

Gujarat Sales Tax (Amendment) Act, 1972

GUJARAT

India

Gujarat Sales Tax (Amendment) Act, 1972

Act 9 of 1972

- Published on 19 July 1972
- Not commenced
- [This is the version of this document from 19 July 1972.]
- [Note: The original publication document is not available and this content could not be verified.]

An Act further to amend the Gujarat Sales Tax Act, 1969. It is hereby enacted in the Twenty-third Year of the Republic of India as follows:-* Received the Assent of the Governor on the 19th July, 1972 is hereby published for general information.

1. Short title.- This Act may be called the Gujarat Sales Tax (Amendment) Act, 1972.

2. Substitution of section 9 and 9-A in Guj. 1 of 1970.- In the Gujarat Sales Tax Act, 1969, (Guj. 1 of 1970) for section 9, the following sections shall be substituted, namely:-

"9. The stage of Levy of sales tax, general sales tax or purchase tax on declared goods.- (1) On the sale or purchase of declared goods, tax shall be levied only at one stage and that stage shall be-(a)in the case of the levy of sales tax under section 7, the stage of sale of such goods by the first dealer liable to pay such tax under this Act.(b)in the case of the levy of general sales tax under section 8, the stage of sale of such goods by the last dealer liable to pay such tax under this Act;(c)in the case of the levy of purchase tax under section 15, the stage of purchase of such goods by the first dealer liable to pay such tax under this Act;(d)in the case of levy of purchase tax under section 16, the stage of purchase of such goods by the intermediate dealer liable to pay such tax under this Act;(e)in the case of the levy of purchase tax under section 20, the stage of purchase of such goods by the first dealer liable to pay such tax under this Act where the taxable goods purchased are of the class described in clause (i) of sub-section (1) of section 20 or the stage of purchase of such goods by the intermediate dealer liable to pay such tax under this Act where the taxable goods purchased are of the class described in clause (ii) of sub-section (1) or in sub-section (2) of section 20;(f)in the case of levy of purchase tax under section 50, the stage of purchase of such goods by the first dealer liable to pay such tax under this Act(g)in the case of levy of sales tax under section 50, the stage of sale of such goods by the intermediate dealer liable to pay such tax under this Act(h)in the case if levy of general sales tax under section 50, the stage of sale of such goods by the intermediate dealer liable to

pay such tax under this Act.(2)The taxable turnover of any dealer for any period shall not include his turnover during that period of any sale or purchase of declared goods at any stage other than the stage referred to in any of the clauses (a) to (h) of sub-section (1) as may be relevant.(3)Nothing in this section shall be deemed to authorise the levy of tax in respect of the turnover of the sales or purchases of any declared goods where the dealer is not liable to pay the tax in respect of such turnover in pursuance of the provisions of section 7, 8, 15, 16, 20 or, as the case may be, 50 or any other provision of this Act.(4)If under this Act or any earlier law, any tax has been levied or is leviable on the sale or purchase of any declared goods, at any stage, then no further tax shall be levied under this Act at any subsequent stage on the sale at purchase thereof.Explanation.-(1) For the purpose of clause (a) of sub-section (1), the expression "first dealer" shall mean a dealer who-(i)purchases the concerned goods from a person other than a registered dealer and resells the goods so purchased by him, and the dealer so purchasing and reselling the said goods is the first dealer liable to pay tax, who purchase the said goods from a person other than a registered dealer, or(ii)purchases the concerned goods from a registered dealer where such purchase is not liable to tax by virtue of the provisions of section 87 and resells the goods so purchased by him, and the dealer so purchasing and reselling the goods is the first dealer liable to pay tax, who purchases the said goods from a registered dealer where such purchase is not liable to payment of tax by virtue of the provisions of section 87, or(iii)is a manufacturer of the concerned goods who sells the said goods, or(iv)is an importer of the concerned goods who sells the said goods, or(v)acquires, receives or comes in possession of the concerned goods in any manner other than by way of purchase and sells such goods.(II)For the purpose of clause (b) of sub-section (1), the expression "last dealer" shall mean a dealer who-(i)purchases the concerned goods from a person other than a registered dealer and resells the goods so purchased by him, and the dealer so purchasing and reselling the said goods is the first dealer liable to pay tax, who purchases the said goods from a person other than a registered dealer and resells them to a person other than a Licensed dealer or to a Licensed dealer who purchases the said goods otherwise than against ??? certificate under section 13; or(ii)purchases the concerned goods from it registered dealer where such purchase is not liable to tax by virtue of the provisions of section 87 and resells the goods so purchased by him, and the dealer so purchasing and reselling the said goods is the first dealer liable to pay tax, who purchases the said goods from a registered dealer where such purchase is not liable to tax by virtue of the provisions of section 87, and resells them to a person other than a Licensed dealer or to a Licensed dealer who purchases the said goods otherwise than against a certificate under section 13; or(iii)purchases the concerned goods from a registered dealer where such purchase is not governed by the provisions of section 87, and resells the goods so purchased by him, and the dealer so purchasing and reselling the said goods is the first Licensed dealer who has purchased the said goods against a certificate under section 13 and who resells the said goods to a person other than a Licensed dealer or to a Licensed dealer who purchases the said goods otherwise than against a certificate under section 13; or(iv)is a manufacturer of the concerned goods who sells the, said goods, or(v)is an importer of the concerned goods who sells the said goods; or(vi)acquires, receives or comes in possession of the concerned goods in any manner other than by way of purchase and wells such goods;(vii)In paragraphs (i), (ii) and (iii), references to a Licensed dealer shall include references to a Commission Agent, holding a permit, who purchases on behalf of a principal who is a Licensed dealer.(III)For the purposes of clauses (c), (e) and (f) of sub-section (1), the expression "first dealer" shall mean a dealer who purchases the concerned goods from a person other than a

registered dealer and does not resell the goods so purchased by him; and the dealer so purchasing the goods is the first such dealer who so purchases the said goods.(IV)For the purposes of clauses (d), (e), (g) and (h) of sub-section (1), the expression "intermediate dealer" shall mean a dealer who purchases the concerned goods under a certificate as provided in section 13 and contrary to such certificate has used the goods for another purpose or has not resold or despatched the goods in the manner and within the period certified, or, as the case may be, a dealer who sells or purchases the concerned goods in breach of any condition imposed under section 49; and the dealer so purchasing or, as the case may be, selling the said goods is the first such dealer who so purchases, or, as the case May be, sells the said goods.

9A. Validation of previous on declared goods effected at one stage only and ??? proceedings relation to such ??? etc.- Notwithstanding anything contained in this Act or in any judgment, decree, order or decision of any Court, Tribunal or other authority,-

(i)where a tax on the sale or purchase, of any declared goods levied, assessed, reassessed or collected under this Act or under any earlier law after the date of coming into force of section 15 of the Central Sales Tax Act, 1956 (Act LXX, IV of 1958) and before the date of coming into force of the Gujarat Sales Tax. (Amendment) Act, 1972 (Guj. 9 of 1972) (hereinafter in this section referred to as the specified period) had been actually levied, assessed, reassessed or collected at one stage only and that stage was the stage which is specified in section 9 as substituted by the Gujarat Sales Tax (Amendment) Act, 1972 (Guj. 9 of 1972) (hereinafter in this section referred to as the new section 9), then, the levy, assessment, reassessment or collection of the said tax and all the proceedings held and orders made for making such levy, assessment, reassessment or collection shall be deemed to be, and shall be deemed always to have been, valid as if the new section 9 had formed part of this Act, or, as the case may be, the provisions corresponding to the provisions of the new section 9 had formed part of the earlier law, at the time, when the said tax was levied, assessed, reassessed or collected or the said proceedings were held or orders were made; and such levy, assessment, ???, collection, proceedings and orders shall not be deemed to be, and shall be deemed never to have been, invalid or inconsistent with the provisions of section 15 of the Central Sales Tax Act, 1956, (Act LXX, IV of 1958) and shall not be called in question merely on the ground ??? this Act or, as the case may be, the earlier law under which the said tax was levied, assessed, ??? or ??? did not at that time specify the precise one stage at which such tax shall be levied, assessed, reassessed or collected;(ii)where a tax on the sale or purchase of any declared goods, levied, assessed, reassessed or collected under this Act or under any earlier law during the ??? period has not been levied, assessed, reassessed or collected in conformity with the provisions of the new section 9, the levy, assessment, reassessment or collection of such tax and all proceedings held and orders made relating thereto shall be reviewed and revised, after giving due notice and hearing to the dealers concerned, so as to bring them in conformity with the provisions of the new section 9, as if the new section 9 had formed part of this Act, or, as the case maybe, the provisions corresponding to the new section 9 had formed part of the earlier law, during the specified period;(iii)all proceedings instituted under this Act or under any earlier law, relating to the levy, assessment, reassessment or collection of tax on the sale or purchase of any declared goods for the specified period which may be

pending immediately before the date of the commencement of the Gujarat Sales Tax (Amendment) Act, 1972 (Guj. 9 of 1972) before any officer, authority or other person and all other matters connected with or incidental to such proceedings, in so far as such proceedings relate to the stage at which such tax shall be levied or collected, shall, if they have been instituted, held or given effect to, in conformity with the provisions contained in the new section 9 although the new section 6 or, as the case may be, the provisions corresponding to the provisions of the new section 9 were not in force at any relevant point of time during the course of such proceedings, be deemed to of and to have always been, validly instituted, held or given effect to, as if the new section 9 or, as the case may be, the provisions corresponding to the provisions of the new section 9 had formed part of this Act, or, as the case may lie, of the earlier law and had been in force at every such, relevant point of time, and all such proceedings shall lie continued accordingly after the aforesaid date under the provisions of this Act; and if any of such proceedings had not been instituted, held or given effect to in any respect before the aforesaid date in conformity with the provisions of the new section 9- such proceeding shall be reviewed, varied or revised and held and given effect to in conformity with for provisions contained in the new section 9, after giving due notice to the dealer concerned. The validity of any of such proceedings or other matters connected with or incidental to such proceedings shall not be called in question merely on the ground that the new section 9 or, as the case may be, the provisions corresponding to the provisions of the new section 9 were not in force at any relevant point of time; (iv) any proceedings relating to the levy, assessment, reassessment or collection of tax on the sale or purchase of any declared goods for the specified period which may be instituted after the date referred to in clause (iii) shall, in so far as such proceedings relate to the stage at which such tax shall be levied or collected, be held in conformity with the provisions contained in the new section 9 as if the new section 9 formed part of this Act, or as the case may be, the provisions corresponding to the new section 9 formed part of the earlier law as in force during the specified period; and the validity of such proceedings shall not be called in question merely on the ground that the new section 9 or, as the case may be, the provisions corresponding to the provisions of the new section 9 were not in force during the specified period."

3. Repeal of Guj. Ord. 1 of 1972.- The Gujarat Sales Tax (Amendment) Ordinance, 1972 (Bom. 1 of 1904) is hereby repealed and the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Ordinance were an enactment.