

अधिसूचना

12 मार्च, 2008

संख्या-एल०जी०-16/2005-22/लेज०--झारखण्ड विधान मंडल द्वारा यथा-पारित और राज्यपाल द्वारा दिनांक 5 मार्च, 2008 को अनुमत झारखण्ड मूल्यवर्द्धित कर (संशोधन) अधिनियम, 2007 का निर्मांकित अंग्रेजी अनुवाद झारखण्ड राज्यपाल के प्राधिकार से इसके द्वारा प्रकाशित किया जाता है, जिसे भारतीय संविधान के अनुच्छेद 348 के खंड (3) के अधीन उक्त अधिनियम का अंग्रेजी भाषा में प्राधिकृत पाठ समझा जायगा :-

THE JHARKHAND VALUE ADDED TAX (AMENDMENT) ACT, 2007**[Jharkhand Act 03, 2008]****AN ACT****TO AMEND THE JHARKHAND VALUE ADDED TAX ACT 2005****(JHARKHAND ACT 05, 2006)**

Be it enacted in the fifty eighth year of the Republic of India as follows:-

1. Short title, extent and commencement - (i) This Act may be called the Jharkhand Value Added Tax (Amendment) Act 2007

(ii) It shall extend to the whole of the State of Jharkhand.

(iii) It shall be deemed to have come into force w.e.f. 01.04.2006

2. Addition in the preamble of the Act (Act 05, 2006)-

In the preamble of the Act after the words "in the State of Jharkhand" the words and punctuations "to collect fund for the purpose of Development of Trade, Commerce and Industries of the State" shall be added.

3. Amendment of Section 2 of the Act (Act 05, 2006)- (i) Insertion of a new definition: as "Fund", after the existing definition of "EHTP" & before the definition of "Goods", as Clause (xxiA) of Section 2 -

"(xxiA) "Fund" means, the "Jharkhand Trade Development Fund"; as created by the State Government through a Notification published in the Official Gazette: for the purpose of development of trade, commerce and industry of the State, for such period(s) as may be specified in this behalf."

(ii) Amendment in the definition of "Manufacture" in the Clause (xxxii) of Section 2-

After the words "article or articles" the words "or goods" shall be inserted.

4. Amendment in Section 8 of the Act (Act 05, 2006)-

Insertion of new sub-sections: as sub-section (8), (9), (10), (11), (12) and (13) after the existing sub-section (7) as under: -

“(8) A registered dealer: whose liability to pay tax has ceased under this Act, for any reason other than the entire transfer of his business to other persons; shall pay tax on the stock of goods remaining unsold at the termination of his liability, after furnishing such declarations as prescribed.”

“(9) Every dealer whose liability to pay tax has ceased under sub-section (8) or otherwise: shall again be liable to pay tax under this section, with effect from the day following the date, on which his gross turnover during a period not exceeding twelve months immediately preceding such date, again exceed the quantum as specified in this section.”

“(10) Notwithstanding anything contained in this section, where a dealer who is or was, less than six months earlier, liable to pay tax, starts a new business, either singly or jointly with other persons, or joins other business or partnership firm or concern or undivided Hindu family, tax as aforesaid, shall be payable on sales and purchases made from such business or partnership firm or such concern, on and from the date the dealer starts or joins it, unless liability in respect of such business, partnership firm or concern has arisen from an earlier date under the provisions of this section.”

“(11) Notwithstanding anything contained in this section, a dealer registered under the Central Sales Tax Act, 1956 (LXXIV of 1956), shall irrespective of the quantum of his gross turn-over be liable to pay tax on his sale, made inside Jharkhand of any goods, which he purchased or acquired from outside the State after furnishing a declaration under sub-section (4) of section 8 or under sub-section (1) of section 6A of the said Act, or any goods in the manufacture or processing of which goods so purchased by him have been used.”

“Provided that tax shall not be payable if the dealer shows to the satisfaction of the prescribed authority that the turnover is deductible from his gross turnover, under sub-section (4) of Section 9 for the purpose of determining his taxable turnover.”

“(12) The provisions of the Central Sales Tax Act, 1956 (LXXIV of 1956) shall apply for determining when a sale or purchase shall be deemed to have taken place inside Jharkhand.”

“(13) Notwithstanding any contained in this Act, the tax payable under the Act, for each year, may with the previous approval of the Commissioner or any authority empowered in this behalf, be estimated and collected in advance during a year, in such installments as may be fixed by the prescribed authority. For this purpose the prescribed authority may require the dealer to furnish an advance estimate of his taxable turnover for that year and may, provisionally determine the amount of tax payable under this Act, by the dealer in respect of the year. Thereupon the dealer shall pay the amount so determined, by such date as may be fixed by such authority.”

5. **Amendment in Section 9 of the Act (Act 05, 2006)–**

In sub-section (2), after the words *excluding Bulk Drugs* and before the word *Siddha*, the words and punctuations “*and Non Drugs (Prices Control) Order 1995 Medicines, such as Ayurvedic,*” shall be deleted.

Substitution of sub-section (3) in the following manner: -

“(3) The tax payable by a dealer liable to pay tax under Section 8, on sales of such goods as mentioned in Part-E of Schedule II of this Act, shall be levied on his taxable turnover of sales, at the first stage of sale in the State or at that stage of sale in the series of sales, with such restriction and conditions as may be specified by the State Government by a Notification from time-to-time in this behalf. In the circumstances, if the tax is levied at the first stage of sale in the state by a dealer, subsequent sales of the same goods in the State shall not be levied to tax, if the dealer making subsequent sales of such goods, produces before the Prescribed Authority such evidence(s), as may be prescribed.

Provided, whereby a notification published under this sub-section, in respect of any goods specified in Part-E of Schedule II, that the tax shall be levied at more than one stage or on all the stages of sale, the amount of tax(s) paid at each of the preceding stage of sale, shall be adjusted, against the amount of tax payable at each subsequent stage of sale, in the manner as specified in the notification.”

6. Amendment in Section 11 of the Act (Act 05, 2006)-

In sub-section (1), in the second proviso, the words and punctuation “under sub-section (2) of Section 9” shall be substituted by “under sub-section (3) of Section 9”.

Insertion of new sub-sections (4), (5), (6) & (7), after the existing sub-section (3)-

“(4) The Entry Tax levied and collected under this Section, shall be appropriated into the “Fund”, as created under clause (xxiA) of Section 2 of this Act.”

“(5) The tax payable under sub-section (1) shall continue to be levied till such time as is required to improve the infrastructure within the State; such as power, road, market condition etc. with a view to facilitate better market condition for trade, commerce and industry and to bring it to the level of National averages.”

“(6) The proceeds of the “Fund” shall be utilized, exclusively for the development of trade, commerce and industry in the State of Jharkhand, which shall include the following:-

- (a) construction, development and maintenance of roads and bridges for linking the market and industrial areas to their hinterlands,
- (b) providing finance, aids, grants and subsidies to financial, industrial and commercial units,
- (c) creating infrastructure for supply of electrical energy and water supply to industries, marketing and other commercial complexes
- (d) creation, development and maintenance of other infra-structure for the furtherance of trade, commerce and industry in general.”

“(7) The State Government shall, by a notification issued in this behalf, specify the manner of deposit of tax under appropriate Heads of Accounts and the manner in which the proceeds of the

“Fund” shall be utilized, exclusively for the development of trade, commerce and industry of the State of Jharkhand.”

7. Amendment in Section 13 of the Act (Act 05, 2006)-

In sub-section (1), the words and punctuation “under sub-section (2) of Section 9” shall be replaced by “under sub-section (3) of Section 9”.

8. Amendment in Section 22 of the Act (Act 05, 2006)-

In sub-section (1) of the Section 22, after the words and punctuation “calculated at the flat rate” and before the words and punctuation “on the gross receipt” the words and punctuation “not exceeding 8 percentum and not below 1.5 percentum” shall be inserted.

9. Amendment in Section 29 of the Act (Act 05, 2006)–

In the sub-section(1) of the Section, after the words “shall furnish” and before the words “return in” the words and punctuations “true, complete and correct” shall be inserted.

10. Amendment in Section 30 of the Act (Act 05, 2006)-

Before the sub-clause (i) of sub-section (1) of this section, after the word “interest” and before the words “in respect of;” the words “and penalty” shall be inserted.

After the clause “C” of sub-section (1) of this Section, after sub-clause (iii) a new sub-clause (iv) shall be added as follows:-

“(iv) for the period he fails to furnish return including monthly abstract”

In the last para of sub-section (1), after the sub-clause (iv), after the words “whichever is earlier” the words and punctuations “and penalty as specified in clause (d) of sub-section (4) of this Section” shall be added.

In sub-section (4) after the words “under” and before the words “sub-section (2)” the words the “sub-section (1) and” shall be added.

In clause (c) of sub-section (4), after the words “Section 29” the words and punctuation “or” shall be deleted.

The existing clause (d) of sub-section (4) shall be substituted by the following -

“the prescribed authority shall, after giving such a dealer an opportunity of being heard in the manner prescribed, impose a penalty at the rate not exceeding rupees twenty for every day of such default for any month or any tax period, subject to a maximum of rupees five-thousand in a year.”

“Explanation – Return for this purpose shall mean and include the Monthly Abstract, Return for any tax period, Revised Return(s) as well as the Annual Return.”

11. Amendment in Section 40 of the Act (Act 05, 2006)-

After sub-section (1), a proviso shall be inserted -

“Provided, for clause (a), where the prescribed authority has reasons to believe that the dealer has concealed, omitted or failed to disclose willfully, the particulars of such turnover or has furnished incorrect particulars of his such turnover and thereby return figures are below the real amount, the prescribed authority shall proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover and the provisions of this Act, shall so far as may apply accordingly and for this purpose, the provisions of sub-section (6) of Section 37 shall apply accordingly.”

After the existing sub-section (1), two new sub-sections: as sub-section (2) and sub-section (3) shall be inserted as under: -

“(2) If the prescribed authority in the course of any proceeding or upon any information, which has come into his possession before assessment or otherwise, under this Act, and is satisfied that any registered dealer or a dealer to whom the registration certificate has been suspended under sub-section (7) of Section 25 -

(a) has concealed any sales or purchases or any particulars thereof, with a view to reduce the amount of tax payable by him under this Act, or

(b) has furnished incorrect statement of his turnover or incorrect particulars of his sales or purchases in the return furnished under sub-section (1) of Section 29; or otherwise,

the prescribed authority shall, after giving such a dealer an opportunity of being heard, by an order in writing direct that he shall, in addition to any tax payable which is or may be assessed under Section 35 or 36 or 38, pay by way of interest, a sum at the rate of two per centum for each month of such suppression or concealment or for furnishing incorrect particulars; on the amount of tax payable under the Act or on the suppressed turnover or on concealed turnover or for furnishing incorrect particulars.

The interest shall be payable before the completion of the assessment and for determining the amount of interest payable, the prescribed authority shall quantify the amount of tax payable provisionally under this Act.”

“(3) Any penalty imposed or interest levied under this section shall be without prejudice to any action which is or may be taken under Section 84 of this Act.”

This existing sub-section (2) of Section 40 shall be renumbered as sub-section (4).

12. Amendment in Section 57 of the Act (Act 05, 2006)-

In sub-section (1) of Section 57 before the words “subject of such” the following shall be added :-
“Notwithstanding any thing contained in Section 54 and”

13. Amendment in Section 63 of the Act (Act 05, 2006)–

In sub-section (1) and sub-section (2) of the Section, the words “six months” shall be substituted by the words “nine months”.

14. Amendment in Section 69 of the Act (Act 05, 2006)–

In proviso of sub-section (1) of Section 69, after the words and punctuation “under Section 62, 70” and before the words and punctuation “for carrying out” the words and punctuation “71, 72 and 73” shall be substituted.

झारखण्ड राज्यपाल के आदेश से,

प्रशान्त कुमार,

सरकार के सचिव-सह-विधि परामर्शी,
विधि (विधान) विभाग, झारखण्ड, राँची ।