



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVII]

FRIDAY, SEPTEMBER 22, 2006/BHADRA 31, 1928

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 21st September, 2006 is hereby published for general information.

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

GUJARAT ACT NO. 25 OF 2006.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 22nd September, 2006.)

AN ACT

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

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

1. (1) This Act may be called the Gujarat Value Added Tax (Second Amendment) Act, 2006. Short title and commencement,
- (2) The provisions of Part I of this Act shall be deemed to have come into force on the 10th May, 2006; the provisions of Part II shall be deemed to have come into force on the 4th August, 2006 and the provisions of Part III of this Act shall come into force at once.

PART I

- 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, in clause (27), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C" shall be substituted. Guj.1 of 2005.
- Amendment of section 9 of Guj. 1 of 2005. 3. In the principal Act, in section 9, after sub-section (3), the following sub-section shall be added, namely:-
 “ (4) Where a dealer or a Commission Agent who is liable to pay tax under this Act purchases taxable goods from a Commission Agent to whom permission to pay *lump sum* tax is granted under section 14B and the goods so purchased by him are not resold within the State, then such dealer or the Commission Agent shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods in Schedule II.”
- Amendment of section 11 of Guj.1 of 2005. 4. In the principal Act, in section 11, in sub-section (5), in clause (c), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C " shall be substituted.
- Amendment of section 14 of Guj. 1 of 2005. 5. In the principal Act, in section 14, in sub-section (1),-
 (1) in clause (a), in the proviso, clause (vii) shall be deleted;
 (2) in clause (b), for the words, brackets and figures "clauses (i) to (vii)," the words, brackets and figures "clauses (i) to (vi)" shall be substituted.
- Insertion of new sections 14B and 14C in Guj.1 of 2005. 6. In the principal Act, after section 14A, the following sections shall be inserted, namely:-
- Composition of tax on agricultural produce. “14B. (1) Notwithstanding anything contained in this Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a Commission Agent engaged in the business of agricultural produce, to pay at his option in lieu of the amount of tax leviable from him under this Act, *lump sum* tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette*.
 (2) The permission to pay *lump sum* tax under sub-section (1) shall be granted by the Commissioner to a Commission Agent who, -
 (a) exclusively carries on a business of agricultural produce, and
 (b) is licensed as general Commission Agent with a market committee established under the Gujarat Agricultural Produce Markets Act, 1963 . Guj. 20 of 1964.

(3) The Commissioner shall not grant permission to pay *lump sum* tax under sub-section (1) to a Commission Agent who,-

(a) sells the goods in the course of inter-State trade and commerce or exports goods out of the territory of India,

(b) purchases the goods in the course of inter-State trade and commerce or imports goods from a place out of the territory of India,

(c) dispatches the goods to his branch or his consigning agent out side the State or receives the goods from his branch situated out side the State or from his consigning agent out side the State,

(d) sells the goods to a person who is not a registered dealer, or

(e) sells the goods to a dealer who is permitted to pay *lump sum* tax under section 14.

(4) The Commission Agent who is permitted under sub-section (1) to pay *lump sum* tax shall not,-

(a) be entitled to claim tax credit in respect of tax paid by him on his purchases,

(b) charge any tax under this Act in his sales bill or sales invoices in respect of the sales on which *lump sum* tax is payable, and

(c) issue tax invoice to any dealer who has purchased the goods from him.

(5) The Commission Agent who is permitted to pay *lump sum* tax under sub-section (1) shall be liable to pay purchase tax leviable under sub-sections (1), (3) and (4) of section 9 in addition to the *lump sum* tax under this section.

(6) The permission granted under sub-section (1) shall remain valid so long as the provisions of this section and rules made in this behalf are complied with; and in case of breach of any of the provisions of this section or the rules, the Commission Agent shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed.

Composition
of tax on
turnover of
right to use
goods.

14C. (1) The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a dealer referred to in sub-clause (h) of clause (10) of section 2, to pay at his option in lieu of amount of tax leviable from him under this Act, *lump sum* tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette*.

(2) The provisions of sub-sections (3) and (4) of section 14 shall apply *mutatis mutandis* to a dealer who is permitted under sub-section (1) to pay *lump sum* tax by way of composition.

(3) The permission granted under sub-section (1) shall remain valid so long as the provisions of this section and rules made in this behalf are complied with; and in case of breach of any of the provisions of this section or the rules, the dealer shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed."

Amendment
of section 31
of Guj. 1 of
2005.

7. In the principal Act, in section 31, in sub-section (2), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C" shall be substituted.

Amendment
of section 41
of Guj. 1 of
2005.

8. In the principal Act, in section 41, in sub-section (1), for the words "inequitable situation", the words "inequitable situation or for sufficient and reasonable cause" shall be substituted.

Amendment
of section 60
of Guj. 1 of
2005.

9. In the principal Act, in section 60, in sub-section (1), in the proviso-

(i) in clause (b), for the word and figures "section 14", the words, figures and letters "section 14, 14A, 14B or 14C" shall be substituted;

(ii) in clause (c), the word "or" appearing at the end shall be deleted;

(iii) in clause (d), the word " or" shall be added at the end;

(iv) after clause (d), the following clause shall be added, namely:-

" (e) in such other cases as the State Government may, by notification in the *Official Gazette*, specify."

Amendment
of section 64
of Guj. 1 of
2005.

10. In the principal Act, in section 64,-

(1) for the words "eight years", the words "six years" shall be substituted;

(2) the following proviso shall be added, namely:-

" Provided that where the dealer is a party to an appeal or revision under this Act, he shall preserve the books of accounts and the records pertaining to the subject matter of such appeal or revision until the appeal or revision is finally disposed of."

11. In the principal Act, in section 98, after sub-section (2), the following sub-section shall be inserted, namely:-

Amendment of section 98 of Guj. 1 of 2005.

" (2A) Any rule made under this Act, may be made so as to have retrospective effect."

PART II

12. In the principal Act, in section 2, in clause (27), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted.

Amendment of section 2 of Guj. 1 of 2005.

13. In the principal Act, in section 11, in sub-section (5), in clause (c), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted.

Amendment of section 11 of Guj. 1 of 2005.

14. In the principal Act, after section 14C, the following section shall be inserted, namely :-

Insertion of new section 14D in Guj. 1 of 2005.

Composition of tax on sales of eatables by hotels, restaurants, caterers, etc.

"14D. (1) Notwithstanding anything contained in this Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a dealer who is engaged in the business of sale of eatables in any form (whether processed or unprocessed) served, delivered or given in package from the place of business of the dealer or any other place, to pay at his option in lieu of the amount of tax leviable from him under this Act in respect of sales of eatables, *lump sum* tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette*:

Provided that the Commissioner shall not grant permission to pay *lump sum* tax to a dealer who is engaged in the activity of manufacture of such goods as the State Government may, by notification in the *Official Gazette*, specify.

- (2) The provisions of sub-sections (3) and (4) of section 14 shall apply *mutatis mutandis* to a dealer who is permitted under sub-section (1) to pay *lump sum* tax by way of composition.

- (3) The permission granted under sub-section (1) shall remain valid so long as the provisions of this section and rules made in this behalf are complied with; and in case of breach of any of the provisions of this section or the rules, the dealer shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed.

Explanation.- For the purpose of this section, the word "eatables" means all kind of foods for the purpose of consumption including all types of alcoholic and non-alcoholic beverages, water (mineral, purified or aerated) and soda water, ice-cream and *kulfi*, sweets and sweetmeats, fruits and fruit juice, all types of milk preparations, bakery products and such other goods as the State Government may, by order, specify."

Amendment of
section 31 of
Guj.1 of 2005.

15. In the principal Act, in section 31, in sub-section (2), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted.

Amendment of
section 60 of
Guj.1 of 2005.

16. In the principal Act, in section 60, in sub-section (1), in the proviso, in clause (b), for the figures, letters and word "14B or 14C", the figures, letters and word "14B, 14C or 14D" shall be substituted.

PART III

Amendment of
section 11 of
Guj.1 of 2005.

17. In the principal Act, in section 11, in sub-section (3), to clause (b), the following proviso shall be inserted, namely :-

"Provided that where the rate of tax of the taxable goods consigned or dispatched by a dealer for branch transfer or to his agent outside the State is less than four per cent., then the amount of tax credit in respect of such dealer shall be reduced by the amount of tax calculated at the rate of tax set out in the Schedule on such goods on the turnover of purchases."

Amendment of
section 29 of
Guj.1 of 2005.

18. In the principal Act, in section 29, after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) The Commissioner may, in such circumstances and on such terms and conditions as may be prescribed, extend the date of furnishing the return by any dealer or class of dealers."

Amendment
of section 30
of Guj.1 of
2005.

19. In the principal Act, in section 30, after sub-section (2), the following sub-section shall be inserted, namely :-

"(2A) The Commissioner may, in such circumstances and on such terms and conditions as may be prescribed, extend in respect of any dealer or class of dealers, the date of payment of tax payable by the dealer according to his return."

Repeal and
savings.

20. (1) The Gujarat Value Added Tax (Second Amendment) Ordinance, 2006 and the Gujarat Value Added Tax (Third Amendment) Ordinance, 2006 are hereby repealed.

Guj. Ord.1 of
2006,
Guj. Ord.2 of
2006.

- (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinances shall be deemed to have been done or taken under the principal Act, as amended by this Act.