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MINISTRY OF LAW

(Legislative Department)

New Delhi, the 16th September, 1958/Bhadra 25, 1880 (Saka)

The following Act of Parliament received the assent of the President on the 16th September, 1958, and is hereby published for general information:—

THE CENTRAL SALES TAX (SECOND AMENDMENT) ACT, 1958

No 31 OF 1958

[16*th September*, 1958]

An Act further to amend the Central Sales Tax Act, 1956.

BE it enacted by Parliament in the Ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Central Sales Tax (Second Amendment) Act, 1958.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

74 of 1956.

Amendment of section 2.

2. In section 2 of the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act),—

(*i*) in clause (*a*), the words "one or more" in sub-clause (*ii*), and the *Explanation* shall be omitted;

(*ii*) in clause (*b*), for the words "selling goods", the words "buying or selling goods" shall be substituted;

(*iii*) in clause (*d*), after the words "does not include", the word "newspapers," shall be inserted;

(*iv*) after clause (*d*), the following clause shall be inserted, namely:—

'(*dd*) "place of business" includes—

(*i*) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent;

(*ii*) a warehouse, godown or other place where a dealer stores his goods; and

(*iii*) a place where a dealer keeps his books of account;'.

Amendment of section 6.

3. Section 6 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (*1*), where a sale in the course of inter-State trade or commerce of goods of the description referred to in sub-section (*3*) of section 8—

(*a*) has occasioned the movement of such goods from one State to another; or

(*b*) has been effected by a transfer of documents of title to such goods during their movement from one State to another;

any subsequent sale to a registered dealer during such movement effected by a transfer of documents of title to such goods shall not be subject to tax under this Act:

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner a certificate duly filled and signed by the registered dealer from whom the goods were purchased, containing the prescribed particulars.".

Amendment of section 7.

4. In section 7 of the principal Act,—

(*i*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(2) Any dealer liable to pay tax under the sales tax law of the appropriate State, or where there is no such law in force in the appropriate State or any part thereof, any dealer having a place of business in that State or part, as the case may be, may, notwithstanding that he is not liable to pay tax under this Act, apply for registration

under this Act to the authority referred to in sub-section (*1*), and every such application shall contain such particulars as may be prescribed.

Explanation.—For the purposes of this sub-section, a dealer shall be deemed to be liable to pay tax under the sales tax law of the appropriate State notwithstanding that under such law a sale or purchase made by him is exempt from tax or a refund or rebate of tax is admissible in respect thereof.";

(*ii*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) A certificate of registration granted under this section may—

(*a*) either on the application of the dealer to whom it has been granted, or, where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason the certificate of registration granted to him requires to be amended; or

(*b*) be cancelled by the authority granting it where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business or has ceased to exist, or in the case of a dealer registered under sub-section (*2*) has ceased to be liable to pay tax under the sales tax law of the appropriate State or for any other sufficient reason.".

Amendment of section 8.

5. For sub-sections (*1*), (*2*), (*3*) and (*4*) of section 8 of the principal Act, the following sub-sections shall be substituted, namely:—

"(*1*) Every dealer, who in the course of inter-State trade or commerce—

(*a*) sells to the Government any goods; or

(*b*) sells to a registered dealer other than the Government goods of the description referred to in sub-section (*3*);

shall be liable to pay tax under this Act, which shall be one per cent. of his turnover.

(2) The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section (1)—

(a) in the case of declared goods, shall be calculated at the rate applicable to the sale or purchase of such goods inside the appropriate State; and

(b) in the case of goods other than declared goods, shall be calculated at the rate of seven per cent. or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher;

and for the purpose of making any such calculation any such dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State, notwithstanding that he, in fact, may not be so liable under that law.

(2A) Notwithstanding anything contained in sub-section (1) or sub-section (2), if under the sales tax law of the appropriate State the sale or purchase, as the case may be, of any goods by a dealer is exempt from tax generally or is subject to tax generally at a rate which is lower than one per cent. (whether called a tax or fee or by any other name), the tax payable under this Act on his turnover in so far as the turnover or any part thereof relates to the sale of such goods shall be *nil* or, as the case may be, shall be calculated at the lower rate.

Explanation.—For the purposes of this sub-section a sale or purchase of goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State if under that law it is exempt only in specified circumstances or under specified conditions or in relation to which the tax is levied at specified stages or otherwise than with reference to the turnover of the goods.

(3) The goods referred to in clause (b) of sub-section (1)—

(a) in the case of declared goods are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him;

(b) in the case of goods other than declared goods are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules

made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;

(*c*) are containers or other materials specified in the certificate of registration of the registered dealer purchasing the goods, being containers or materials intended for being used for the packing of goods for sale;

(*d*) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in clause (*a*) or clause (*b*) or for the packing of any containers or other materials specified in the certificate of registration referred to in clause (*c*).

(*4*) The provisions of sub-section (*1*) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner—

(*a*) a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority; or

(*b*) if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled and signed by a duly authorised officer of the Government.".

Substitution of new sections for section 9.

6. For section 9 of the principal Act, the following sections shall be substituted, namely:—

Levy and collection of tax and penalties.

"9. (*1*) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-State trade or commerce [whether such sales fall within clause (*a*) or clause (*b*) of section 3] shall be levied and collected by the Government of India in the manner provided in sub-section (*3*) in the State from which the movement of the goods commenced:

Provided that, in the case of a sale of goods during their movement from one State to another being a sale subsequent to the first sale in respect of the same goods, the tax shall, where such sale does not fall within sub-section (*2*) of section 6, be

levied and collected in the State from which the registered dealer effecting the subsequent sale obtained the form prescribed for the purposes of clause (*a*) of sub-section (*4*) of section 8 in connection with the purchase of such goods.

(*2*) The penalty imposed upon any dealer under section 10A shall be collected by the Government of India in the manner provided in sub-section (*3*)—

(*a*) in the case of an offence falling under clause (*b*) or clause (*d*) of section 10, in the State in which the person purchasing the goods obtained the form prescribed for the purposes of clause (*a*) of sub-section (*4*) of section 8 in connection with the purchase of such goods;

(*b*) in the case of an offence falling under clause (*c*) of section 10, in the State in which the person purchasing the goods should have registered himself if the offence had not been committed.

(*3*) The authorities for the time being empowered to assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State shall, on behalf of the Government of India and subject to any rules made under this Act, assess, collect and enforce payment of any tax, including any penalty, payable by a dealer under this Act in the same manner as the tax on the sale or purchase of goods under the general sales tax law of the State is assessed, paid and collected; and for this purpose they may exercise all or any of the powers they have under the general sales tax law of the State; and the provisions of such law, including provisions relating to returns, appeals, reviews, revisions, references, penalties and compounding of offences, shall apply accordingly:

Provided that if in any State or part thereof there is no general sales tax law in force, the Central Government may, by rules made in this behalf, make necessary provision for all or any of the matters specified in this sub-section, and such rules may provide that a breach of any rule shall be punishable with fine which may extend to five hundred rupees; and where the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

(*4*) The proceeds in any financial year of any tax, including any penalty, levied and collected under this Act in any State (other than a Union territory) on behalf of the Government of

India shall be assigned to that State and shall be retained and the proceeds attributable to Union territories shall form part of the Consolidated Fund of India.

Collection of tax to be only by registered dealers.

9A. No person who is not a registered dealer shall collect in respect of any sale by him of goods in the course of inter-State trade or commerce any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder.'.

Amendment of section 10.

7. In section 10 of the principal Act, after clause (*e*), the following clause shall be inserted, namely:—

"(*f*) collects any amount by way of tax in contravention of the provisions contained in section 9A;".

Insertion of new section 10A.

8. After section 10 of the principal Act, the following section shall be inserted, namely:—

Imposition of penalty in lieu of prosecution.

"10A. If any person purchasing goods is guilty of an offence under clause (*b*) or clause (*c*) or clause (*d*) of section 10, the authority who granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied under this Act in respect of the sale to him of the goods if the offence had not been committed:

Provided that no prosecution for an offence under section 10 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.".

Amendment of section 13.

9. In section 13 of the principal Act,—

(*i*) for clause (*d*) of sub-section (*1*), the following clauses shall be substituted, namely:—

"(*d*) the form in which and the particulars to be contained in any declaration or certificate to be given under this Act;

(*e*) the enumeration of goods or class of goods used in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;

(*f*) the matters in respect of which provision may be made under the proviso to sub-section (*3*) of section 9;

(*g*) the fees payable in respect of applications under this Act.";

(*ii*) in sub-section (4),—

(*a*) in clause (*e*), for the words "the authority from which", the words "the authority from whom, the conditions subject to which and the fees subject to payment of which" shall be substituted;

(*b*) in clause (*g*), for the words "the authorities to which" and "the nature", the words "the authorities to whom" and "the name, place or nature" shall respectively be substituted.

Amendment of section 14.

10. In section 14 of the principal Act,—

(*i*) for item (*iia*), the following items shall be substituted, namely:—

"(*iia*) cotton fabrics, as defined in Item No. 12 of the First Schedule to the Central Excises and Salt Act, 1944; 1 of 1944.

(*iib*) cotton yarn, but not including cotton yarn waste;";

(*ii*) after item (*vi*), the following items shall be inserted, namely:—

"(*vii*) rayon or artificial silk fabrics, as defined in Item No. 12A of the First Schedule to the Central Excises and Salt Act, 1944; 1 of 1944.

(*viii*) sugar, as defined in Item No. 8 of the First Schedule to the Central Excises and Salt Act, 1944; 1 of 1944.

(*ix*) tobacco, as defined in Item No. 9 of the First Schedule to the Central Excises and Salt Act, 1944; of 1944.

(*x*) woollen fabrics, as defined in Item No. 12B of the First Schedule to the Central Excises and Salt Act, 1944.". 1 of 1944.

Substitution of new section for section 15.

11. For section 15 of the principal Act, the following section shall be substituted, namely:—

Restrictions and conditions in regard to tax on sale or purchase of declared goods within a State.

"15. Every sales tax law of a State shall, in so far as it imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions, namely:—

(*a*) the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not

exceed two per cent. of the sale or purchase price thereof, and such tax shall not be levied at more than one stage;

(b) where a tax has been levied under that law in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be provided in any law in force in that State.".

12. Section 7 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, is hereby repealed. Repeal of section 7, Act 58 of 1957.

G. R. RAJAGOPAUL,
Secy. to the Govt. of India.

IndiaCode

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