

Extra No. 9

REGISTERED No. G/GNR/2



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol : XLIX] SATURDAY, MARCH 29, 2008/CAITRA 9, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

GUJARAT ACT NO. 9 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force on the 1st April, 2008.

Amendment of
section 2 of Guj.
1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in section 2, -

Guj. 1 of
2005.

(1) before clause (1), the following clause shall be inserted, namely :-

"(1A) "additional tax" means the additional tax leviable and payable under sub-section (1A) of section 7 or sub-section (6) of section 9;"

(2) after clause (36), the following clause shall be inserted, namely :-

"(37) "zero rated sale" means a sale of goods by a registered dealer to another registered dealer on which the rate of tax leviable shall be zero but tax credit on the purchase related to that sale is admissible."

Insertion of new
section 5A in
Guj. 1 of 2005.

3. In the principal Act, after section 5, the following section shall be inserted, namely:-

Zero rated
sale.

"5A. The following sale shall be zero rated sale for the purpose of this Act and tax credit on the purchase related to such sale shall be allowed subject to such conditions as may be prescribed:-

(1) Sale of goods to the Developer or Co-developer of Special Economic Zone as defined in the Gujarat Special Economic Zone Act, 2004; or

Guj. 11 of
2004.

(2) sale of goods to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone and approved as such by the Approval Committee as defined in the Gujarat Special Economic Zone Act, 2004:

Guj. 11 of
2004.

Provided that the sale of goods specified in Schedule III shall not be zero rated sale:

Provided further that the sale of certain goods or sale of goods by any dealer or class of dealers as may be specified by the State Government by notification in the *Official Gazette*, shall not be zero rated sale."

Amendment of
section 7 of Guj.
1 of 2005.

4. In the principal Act, in section 7, after sub-section (1), the following sub-section shall be inserted, namely:-

"(1A) Subject to the provisions of this Act, there shall be further levied an additional tax on the turnover of sales of goods liable to be taxed under sub-section (1), at the rate of -

- (i) two and half paise in the rupee on the goods specified in the entries at serial numbers 25, 46B, 48A, 49A, 49B, 51A and 87 in Schedule II, and
- (ii) one paise in the rupee on the goods specified in the entries in Schedule II other than the entries mentioned in clause (i) above :

Provided that the additional tax shall not be levied on the sale of, -

74 of 1956.

- (a) goods declared to be of special importance in section 14 of the Central Sales Tax Act, 1956;
- (b) goods specified in entry at serial number 13 in Schedule II; and
- (c) such goods as the State Government may, by notification in the *Official Gazette*, specify.”.

5. In the principal Act, in section 9, after sub-section (4), the following sub-sections shall be inserted, namely:-

Amendment
of section 9
of Guj. 1 of
2005.

“(5) Where a dealer liable to pay tax under this Act purchases taxable goods sale of which is zero rated under section 5A and the goods so purchased by him are -

- (i) consigned or dispatched for branch transfer or to his agent outside the State,
- (ii) used as raw materials in the manufacture or in the packing of goods so dispatched outside the State in the course of branch transfer or consignment or to his agent outside the State,
- (iii) used as fuel for the manufacture of goods,
- (iv) used as raw materials or capital goods in manufacture of goods specified in Schedule I or goods exempt from the whole of the tax by a notification under sub-section (2) of section 5 or in the packing of goods so manufactured,
- (v) used as fuel or capital goods in generation of electrical energy including captive power,
- (vi) not connected with his business,
- (vii) used as fuel in motor vehicles,
- (viii) used as capital goods in transfer of property in goods (whether as goods or in some other form) involved in execution of works contract,
- (ix) used for transferring the right to use for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations, or
- (x) used for any other purpose as may be specified by the State Government by notification in the *Official Gazette*,

then such dealer shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods specified in Schedule II.

(6) Subject to the provisions of this Act, there shall be further levied an additional tax on the turnover of purchases of goods liable to be taxed under sub-section (1), (2), (3), (4) or (5), at the rate of -

- (i) two and half paise in the rupee on the goods specified in the entries at serial numbers 25, 46B, 48A, 49A, 49B, 51A and 87 in Schedule II, and
- (ii) one paise in the rupee on the goods specified in the entries in Schedule II other than the entries mentioned in clause (i) above :

Provided that the additional tax shall not be levied on the purchase of, -

- (a) goods declared to be of special importance under section 14 of the Central Sales Tax Act, 1956;
- (b) goods specified in entry at serial number 13 in Schedule II; and
- (c) such goods as the State Government may, by notification in the *Official Gazette*, specify."

74 of 1956.

Amendment of
section 11 of Guj.
1 of 2005.

6. In the principal Act, in section 11, -

- (1) in sub-section (1), in clause (a), in sub-clause (ii), for the words, brackets and figures "sub-section (1) or (2)", the words, brackets and figures "sub-section (1), (2), (5) or (6)" shall be substituted;
- (2) in sub-section (3), in clause (b) and in the proviso to clause (b), for the words "turnover of purchases", the words "taxable turnover of purchases within the State" shall be substituted;
- (3) in sub-section (5), the existing paragraph below clause (p) shall be numbered as paragraph (I) and after paragraph (I) as so numbered, the following paragraphs shall be inserted, namely:-

"(II) Notwithstanding anything contained in clause (d) or (dd) in this sub-section and subject to such conditions and in such manner as may be prescribed, a registered dealer shall be allowed to claim tax credit for the taxable goods held in stock on the date of registration which are purchased after 1st April, 2008 and during the period of one year ending on the date of registration.

(III) Notwithstanding anything contained in clause (nn) in this sub-section and subject to such conditions and in such manner as may be prescribed, a registered dealer, whose permission to pay *lump sum* tax under section 14, -

- (a) is no longer valid on account of total turnover exceeding rupees fifty lakhs, or
- (b) is cancelled on request by such dealer,

and becomes liable to pay tax under section 7, shall be allowed to claim tax credit for the taxable goods held in stock which are purchased after 1st April, 2008 and during the period of one year ending on the date of liability to pay tax under section 7."

7. In the principal Act, in section 14,-

Amendment of
section 14 of Guj.
1 of 2005.

(a) in sub-section (1), in clause (a), in the proviso, -

(1) in clause (ii), -

- (i) before the words "purchases the goods", the words "has purchased in the previous year or" shall be inserted;
- (ii) before the words "imports", the words "has imported in the previous year or" shall be inserted;

(2) in clause (iii), before the words "receives the goods", the words "has received in the previous year or" shall be inserted;

(3) in clause (iv), before the words "engaged in the", the words "was engaged in the previous year or" shall be inserted;

(4) in clause (v), before the words "effects the sales", the words "has effected in the previous year or" shall be inserted;

(b) in sub-section (4), for the words, brackets and figures "purchase tax leviable under sub-sections (1) and (3)", the words, brackets and figures "tax leviable under sub-sections (1), (3) and (6)" shall be substituted.

8. In the principal Act, in section 14B, in sub-section (5), for the words, brackets and figures "sub-sections (1), (3) and (4) of section 9", the words, brackets and figures "sub-sections (1), (3), (4) and (6) of section 9" shall be substituted.

Amendment of
section 14B of
Guj. 1 of 2005.

9. In the principal Act, in section 59B, -

Amendment of
section 59B of
Guj. 1 of 2005.

(1) in sub-section (3), in clauses (a) and (b), for the words "equal to two paise in a rupee", the words "at the rate as may be specified by the State Government by notification in the *Official Gazette*" shall be substituted;

(2) sub-section (15) shall be deleted.

10. In the principal Act, in Schedule I, in the entry at serial No. 23, the sub-entry (ii) shall be deleted.

Amendment of
Schedule I to
Guj. 1 of 2005.

in the *Official Gazette*, specify under sub-section (1A) of section 3" shall be added.

Amendment of
section 3 of
Guj. 22 of
2001.

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

"(1A) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest to redress an inequitable situation or for sufficient and reasonable cause for removing discrimination between goods entering into the local areas from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein and goods manufactured or produced in the State, specify by notification in the *Official Gazette*, such other goods as the specified goods."

Substitution of
Schedule to
Guj. 22 of
2001.

4. In the principal Act, for the existing Schedule, the following Schedule shall be substituted, namely:-

"SCHEDULE

(See sections 2(k) and 3)

Sr. No.	Specified Goods.	Maximum rate of Tax.
1	2	3
1.	Motor vehicles including chassis of motor vehicles and the body which is built on chassis of motor vehicles.	Twenty per cent.
2.	Cement.	Twenty per cent.
3.	Marbles or Granite (raw or polished).	Twenty per cent.
4.	Kota stones.	Twenty per cent.
5.	Naphtha.	Twenty per cent.
6.	Light Diesel Oil.	Twenty per cent.
7.	High Speed Diesel Oil.	Twenty-five per cent.
8.	Yarn of all types except Nylon Yarn, Polyester Viscose Yarn and Cotton Yarn.	Twenty per cent.
9.	Such other goods as may be specified by the State Government by notification in the <i>Official Gazette</i> .	Twenty per cent."