraging tendency of non-submission of details of purchase and sales along with returns, encouraging unregistered dealers to obtain registration, etc., appropriate amendments are proposed in the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002). Opportunity is also being taken to rationalize a few other provisions.

2. Hence this Bill.

BHOPAL:
Dated the 12th March 2013

RAGHAV JI
MEMBER-IN-CHARGE