

**L. A. BILL No. XLIII OF 2007.**

*A BILL*

*further to amend certain tax laws in operation in the State of Maharashtra.*

WHEREAS it is expedient further to amend certain tax laws in operation in the State of Maharashtra, for the purposes hereinafter appearing; it is hereby enacted in the Fifty-eighth Year of the Republic of India as follow: —

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2007.

(2) Save as otherwise provided in this Act, it shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

CHAPTER II

AMENDMENTS TO THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADERS, CALLINGS AND EMPLOYMENTS ACT, 1975.

Amendment of section 6 of Mah. XVI of 1975.

2. In section 6 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (hereinafter, in this Chapter, referred to as “the Profession Tax Act”), in sub-section (1), for the proviso, the following proviso shall be substituted, namely:-

“Provided that, the Commissioner may, subject to such terms and conditions, if any, as may be prescribed, permit any employer to furnish a consolidated return relating to all or any of the places of business of such employer in the State, for such period or periods, to such authority, as he may direct.”.

Amendment of section 8 of Mah. XVI of 1975.

3. In section 8 of the Profession Tax Act, in sub-section (3), in clause (a), for the words and figures “rupees 1700, 2200 or as the case may be, 2500 per annum” the words and figures “rupees 2500 per annum” shall be substituted.

CHAPTER III

AMENDMENT TO THE MAHARASHTRA TAX ON LUXURIES ACT, 1987.

Amendment of section 20 of Mah. XLI of 1987.

4. In section 20 of the Maharashtra Tax on Luxuries Act, 1987, in sub-section (1), in clause (iv),

Mah. XVI of 1975.  
Mah. 25XLI of 1987.

for the words “the Deputy Commissioner of Luxury Tax” the words “the Senior Deputy Commissioner of Luxury Tax and the Deputy Commissioner of Luxury Tax” shall be substituted.

#### CHAPTER IV

##### AMENDMENT TO THE MAHARASHTRA TAX ON THE ENTRY OF GOODS INTO LOCAL AREAS ACT, 2002.

Mah. IV of 2003. 5. During the period commencing from the 1st October 2002 and ending on the 31st March 2005, the Schedule to the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002, as it existed before the 1st April 2005, shall be deemed to have been revived and re-enacted in the same form as it then existed, with certain modifications as follows, namely:-

Revival and re-enactment of Schedule to Mah. IV of 2003 as it existed on 31st March 2005.

“In the Schedule so revived and re-enacted, for entry 13, the following entry shall be substituted namely:-

“13. Petroleum fuel oils including- 15 paise in the rupee.”

- (a) heavy furnace oil, and
- (b) residual furnace oil.

#### CHAPTER V

##### AMENDMENTS TO THE MAHARASHTRA VALUE ADDED TAX ACT, 2002.

Mah. IX of 2005. 6. In section 2 of the Maharashtra Value Added Tax Act, 2002 (hereinafter, in this Chapter, referred to as “the Value Added Tax Act”),-

Amendment of section 2 of Mah. IX of 2005.

(1) in clause (16), the words “or residence” shall be deleted;

(2) in clause (24), in the *Explanation*, in clause (b), in sub-clause (ii), for the words “works contract namely,” the words “works contract including” shall be substituted and shall be deemed to have been substituted with effect from the 20th June 2006.

7. In section 8 of the Value Added Tax Act, -

Amendment of section 8 of Mah. IX of 2005.

(1) in sub-section (3), for the words, “hundred per cent export oriented unit”, wherever they occur, the words “export oriented unit” shall be substituted;

(2) in sub-section (3B), the following *Explanation* shall be added and shall be deemed to have been added with effect from the 20th June 2006, namely:-

“Explanation.— For the purposes of this sub-section, “members of the armed forces” includes ex-servicemen and families of the deceased personnel of the armed forces.”;

(3) after sub-section (3B), the following sub-section shall be inserted, namely :-

“(3C) The State Government may, by general or special order published in the *Official Gazette*, and subject to such conditions, exceptions and restrictions as may be specified in the said order, exempt fully from payment of tax with effect from the date specified in the order, the transfer of property in goods involved in the processing of textiles described in column (3) of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957.”;

(4) in sub-section (5), for sub-clause (h), the following sub-clauses shall be substituted, namely :-

“(h) any telephone service provider, holding a licence granted under the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933, to establish, install, operate and maintain,-

(a) telephone service upto subscribers terminal connections, or

(b) national long distance service network; or

(c) international long distance service network;

(i) Telecom Infrastructure provider who has been granted registration certificate by the Department of Telecommunications, as Infrastructure Provider Category-1(IP-I).”.

Amendment  
of section 16 of  
Mah. IX of  
2005.

8. In section 16 of the Value Added Tax Act,-

(1) to sub-section (2), the following proviso shall be added, namely:-

“Provided that, in the case of an application made by a person who voluntarily desires to get registered, the certificate of registration shall not be granted unless the applicant has deposited an amount of Rs. 25,000 in the Government Treasury as advance towards the tax, interest or penalty, if any, that may become due. The amount so deposited may be adjusted against the tax payable according to the return required to be filed in the year in which the registration is granted or in the succeeding year. The amount of

deposit in excess of the amount due from him, by way of tax, interest or penalty, if any, shall be refunded as provided in section 50 or, as the case may be, section 51.”;

(2) in sub-section (6),-

(a) after the first proviso, the following proviso shall be added, namely:-

“Provided further that, where the Commissioner is satisfied that any person who has voluntarily got himself registered has not commenced business within six months from the date of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules:’;

(b) in the second proviso, for the words “Provided further that” the words “Provided also that” shall be substituted .

9. In Section 19 of the Value Added Tax Act, in sub-section (2), the portion beginning with the words “if he has” and ending with the words “the application” shall be deleted.

Amendment of section 19 of Mah. IX of 2005.

10. In section 20 of the Value Added Tax Act, in sub-section (4), for the words “expiry of a period of eight months” the words “expiry of a period of nine months” shall be substituted.

Amendment of section 20 of Mah. IX of 2005.

11. In section 22 of the Value Added Tax Act, sub-section (3) shall be deleted.

Amendment of section 22 of Mah. IX of 2005.

12. In section 23 of the Value Added Tax Act, after sub-section (3), the following sub-section shall be inserted, namely :-

Amendment of section 23 of Mah. IX of 2005.

“(3A) Where a notice for assessment under sub-section (3) of section 21 has been served on the dealer, the Commissioner shall assess, to the best of his judgement, the amount of tax due from him :

Provided that, no order of assessment under this sub-section shall be made after the expiry of seven years from the end of the year containing the period in respect of which the notice for assessment has been issued.”.

13. In section 26 of the Value Added Tax Act, in sub-section (1), for the words “An appeal, from every original order, not being an order mentioned in sub-section (2) of section 85”, the following

Amendment of section 26 of Mah. IX of 2005.

shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005, namely:-

“An appeal from every order, not being an order mentioned in sub-section (2) of this section and sub-section (2) of section 85”.

Amendment of  
section 42 of  
Mah. IX of  
2005.

14. In section 42 of the Value Added Tax Act, in sub-section (4), after the words “where a dealer is liable to pay tax” the words “in respect of any period on or after the appointed day” shall be inserted.

Amendment of  
section 50 of  
Mah. IX of  
2005.

15. In section 50 of the Value Added Tax Act,-

(1) in sub-section (1), for the words “penalty and interest,” the words “penalty, interest and fee except when the fee is paid by way of court-fee stamp,” shall be substituted and shall be deemed to have been substituted with effect from the 1st April 2005;

(2) in sub-section (2), the word “subsequent” shall be deleted.

Amendment  
of section 51 of  
Mah. IX of  
2005.

16. In section 51 of the Value Added Tax Act,-

(1) in sub-section (1), the word “subsequent” shall be deleted;

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

“(a) for clause (a), the following clause shall be substituted, namely :-

“(a) The registered dealer may, after the end of the year to which the return, fresh return or revised return relates, make an application in the prescribed form for grant of refund of the amount claimed refundable as aforesaid. The Commissioner may, within one month of the receipt of the application call for such additional information from the dealer, as he may think, necessary. The refunds relating to all the periods contained in one year may be granted by a single order.”;

(b) in clause (b), the second proviso shall be deleted;

(3) in sub-section (3), in clause (a),-

(i) in sub-clause (iii), for the words and figures “Tourism Projects 1999;” the words and figures “Tourism Projects 1999; or “ shall be substituted;

(ii) after sub-clause (iii), the following sub-clauses shall be added, namely:-

“(iv) selling any goods in the course of inter-State trade or commerce; or

(v) the Canteen Stores Department or the Indian Naval Canteen Services.”;

(4) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:-

“(4) The Commissioner shall grant the refund under this section within three months of the receipt of application or receipt of additional information whichever is later. If the additional information is not furnished, then the refund shall be granted within six months of the receipt of the application.

(5) Notwithstanding anything contained in this section, if the dealer has furnished a bank guarantee for such amount, from such bank, for such period and to such authority as may be prescribed, the Commissioner shall grant the refund due under sub-section (2) or (3), within one month of the furnishing of the bank guarantee, irrespective of whether the additional information has been furnished or not.”.

17. In section 61 of the Value Added Tax Act, –

(1) in sub-section (1), in the Explanation for the words and figures “Accountants Act, 1949” the words and figures “Accountants Act 1949 or a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 shall be substituted;

(2) in sub-section (2), the words “or as the case may be, purchases or a sum of one lakh rupees, whichever is less” shall be deleted;

(3) after sub-section (2), the following sub-section shall be added, namely :-

“(3) Nothing in sub-sections (1) and (2) shall apply to Departments of the Union Government, any Department of any State Government, local authorities, the Railway Administration as defined under the Indian Railways Act, 1989,

Amendment of section 61 of Mah. IX of 2005.

the Konkan Railway Corporation Limited and the Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950".

24 of  
1989

64 of  
1950

Amendment  
of section 69 of  
Mah. IX of  
2005.

18. In section 69 of the Value Added Tax Act, after sub-section (2), the following sub-section shall be added and shall be deemed to have been added with effect from the 1st April 2005, namely :-

“(3) Where any fresh certificate of registration is prepared on any automated data processing system and is issued to any dealer, then such fresh certificate of registration shall not be required to be personally signed by any officer and the said certificate shall not be deemed to be invalid only on the ground that it is not personally signed by any such officer.”.

Amendment of  
section 79 of  
Mah. IX of  
2005.

19. In section 79 of the Value Added Tax Act, in clause (b), for the words “shall bear a court-fee stamp of such value” the words “shall be charged with such fee” shall be substituted.

Amendment  
of section 86 of  
Mah. IX of  
2005.

20. In section 86 of the Value Added Tax Act, for sub-section (3), the following sub-section shall be substituted, namely :-

“(3) When a dealer liable to pay tax under this Act, sells any goods to any person, he shall issue to the purchaser either a tax invoice or a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated, and preserve it for a period of three years from the end of the year in which the sale took place:

Provided that, where the value of the goods sold in a single transaction is rupees fifty or less, then it shall not be necessary to issue the said bill or cash memorandum.”.

Amendment  
of section 91 of  
Mah. IX of  
2005.

21. In section 91 of the Value Added Tax Act, in sub-section (5), for the words “Entitlement Certificate”, at both the places where they occur, the words and figures “Entitlement Certificate other than an Entitlement Certificate granted under the new package scheme of incentives for Tourism Projects, 1999” shall be substituted and shall be deemed to have been substituted with effect from the 1st April, 2005.

CHAPTER VI  
VALIDATION AND SAVINGS

22. (1) Notwithstanding anything contained in any judgement, decree or order of any court or Tribunal to the contrary, any assessment, re-assessment, levy or collection of tax in respect of entry of goods into local areas by any importer made or purporting to have been made, or any action taken or thing done in relation to such assessment, re-assessment, levy or collection under the provisions of the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 (hereinafter, in this Chapter, referred to as "the Entry Tax Act") during the period commencing on the 1st October 2002 and ending on the 31st March 2005 shall be deemed to be valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been duly made, taken or done under the Entry Tax Act, and accordingly,—

(Mah. IV of 2003)

Validation and saving

(a) all acts, proceedings or things done or taken by the State Government or by any officer of the State Government or by any other authority in connection with the assessment, re-assessment, levy or collection of any such tax, shall, for all purposes, be deemed to be, and to have always been done or taken in accordance with law;

(b) no suit, appeal, application or other proceedings shall lie or be maintained or continued in any court or before any Tribunal, officer or other authority, for the refund of any tax so paid; and

(c) no court, Tribunal, officer or other authority shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in this sub-section shall be construed as preventing a person,—

(a) from questioning in accordance with the provisions of the Entry Tax Act, as amended by the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2007, any assessment, re-assessment, levy or collection of tax referred to in this sub-section, or

(Mah. of 2007)

(b) from claiming refund of any tax paid by him in excess of the amount due from him by way of tax under the Entry Tax Act.

## STATEMENT OF OBJECTS AND REASONS

It is proposed to amend the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Maharashtra Tax on Luxuries Act, 1987 (Mah. XLI of 1987), the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 (Mah. IV of 2003) and the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), with a view to augmenting the revenue of the State. Certain amendments which are necessary for effective and smooth implementation of the said tax laws have also been incorporated in the Bill.

2. Some of the important provisions, which are proposed to be made, are explained broadly as follows :-

(A) *The Maharashtra State Tax on Profession, Trades, Callings and Employments Act, 1975.* – This Act is being amended to provide for,-

- (i) filing of consolidated returns, and
- (ii) composition of payment of tax.

(B) *The Maharashtra Tax on Luxuries Act, 1986.* – This Act is being amended to provide for taking power of recovery of tax as an arrears of land revenue to the Senior Deputy Commissioner of Sales Tax.

(C) *The Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002.* – This Act is being amended to regularise the levy of entry tax on certain fuel oils during 1st October 2002 to 31st March 2005.

(D) *The Maharashtra Value Added Tax Act, 2002.* – This Act is being amended to provide for,-

(i) change in the procedure for voluntary registration and the cancellation of voluntary registration by the Commissioner in certain circumstances;

(ii) refund of excess fees paid;

(iii) change in the procedure for refund;

(iv) penalty on account of non-compliance of submission of audit on sales;

(v) permission to the Cost Accountants to do audit under section 61; and

(vi) to provide that fresh certificate of registration issued on automated system need not be personally signed by the officer.

3. The Bill is intended to seek the above objective.

Mumbai,  
Dated the 24th July 2007

JAYANT PATIL  
Minister for Finance

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely:-

*Clause 1(2).*— By this clause, power is taken to the State Government to appoint, by notification in the *Official Gazette*, the date on which the said Act shall come into force.

*Clause 7(3).*— By this clause, which seeks to insert new sub-section (3C) in section 8 of the Maharashtra Value Added Tax Act, 2002, the power is taken to the State Government to exempt from payment of tax, by an order published in the *Official Gazette*, the transfer of property in goods involved in the processing of textiles described in column (3) of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

*Clause 16(4).*— By this clause, which seeks to substitute sub-sections (4) and (5) of section 51 of the Maharashtra Value Added Tax Act, 2002, the power is taken to the State Government to make rules providing for the details of the bank guarantee to be furnished by a person claiming refund, namely, the amount of bank guarantee, the name of the bank, the period for which such bank guarantee is to be given and the authority to whom it is to be furnished subject to which the Commissioner shall grant the refund.

*Clause 20.*— By this clause, which seeks to substitute sub-section (3) of section 86 of the Maharashtra Value Added Tax Act, 2002, the power is taken to the State Government to prescribe, by rules, the particulars of the bill or cash memorandum to be issued to the purchaser.

2. The abovementioned proposals for delegation of legislative power are of normal character.

### GOVERNOR'S RECOMMENDATION UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

#### **(Copy of Government of Maharashtra Order, Law and Judiciary Department)**

In exercise of the powers conferred upon him by clause (1) of Article 207 of the Constitution of India, the Governor of Maharashtra is pleased to recommend to the Maharashtra Legislative Assembly, the consideration of the Maharashtra Tax Laws (Levy, Amendment and Validation) Bill, 2007.

ANNEXURE TO L.A. BILL No. XLIII OF 2007 —  
THE MAHARASHTRA TAX LAWS (LEVY, AMENDMENT  
AND VALIDATION) BILL, 2007.

(Extracts from the Maharashtra State Tax on Professions, Trades,  
Callings and Employments Act, 1975.)

(Mah. XVI of 1975)

1. to 5.                   \*                   \*                   \*                   \*

Returns

6. (1) Every employer registered under this Act, shall furnish to the prescribed authority a return in such form, for such period and by such dates as may be prescribed showing therein the salaries and wages paid by him and the amount of tax deducted by him in respect thereof:

Provided that, the Commissioner may, subject to such terms and conditions, as may be prescribed, permit any employer to file separate returns, —

(a) for all or any of the places of business of the employer, whether or not situated within the jurisdiction of the same registering authority, or

(b) for different constituents of his business, to such authority as he may direct.

(2) and (3)           \*                   \*                   \*                   \*

7.                   \*                   \*                   \*                   \*

Payment  
of Tax.

8. (1) and (2) \*                   \*                   \*                   \*

(3) (a) Subject to the rules, any person holding a certificate of enrolment and liable to pay tax at the rate of rupees 1700, 2200 or as the case may be, per annum, may discharge his liability for payment of tax under this Act for a total continuous period of five years by making payment in advance of a lumpsum amount equal to four times of such rate of tax, on or before the 30th June of the year.

(b) and (c)           \*                   \*                   \*                   \*

(4)                   \*                   \*                   \*                   \*

9. to 30. \* \* \* \*  
 SCHEDULE \* \* \* \*

*(Extracts from the Maharashtra Tax on Luxuries Act, 1987)*  
*(Mah. XLI of 1987)*

1. to 19. \* \* \* \*

20. (1) For the purpose of effecting recovery of the amount of tax, penalty, interest and amount forfeited, due and recoverable from any hotelier or other person by or under the provisions of this Act, as an arrear of land revenue — Special powers of authorities for recovery of tax as arrear of land revenue.

(i), (ii) and (iii) \* \* \* \*

(iv) the Assistant Commissioner of Luxury Tax shall have and exercise all the powers (except the powers of arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Assistant or Deputy Collector under the said Code;

(v) \* \* \* \*

(2) \* \* \* \*

21. to 54. \* \* \* \*

*(Extracts from the Maharashtra Tax on the Entry of Goods into Local Area Act, 2002)*  
*(Mah. IV of 2003)*

1. to 12. \* \* \* \*

SCHEDULE  
 [See section 2(1)(k) and 3(1)]

Sr. No. (1)	Description of goods (2)	Rate of tax (3)
1. to 12.	* * *	* * *
13	Furnace Oil including Heavy Furnace Oil and Residual Furnace Oil.	Fifteen paise in the rupee.

(Extracts from the Maharashtra Value Added Tax Act, 2007)  
(Mah. IX of 2005)

1. \* \* \* \*

2. In this Act, unless the context otherwise requires —

(1) to (15) \* \* \* \*

(16) “non-resident dealer” means a dealer who effects purchases or sales of any goods in the State, but who has no fixed place of business or residence in the State;

(17) to (23) \* \* \* \*

(24) “Sale” means a sale of goods made within the State for cash or deferred payment or other valuable consideration but does not include a mortgage hypothecation, charge or pledge; and the words “sell” , “buy” and “purchase”, with all their grammatical variations and cognate expressions, shall be construed accordingly;

*Explanation* – For the purposes of this clause, –

(a) and (b) (i) \* \* \* \*

(ii) the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract namely, an agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out improvement, modification, repair or commissioning of any moveable or immovable property.

(iii) to (iv) \* \* \* \*

shall be deemed to be a sale.

(25) to (35) \* \* \* \*

3. to 7. \* \* \* \*

8. (1) and (2) \* \* \* \*

Certain sales and purchases not to be liable to pay tax

(3) The State Government may, by general or special order published in the *Official Gazette*, and subject to such conditions and restrictions as may be specified in the said order, exempt from payment of tax, any class or classes of sales of goods made by any unit in the Special Economic Zone, a developer of the Special

Economic Zone, any hundred per cent, export oriented unit, any unit in the Software Technology park or any unit in the Electronic Hardware Technology Park.

*Explanation* — \* \* \*

(3A) \* \* \*

(3B) The State Government may, by general or special order published in the *Official Gazette*, and subject to such conditions, exceptions and restrictions, as may be specified in the said order, exempt fully or partly, from payment of tax any class or classes of sales of goods made by, –

(a) any registered dealer to the Canteen Stores Department or the Indian Naval Canteen Services.

(b) the Canteen Stores Department or the Indian Naval Canteen Services to the unit run canteens or members of the armed forces.

(c) the unit run canteens to the members of the armed forces.

(4) \* \* \*

(5) The State Government may by general or special order, published in the *Official Gazette*, and subject to such conditions and restrictions, if any, as may be specified in the said order, exempt fully or partly, from payment of tax, any sales or classes of sales of goods made by any registered dealer to, —

(a) to (g) \* \* \*

(h) any telephone service provider, holding a licence granted under the Indian Telegraph Act, 1885 and the Indian Wireless Telegraphy Act, 1933, to establish, maintain and operate telephone services up to subscribers terminal connection.

9. to 15. \* \* \*

16. (1) \* \* \*

Registration

(2) Every dealer, required by sub-section (1) to possess a certificate of registration or, one who voluntarily desires to get registered shall apply in the prescribed manner to the prescribed authority for grant of such registration.

(3), (4) and (5) \* \* \*

(6) Where, —

(a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued or otherwise disposed of, or has been transferred, or

(b) the turnover of sales or the turnover of purchases of a registered dealer who has become liable to pay tax under section 3 has, during any year not exceeded the relevant limit specified in sub-section (4) of section 3,

then in the case covered by clause (a), the dealer shall apply in the prescribed manner and within the prescribed time, for cancellation of his registration to the Commissioner, and in the case covered by clause (b), the dealer may apply, in the prescribed manner, for cancellation, of his registration to the Commissioner, and thereupon the Commissioner may, after such inquiry as he seems fit and subject to the rules, cancel the registration with effect from such date including any date earlier to the date of order of cancellation as he considers fit having regard to the circumstances of the case. The registration certificate cancelled under this sub-section shall be returned to the Commissioner within the prescribed time:

Provided that, where the Commissioner is satisfied that any business in respect of which a certificate has been issued this section has been discontinued or disposed of and the dealer has failed to apply under clause (a) as foresaid for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date in accordance, with the rules, if any, from which the business has been discontinued or disposed of or changed to a different local area, as the case may be:

Provided further that the cancellation of a certificate of registration on an application or otherwise shall not affect the liability of the dealer to pay the tax including any penalty, amount forfeited and interest due for any period ending or on or before the date of cancellation whether such tax including any penalty, amount forfeited and interest is assessed before the

date of cancellation but remains unpaid, or is assessed thereafter.

(7) (8) and (9) \* \* \*

17. and 18. \* \* \*

19. (1) \* \* \*

(2) Every dealer liable to pay tax under this Act who is liable to obtain a permanent account number under the Income Tax Act, 1961, shall communicate to the Commissioner, in the prescribed time and manner, the said number if he has obtained the same and in any other case shall state whether he has applied for the same and provide the details of the application.

Dealer to declare the name of manager of business and permanent account number.

20. (1), (2) and (3) \* \* \*

Returns and self assessment

(4) Any person or dealer who, having furnished any return under sub-section (1), (2) or (3) discovers any omission or incorrect statement therein, may furnish a revised return in respect of the period covered by the return at any time before a notice for assessment is served on him in respect of the period covered by the return or before the expiry or a period of eight months from the end of the year containing the period to which the return relates, whichever is earlier.

(5) \* \* \*

21. \* \* \*

22. (1) and (2) \* \* \*

Audit

(3) On or after appointed day any officer to whom the powers and duties under this section have been delegated, by the Commissioner, in writing, may conduct audit of the business.

(4) and (5) \* \* \*

23, 24 and 25. \* \* \*

26. (1) An appeal, from every original order, not being an order mentioned in sub-section (2) of section 85 passed under this Act or rules or notification, shall lie if the order is made, –

Appeal

(a) by a Sales Tax Officer or an Assistant Commissioner, or any other officer subordinate thereto, to the Deputy Commissioner;

(b) by a Deputy Commissioner or Senior Deputy Commissioner, to the Joint Commissioner;

(c) by a Joint Commissioner, Additional Commissioner or the Commissioner to the Tribunal.

	(2) to (7)	*	*	*
	27 to 41.	*	*	*
Composition of tax.	42. (1), (2) and (3)	*	*	*

(4) Where a dealer is liable to pay tax on sales effected by way of the transfer of the right to use mandap or tarpaulin (whether or not for a specified period), then he may, subject to such conditions and restrictions, as may be prescribed, pay in lieu of the amount of tax payable by him a sum equal to one and half per cent. of the turnover of sales effected by him.

	<i>Explanation</i>	*	*	*	*
	43. to 49.	*	*	*	*
Refund of excess payment.	50. (1) Subject to the other provisions of this Act and the rules made thereunder, the Commissioner shall, refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him. The refund may be either by deduction of such excess from the amount of tax, penalty, amount forfeited and interest due, if any, in respect of any other period or in any other case, by cash payment.				

Proviso \* \* \*

(2) If a registered dealer has filed any returns, fresh returns or revised returns in respect of any period contained in any year and any amount is refundable to the said dealer according to the return,

Fresh return or revised return, then subject to rules the dealer may adjust such refund against the amount due as per any return, fresh return or revised return for any subsequent period contained in the said year, filed under this Act or the Central Sales Tax Act, 1956 or the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002.

Grant of refunds. 51. (1) Where a registered dealer has in any return, fresh return or revised return shown any amount to be refundable and

has not undertaken to adjust such amount against the amount due as per any subsequent return in accordance with section 50, the Commissioner shall, on an application made by the dealer and subject to rules, and the other provisions of this Act, grant refund of such amount to the said dealer.

(2) (a) The Commissioner shall, grant the dealer refund of the amount claimed refundable as aforesaid within six months of the end of the year to which the return, fresh return or revised return relates and the refund relating to all the periods contained in one year may be granted by a single order:

Provided that, where the return, fresh return or, as the case may be, revised return is filed after the date prescribed for filing the last return of the said year, then the period of six months shall be counted from the date of filing of the said return, fresh return or revised return.

(b) Notwithstanding anything contained in clause (a), where a dealer has obtained a registration certificate as provided under this Act, then the refund in respect of the returns, fresh returns or revised returns in respect of the year containing the date of effect of registrations shall be granted within six months of the end of the year succeeding the said year.

Provided that, the said dealer may apply in the prescribed form to the Commissioner at any time after the end of the year to which the refund relates for grant of the said refund and the Commissioner may subject to rules including rules relating to bank guarantees grant such refund:

Provided further that, where the return, fresh return or, as the case may be revised return is filed at any time after the date prescribed for filing the last return of the said year, then the refund shall be granted within eighteen months of the date of filing of the return, fresh return or revised return.

(3) (a) Notwithstanding anything contained in sub-section (2), if a dealer is, –

(i) and (ii) \* \* \*

(iii) a holder of a certificate of Entitlement under any Package Scheme of Incentives except the New Package Scheme of Incentives

for Tourism Projects, 1999, then he may apply in the prescribed form to the Commissioner after filing the return for grant of refund relating to the period covered by a return, fresh return or revised return.

(b) \* \* \*

(4) Where in any period covered by a return, the dealer has made a sale in the course of inter-State trade or commerce and in the return, fresh return or revised return filed in respect of the said period, he has shown any amount to be refundable, then he may apply in the prescribed form to the Commissioner, after filing the return as may be due, for grant of refund relating to the period covered by the return, fresh return or revised return. He shall furnished a bank guarantee on or after making the said application for such amount, from such banks, for such periods and to such authorities as may be prescribed.

(5) The Commissioner shall, within one month of the receipt of bank guarantee, where it is required to be furnished under subsection (2), (3) or (4) grant the dealer a refund of the amount claimed as refundable in the return.

Where the Commissioner has not required the dealer to furnish a bank guarantee or in case, the Commissioner has called for additional information, then the Commissioner shall grant the dealer a refund of the amount found due. The refund shall be granted within a period of three months from the date of receipt of the application or, the case may be, the date of receipt of the additional information whichever is later.

(6) and (7) \* \* \*

52. to 60. \* \* \*

Accounts to be audited in certain cases.

61. (1) Every dealer liable to pay tax shall, —

(a) if his turnover of sales or, as the case may be, of purchases exceed or exceeds rupees forty lakh in any year, or

(b) a dealer or person who holds licence in, —

(i) Form P.L.L under the Maharashtra Distillation of Spirit and Manufacture of Potable Liquor Rules, 1966, or

(ii) Form B-RL under the Maharashtra Manufacture of Beer and Wine Rules, 1966, or,

(iii) Form E under the Special Permits and License Rules 1952, or

(iv) From FL-I , FL-II, FL-III, FL-IV under the Bombay foreign Liquor Rules, 1958, or

(v) From CI-I, CL-II, CL-III CL/FL/TOD-III under the Maharashtra Country Liquor Rules, 1978.

get his accounts in respect of such year audited by an Accountant within the prescribed period from the end of that year and furnish within that period the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars and certificates as may be prescribed.

*Explanation.* – For the purposes of this section, “Accountant” means a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949.

(2) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the time as aforesaid, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way a penalty equal to one tenth per cent, of the total sales or as the case may be, purchases or a sum of one lakh rupees, whichever is less:

Proviso	*	*	*	*	
62. to 78.	*	*	*	*	Fee of appeal and certain other applications.
79. Notwithstanding anything contained in the Bombay Court Fees Act 1959, –					
(a)	*	*	*	*	
(b) an appeal preferred under section 26 shall bear a court fee stamp of such value, not exceeding on thousand rupees, as may be prescribed, if the amount in dispute exceeds rupees one lakh, and any other appeal shall be charged with such fee not exceeding one hundred rupees, as may be prescribed.					
80. to 85.	*	*	*	*	Tax invoice and Memorandum of sales or purchases.
86. (1) and (2)		*	*	*	

(3) When a registered dealer sells any goods, he may at his option issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him or his servant, agent or

manager and stating therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of three years from the end of the year in which the sale took place. Where the said registered dealer is issuing a bill or cash memorandum, he shall not collect tax separately on such sale.

	(4), (5) and (6)	*	*	*
	87. to 90. *	*	*	*
Change of nature of incentives.	91. (1) to (4)	*	*	*

(5) Notwithstanding anything contained in this Act, the rules made hereunder or any Package Scheme of Incentives, –

(i) no dealer to whom an Entitlement Certificate has been issued, whether in order to avail the benefits by way of deferment of payment or exemption from payment of Government dues shall be entitled to claim set-off of sales tax in respect of purchases of raw materials effected by the said dealer and for the purposes of this section, the expression “raw materials” shall have the meaning assigned to it in the rules;

(ii) every dealer to whom the Entitlement Certificate has been issued, whether in order to avail the benefits by way of deferment of payment or exemption from the payment of Government dues shall be entitled to claim in accordance with the rules, refund of sales tax in respect of purchases of raw materials.

	92. to 98. *	*	*	*
	SCHEDULES	*	*	*

Maharashtra Legislature Secretariat.

[L.A. Bill No. XLIII of 2007.]

[A Bill further to amend certain tax laws  
in operation in the State of Maharashtra.]

[Shri Jayant Patil,  
Finance Minister.]

Anant Kalse,  
Principal Secretary,  
Maharashtra Legislative Assembly.

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