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मध्यप्रदेश राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 327]

भोपाल, गुरुवार, दिनांक 11 जुलाई 2013—आषाढ़ 20, शक 1935

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 11 जुलाई 2013

क्र. 7032-202-इक्कीस-अ-(प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में मध्यप्रदेश मनोरंजन शुल्क विधिमन्यकरण विधेयक, 2013 (क्रमांक 23 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. 23 OF 2013

**THE MADHYA PRADESH ENTERTAINMENTS DUTY
VALIDATION BILL, 2013**

A Bill to provide validation of entertainment duty levied and collected from Direct-to-Home (DTH) service providers during certain period.

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

Short title and extent.

1. (1) This Act may be called the Madhya Pradesh Entertainments Duty Validation Act, 2013.
- (2) It extends to the whole of the State of Madhya Pradesh.

Definitions.

2. In this Act, unless the context otherwise requires,—
 - (a) “Act” means the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (No. 30 of 1936);
 - (b) “Direct-to-Home (DTH) Broadcasting service” means a system of distribution of multi-channel television programmes in Ku-Band by using a Satellite system, by providing television signals direct to the subscriber’s premises without passing through an intermediary such as cable operator.

Explanation.—For the purpose of this clause “Ku-Band” ordinarily means the 11.7-12.7 Ghz (Gigahertz) frequency band which splits into two segments. viz. the first having the frequency of 11.7-12.2 Ghz. known as FSS (Fixed Satellite Service) and the other having the frequency of 12.2-12.7 Ghz known as BSS (Broadcasting Satellite Service), or it may have such other band width as may be approved by the Government of India from time to time;

- (c) “entertainment” includes—
 - (i) entertainment or any television exhibition made available to a person by a Direct-to-Home (DTH) Broadcasting service provider with the aid of any type of antenna / set-top-box or any other instrument of like nature which connects television set at a residential or non-residential place of connection-holder directly to the satellite;
 - (ii) entertainment provided by any other technological means or device;
- (d) “entertainment duty” means the duty levied and paid at the rate of 20 percent under section 3 of the Act, in respect of every payment for entertainment made by a connection-holder by way of contribution, subscription for installation or connection charges or any other charges, collected in any manner whatsoever to the Direct-to-Home (DTH) Broadcasting service provider which connects television set at a residential or non-residential place directly to the satellite;
- (e) “payments for entertainment” in relation to the levy of entertainment duty, includes any payment made by a person to the proprietor of a Direct-to-Home (DTH) Broadcasting service by way of contribution, subscription for installation or connection charges or any other charges, collected in any manner whatsoever.

3. (1) Notwithstanding anything contained in any judgment, decree or order of any court, an entertainment duty recovered or purported to have been imposed or recovered in pursuance of section 3 of the Act, shall for all purposes be deemed to be and to have always been validly imposed and recovered at that material time.

Validation of levy of entertainment duty.

(2) All acts, proceedings or things done or taken in connection with the imposition or recovery of such entertainment duty, shall for all purposes be deemed to be and have always been made validly in accordance with law.

(3) No suit or other proceedings shall be maintained or continued in any Court against the State Government or any person or authority whatsoever for the refund of any entertainment duty so paid or recovered.

(4) No Court shall enforce any decree or order directing the refund of any entertainment duty so paid or recovered.

4. The provisions of this Act shall apply and shall be deemed always to have applied during the period from 5-5-2008 to 31-03-2011.

Act to have retrospective effect.

STATEMENT OF OBJECTS AND REASONS

In Civil Appeal No. 3882 of 2013, M/s Tata Sky Limited Versus State of Madhya Pradesh and Others, the Supreme Court in order dated 16th April, 2013 has held that the Madhya Pradesh Entertainments Duty and Advertisements Tax Act, 1936 (No. 30 of 1936) (repealed Act) does not cover Direct-to-Home (DTH) operations and as a result the amount of entertainment duty so collected and deposited has been held to be illegal. The decision of the Supreme Court will create difficulties to the State Government and will give rise to series of litigations as Direct-to-Home (DTH) service provider will claim the refunds. In order to obviate this difficulty the State Government has decided to enact a validation law.

2. Hence this Bill.

Bhopal :

Dated the 6th July, 2013

JAYANT KUMAR MALAIYA

Member-in-Charge.