
Madhya Pradesh General Sales Tax (Amendment) Act, 1982

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Madhya Pradesh General Sales Tax (Amendment) Act, 1982

An Act further to amend the Madhya Pradesh General Sales Tax Act, 1958. BE it enacted by the Madhya Pradesh Legislature in the Thirty-third Year of the Republic of India, as follows:-

1. Short Title :-

This Act may be called the Madhya Pradesh General Sales Tax (Amendment) Act, 1982.

2. Amendment Of Section 2 :-

For clause (q) of section 2 of the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) (hereinafter referred to as the principal Act), the following clause shall be substituted, namely:-
"(q) tax means tax payable under the Act;"

3. Omission Of Sections 5-A And 5-B :-

Sections 5-A and 5-B of the principal Act shall be omitted.

4. Amendment Of Section 6 :-

In section 6 of the principal Act, -

- (i) in sub-section (1), for the words, figure and brackets "at the total rate as mentioned in the corresponding entry in column (5) of the said schedule", the words, figure and brackets "at the rate as mentioned in the corresponding entry in column (3) of the said schedule" shall be substituted; and
- (ii) in clause (a) of sub-section (2), -
 - (a) the words, figures and brackets "(that is 3 per cent. basic tax and 1/2 per cent. additional tax)" shall be omitted; and
 - (b) the words, figures and brackets "(that is 4 per cent. basic tax and 1/2 per cent. additional tax)" shall be omitted.

5. Amendment Of Section 7 :-

In section 7 of the principal Act, in sub-section (2), -

- (i) the words, figures and brackets "(that is 3 per cent. basic tax and 1/2 per cent. additional tax)"; and
- (ii) the words, figures and brackets "(that is 4 per cent. basic tax and 1/2 per cent. additional tax)" occurring twice shall be omitted.

6. Amendment Of Section 8 :-

In clause (a) of sub-section (1) of section 8 of the principal Act, -

- (i) the words, figures and brackets "(that is 3 per cent. basic tax and 1/2 per cent. additional tax)"; and
- (ii) the words, figures and brackets "(that is 4 per cent. basic tax and 1/2 per cent. additional tax)"
wherever occurring, shall be omitted.

7. Amendment Of Section 9 :-

In section 9 of the principal Act, for the words and figures "section 6 or section 7 or section 8", the words, figures and letter "section 6 or section 7 or section 14-A" shall be substituted.

8. Amendment Of Section 11 :-

In the first proviso to sub-section (1) of section 11 of the principal Act, -

- (i) for the words "total rate of tax", the words "rate of tax" shall be substituted; and
- (ii) in clause (c), after the figures and words" 15 per cent. in

respect of goods specified in entries 1 to 32", the figures, words and letters "20 per cent. in respect of goods specified in entries 32-A and 32-B" shall be inserted.

9. Amendment Of Section 13 :-

In sub-section (1) of section 13 of the principal Act, for the words "does not exceed ordinarily one and a half lakh rupees on advance payment of such licence fee not exceeding two thousand rupees a year, as may be determined in relation to such registered dealer in accordance with the rules made in this behalf", the words "does not ordinarily exceed such amount as may be prescribed on advance payment of such annual licence fee as may be determined in relation to such registered dealer in accordance with the rules made in this behalf" shall be substituted.

10. Amendment Of Section 14-A :-

In section 14-A of the principal Act, for the word, figure and brackets "column (5)", wherever occurring, the word, figure and brackets "column (3)" shall be substituted.

11. Amendment Of Section 16-A :-

In section 16-A of the principal Act, -

(i) for sub-sections (1), (2), (3) and (4), the following sub-sections shall be substituted, namely:-

"(1) Every dealer -

(i) who makes an application for the issue of a registration certificate under section 15 or section 16 after the commencement of the Madhya Pradesh General Sales Tax (Amendment) Ordinance, 1982; or

(ii) whose application for issue of such registration certificate is pending on the date of such commencement; or

(iii) who is registered under the Act before such commencement shall, for the proper realisation of tax or any other sum payable under the Act from him, furnish security of not less than five hundred rupees or such higher amount within such time and in such manner, as may be prescribed:

Provided that where a registered dealer has furnished cash security or security in a form other than cash security before such commencement, then -

(i) in case the cash security already furnished is sufficient no

further cash security shall be furnished;

(ii) in case the cash security already furnished is less than that required under this sub-section, he shall make up the deficiency in such manner and within such time as may be prescribed;

(iii) in case the security furnished is in a form other than the form of a cash security he shall furnish the cash security within such time and in such manner as may be prescribed and thereupon the security furnished in the other form shall be liable to be released.

(2) Where a registered dealer has furnished cash security under the provisions of sub-section (1) which is rendered insufficient keeping in view the scale prescribed therefor under the said sub-section, the Commissioner shall, by order, require such dealer to furnish further cash security within such time and in such manner as may be prescribed:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(3) The cash security furnished under sub-section (1) or sub-section (2) shall be held till the registration certificate of the dealer remains in force or on the cancellation of the registration certificate, till such time any amount of tax or any other sum payable under the Act remains outstanding against him whether on account of any proceedings under the Act or otherwise and shall carry simple interest at the rate of 5 per cent. per annum.

(4) Where a dealer registered under section 15 or section 16 fails to furnish returns under section 17 in time or fails to pay the tax due or any other sum payable under the Act, -

(a) the Commissioner may, by order, forfeit the whole or any part of the cash security furnished by such dealer under this section and appropriate it towards the amount of tax or any other sum due from him under the Act; or

(b) the Commissioner may, for the proper realisation of tax or other sum payable under the Act, by an order in writing for reasons recorded therein, require such dealer, who has furnished security under this section, to furnish within such time such additional security in the form of cash security or bank guarantee or in such other form as may be prescribed, as may be specified in the order for the aforesaid purpose and thereupon such dealer shall furnish the additional security. The amount of additional security that may be required to be furnished by a dealer under this clause shall not exceed the average amount of tax payable by such dealer for one year determined in such manner as may be prescribed and where such determination is not possible, the amount of additional

security shall not exceed rupees ten thousand;

(c)(i) the additional security obtained under clause (b) of this sub-section shall be held for a period of two years and shall be released to the dealer at the end of this period if he has furnished all returns and paid tax according to such returns regularly during this period;

(ii) if the dealer again commits default in furnishing any return or paying tax according to such return or in the payment of any amount due under the Act from him, the Commissioner may, by order, forfeit the whole or any part of cash security furnished by the dealer under sub-section (1) and sub-section (2) and additional security furnished under clause (b) and appropriate the same towards payment of tax or any other sum due from the dealer under the Act:

Provided that no order forfeiting the cash security or the additional security or demanding additional security shall be passed under this sub-section without giving the dealer an opportunity of being heard.";

(ii) in sub-section (5), after the word "security", the words "or additional security" shall be inserted; and

(iii) for sub-section (6), the following sub-section shall be substituted, namely:-

"(6) Notwithstanding anything contained in section 15 or section 16, the Commissioner shall refuse to grant the certificate of registration or shall cancel the certificate of registration issued to any dealer under either of the said sections where such dealer has failed to comply with the provisions of sub-section (1) or sub-section (2) or clause (b) of sub-section (4) or sub-section (5):

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard."

12. Insertion Of Section 22-D :-

After section 22-C of the principal Act, the following section shall be inserted and shall be deemed to have been inserted with effect from 1st day of April, 1981, namely:-

"22-D. Special provisions relating to deferred payment of tax by industrial units. - Notwithstanding anything contained in any other provision of this Act, a registered dealer, who is, -

(a) registered as a small-scale industrial unit with the Industrial Department of the Government of Madhya Pradesh; or

(b) registered with the Director General of Technical Development as an industrial unit; or

(c) registered as an industrial unit by any authority duly empowered to do so by the Government of Madhya Pradesh or the Central Government; or

(d) holding a licence under the Industries (Development and Regulation) Act, 1951 (No. 65 of 1951),

and who in each case has or may set up a new industries unit in any district of Madhya Pradesh if eligible for grant of the facility of deferred payment of tax under the scheme providing for grant of incentive to entrepreneurs for setting up new industrial units in the State as the State Government may make in this behalf, may make deferred payment subject to such restrictions and conditions as may be specified in such scheme."

13. Amendment Of Section 38-A :-

In section 38-A of the principal Act, -

(i) in sub-section (1), -

(a) the words, figure, brackets and comma "sub-section (1)," shall be omitted;

(b) in clause (a), -

(i) sub-clause (i), shall be omitted;

(ii) in sub-clause (ii), for the words, figure and brackets "sub-section (4)", the words, figures and brackets "sub-section (2) or sub-section (4)" shall be substituted; and

(c) clause (b) shall be omitted; and

(ii) in sub-section (2), -

(a) for the word "security" wherever occurring, the words "security or additional security" shall be substituted;

(b) for the words, figures and brackets "sub-section (1) or sub-section (2)", the words, letter, figures and brackets "sub-section (2) or clause (b) of sub-section (4)" shall be substituted; and

(iii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) After such enquiry as it may deem fit the appellate authority may confirm, reduce or enhance the amount of security or additional security or modify the nature of additional security."

14. Amendment Of Section 51 :-

In sub-section (2) of section 51 of the principal Act, -

(i) in clause (d), for the word "Licensed", the words "Licensed, prescribing the yearly turnover of goods" shall be substituted; and

(ii) for clause (ff), the following clause shall be substituted,

namely:-

"(ff)(i) the higher amount of cash security and the manner in which and the time within which cash security shall be furnished under sub-section (1) or sub-section (2) of section 16-A;

(ii) the manner and form in which additional security shall be furnished under clause (b) of sub-section (4) of section 16-A;

(iii) the manner in which and the time within which any deficiency of security may be made up under sub-section (5) of section 16-A;"

(iii) in clause (ii), after sub-clause (iv), the following sub-clause shall be inserted, namely:-

"(v) the manner in which and the restrictions and conditions subject to which deferred payments of tax due may be made by a dealer under section 22-D."

15. Amendment Of Schedule Ii :-

In Schedule II to the principal Act, -

(i) columns (3) and (4) together with the entries specified therein shall be omitted and column (5) shall be renumbered as column (3);

(ii) in part I, in column (3) as so renumbered -

(a) against serial number 1, for the words, figure and letter "According to the provisions of section 5-B", the figure and words "4 per cent." shall be substituted;

(b) against serial number 2, for the words, figure and letter "According to the provisions of section 5-B", the figure and words "2.5 per cent." shall be substituted; and

(c) against serial number 3, for the words, figure and letter "According to the provisions of section 5-B", the figure and words "4 per cent." shall be substituted;

(iii) in part II, in column (3) as so renumbered, against serial number 32-A, for the figure "13.5", the figure "16" shall be substituted;

(iv) in part IV, in column (3) as so renumbered against serial numbers 1, 2, 3, 4, 5, 6(1) and 7, for the words, figure and letter "According to the provisions of section 5-B", the figure and words "4 per cent." shall be substituted; and

(v) in part V, in column (3) as so renumbered, against serial numbers 1(i) and 2, for the words, figure and letter "According to the provisions of section 5-B", the figure and words "3 per cent." shall be substituted.

16. Repeal :-

The Madhya Pradesh General Sales Tax (Amendment) Ordinance, 1982 (No. 10 of 1982) (See (1982) 51 STC Statues 62.), is hereby repealed.

The Statement of Objects and Reasons appended to the Madhya Pradesh General Sales Tax (Amendment) Bill (31 of 1982) (Madhya Pradesh Gazette, Extraordinary No. 346, dated 6th October, 1982, page 1920.), runs as follows:-

"To implement the taxation proposals contained in part II of the speech made by the Deputy Chief Minister for Finance while presenting the budget for 1982-83 into the Vidhan Sabha on the 2nd March, 1982, for raising additional resources in so far as they relate to sales tax, it is proposed to make suitable amendments in the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959). Opportunity has been taken to make special provision relating to deferred payment of tax by industrial units.

A Bill to amend the Madhya Pradesh General Sales Tax Act, 1958, was introduced in the last session of the Vidhan Sabha but for want of time it could not be passed. As the matter was urgent and the Vidhan Sabha was not in session in Madhya Pradesh General Sales Tax (Amendment) Ordinance, 1982 (No. 10 of 1982) (See (1982) 51 STC Statutes 62.), was promulgated for the purpose.

It is now proposed to replace the said Ordinance by an Act of the State Legislature.

Hence this Bill."