

The Punjab General Sales Tax (Amendment and Validation) Act, 1987

CHANDIGARH

India

The Punjab General Sales Tax (Amendment and Validation) Act, 1987

Act 8 of 1987

- Published on 16 February 1999
- Commenced on 16 February 1999
- [This is the version of this document from 16 February 1999.]
- [Note: The original publication document is not available and this content could not be verified.]

The Punjab General Sales Tax (Amendment and Validation) Act, 1987 Punjab Act No. 8 of 1987 [Dated 16.2.1999] G.S.R. 111(E). - In exercise of the powers conferred by section 87 of the Punjab Re-organisation Act, 1966 (31 of 1966), the Central Government hereby extends to the Union Territory of Chandigarh, the enactments specified in column (1) of the Schedule annexed hereunder, as in force in the State of Punjab on the date of this notification, subject to the modifications specified in the corresponding entries in column (2) of the said Schedule :

Schedule

1. In section 2.-

(a) for the words and figures "the Punjab General Sales Tax Act, 1948", the words and figures "the Punjab general Sales Tax Act, 1948 as in force in the Union Territory to Chandigarh" shall be substituted; (b) in clause (E) in Explanation (1) of the substituted clause (i), for the words "State of Punjab" and "Punjab" the words "Union territory of Chandigarh" and "Chandigarh" shall respectively be substituted.

2. In section 4, for the words "State Government", at both the places, the words, "Central Government" shall be substituted.

Annexure [Received the assent of the Governor of Punjab on the 9th April, 1987] An Act to amend the Punjab General Sales Tax Act, 1948. Be it enacted by the Legislature of the State of Punjab in the Thirty-eight Year of the Republic of India as follows :-

1. Short title.

- This Act may be called the Punjab General Sales Tax (Amendment and Validation) Act, 1987.

2. Amendment of section 2 of Punjab Act 46 of 1948.

- In the Punjab General Sales Tax Act, 1948 (hereinafter referred to as the principal Act) in section 2

-(A)in clause (d), the following shall be inserted at the end, but before the Explanation, namely -and also includes a person engaged in the business of -(i)transfer, otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration.(ii)transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract.(iii)delivery of goods on hire-purchase or any system of payment by instalments;(iv)transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and(v)supply, by way of as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;(B)for clause (c), the following clause shall be substituted, namely :-(e) 'goods' means all kinds of movable property and goods consumed at business premises other than newspapers, actionable claims, stocks, shares or securities and includes all materials, commodities and articles including the goods (whether as goods or in some other form) involved in the execution of a works contract or those goods which are used in the fitting out, improvement or repair of movable property;"(C)in clause (ff), the following shall be inserted at the end, namely :-"and includes, -(i)transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;(ii)transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;(iii)delivery of goods on hire-purchase of any system of payment by instalments;(iv)transferor the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;(v)supply, by way of or part of any service or in any other manner whatsoever of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a purchase of these goods by the person to whom such transfer, delivery or supply is made from the person by whom the transfer, delivery or supply is made;"(D)for clause (h), the following clause shall be substituted, namely :-(h) 'sale' means any transfer of properly in goods other than goods specified in Schedule C for cash, deferred payment or other valuable consideration and includes.-(i)transfer, otherwise than in pursuance of a contract, of properly in any goods for cash, deferred payment or other valuable consideration;(ii)transfer of properly in goods (whether as goods or in some other form) involved in the execution of a works contract;(iii)delivery of goods on hire-purchase or any system of payment by instalments;(iv)transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;(v)supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;(vi)supply by way of or as part of any service or in any other manner, whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash,

deferred payment or other valuable consideration. and such transfer, delivery or supply of any goods shall be deemed to be a sale of these goods by the person making the transfer, delivery or supply to a person to whom such transfer, delivery or supply is made but does not include a mortgage, hypothecation, charge or pledge;" (E) for clause (i), the following clause shall be substituted, namely :- "(i) 'turnover' includes the aggregate of the amounts of sales and purchases and parts of sales and purchases actually made by any dealer during the given period less any sum allowed as cash discount and trade discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of or before, delivery thereof.

Explanation. - (1) The proceeds of any sale made outside the State of Punjab by a dealer, who carries on business both inside and outside Punjab shall not be included in the turnover.

Explanation. - (2) The turnover of any dealer in respect of transaction of forward contract, in which goods are actually not delivered, shall not be included in the turnover.

Explanation. - (3) In respect of transaction covered under sub-clause (iii) of clause (ff) and sub-clause (iii) of clause (h) the amount to be included in the turnover shall be the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of, or the acquisition of property in the goods to which the agreement related and includes any sum as payable by the hirer under the hire-purchase agreement by way of deposit or other initial payment, or credited or to be credited to him under such agreement on account of any such deposit or payment whether that sum is to be or has been paid to owner or to any person or is to be or has been discharged by payment of money or by transfer or delivery of goods or by any other means; but does not include any sum payable as a penalty or as compensation or damages for breach of the agreement.

Explanation. - (4) The amount to be included in the turnover in respect of movable goods agreed to be sold under a works contract, shall be its sale price." ; after clause (l), the following clause shall be inserted, namely :- "(m) 'works contract' includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, the building, construction, manufacturing, processing, fabrication, erection, installation, fitting out improvement, modification, repairs or commissioning of any movable or immovable property."

3. Amendment of Section 27 of Punjab Act 46 of 1948.

- In the principal Act, in section 27, in sub-section (2), after clause (s), the following clause shall be inserted, namely :- "(l) the determination of turnover and taxable quantum for the purposes of sub-clauses (i) to (v) of clause (ff) and (i) (iv) of clause (h) of section 2."

4. Retrospective effect to certain provisions, validation and exemption.

(1) The provision of the principal Act relating to tax on the sale or purchase of goods shall be deemed to include, and shall be deemed always to have included, a tax (hereinafter in this section referred to as the aforesaid tax) on the supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating) for cash, deferred payment or other valuable consideration, and every transaction by way of supply of the nature referred to above made before or after the commencement of the Constitution (Forty-sixth Amendment) Act, 1982 shall be deemed to be, and shall be deemed always to have been, a transaction by way of sale, with respect to which the person

making such supply is the seller and the person to whom such supply is made, is the purchaser, and notwithstanding any judgment, decree or order of any court, tribunal or authority, no provisions of the principal Act which imposed or authorised the imposition of, or purported to impose or authorise the imposition of, the aforesaid tax shall be deemed to be invalid or ever to have been invalid, and accordingly.-(a)the aforesaid tax levied or collected or purporting to have been levied or collected under the principal Act shall be deemed always to have been validly levied or collected in accordance with law;(b)all acts, proceedings or things done or actions taken in connection with the assessment and of the aforesaid tax by any officer appointed by the State Government under the principal Act shall be and shall always be deemed to have been done or taken in accordance with law;(c)no suit or other proceeding shall be maintained or continued in any court or before any tribunal or authority for the refund of, and no enforcement, shall be made by any court, tribunal or authority of any decree or order directing the refund of, any such aforesaid tax which has been collected.(d)assessment, reassessment and recoveries of aforesaid tax if not already made, shall be made in accordance with the principal Act, as amended by this Act, notwithstanding anything contained in the principal Act.(2)Notwithstanding anything contained in sub-section (1), any supply of the nature referred to therein shall be exempt from the aforesaid tax,-(a)where such supply has been made by any restaurant or eating house (by whatever name called) at any time on or after the 7th day of September, 1978 and before the commencement of the Punjab General Sales Tax (Amendment) Act, 1987 and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time, or(b)where such supply, not being any such supply by any restaurant or eating house (by whatever name called), has been made at any time on or after the 4th day of January, 1972, and before such commencement and the aforesaid tax has not been collected on such supply on the ground that no such tax could have been levied or collected at that time:Provided that the burden of proving that the aforesaid tax was not collected on any supply of the nature referred to in clause (a) or, as the case may be, clause (b), shall be on the person claiming the exemption under this sub-section.(3)(a)Sub-clause (i) of each of clauses (d), (ff) and (h) of section 2 of the principal Act shall be deemed to have been substituted with effect from the 2nd day of February, 1983.(b)Notwithstanding anything contained in any judgment, decree or order of any court, tribunal, or other authority, all taxes levied or collected or purported to have been levied or collected from the said date in relation to the goods referred in the said sub-clause (i) of each of the aforesaid clauses, shall be deemed to be and to have always been validly levied or collected in accordance with law as if this provision had been in force at all material times when such tax was levied or collected and according.-(i)all acts, proceedings or things done or taken in connection with the levy or collection of such tax by the person appointed by the State Government under the principal Act shall, for all purposes, be deemed to be and to have always been validly done or taken in accordance with law;(ii)no suit or other proceedings shall be maintained or continued in any court or before any tribunal or other authority for the refund of any tax so paid;(iii)no court, tribunal or other authority shall enforce any decree or order directing the refund of any tax so paid.(4)For the removal of doubts, it is hereby declared that nothing in sub-section (i) and clause (b) of sub-section (3) shall be construed as preventing any person.-(i)front questioning in accordance with the provisions of the principal Act, the assessment, reassessment, levy or collection of the aforesaid tax:(ii)from claiming refund of the aforesaid tax paid by him in excess of the amount due from him under any such law.