

Bihar Finance Act, 2015

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Rule BIHAR-FINANCE-ACT-2015 of 2015

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Bihar Finance Act, 2015(Bihar Act 9, 2015)Last Updated 28th November, 2019[Dated 06.05.2015]An Act to amend the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) The Bihar Tax On Entry of Goods Into Local Areas For Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993), and Section-4 of The Bihar Finance Act 2014 (Bihar Act 15, 2014), Which is Related to Bihar Motor Vehicle Taxation Act, 1994Be it enacted by the Legislature of the State of Bihar in the Sixty sixth year of the Republic of India as follows: -

1. Short title, extent and commencement.

(1)This Act may be called the Bihar Finance Act, 2015.(2)It shall extend to the whole of the State of Bihar.(3)It shall come in to force at once.Part-1 Amendment in the Bihar Value Added Tax Act, 2005 (Act 27 of 2005)

2. Substitution of sub Section (u) of Section 2 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) and its Validation.

(1)Sub Section (u) of Section 2 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall, with effect from the twenty third day of June, 2005, be substituted by the following, namely -'(u) "notification" means a notification published in the Official Gazette and it includes a notification uploaded on the website of the Commercial Taxes Department;'(2)Validation - The amendments made in sub-section (u) of Section 2 of the Act shall be deemed to be in force and always in force, for all purposes, validly and effectively for all material times with effect from the twenty third day of June, 2005.(3)Saving. - (i) Any assessment, collection, adjustment, reduction or computation made or any other action taken or anything done or purported to have been taken or done under the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) and notifications issued and rules made thereunder shall be deemed to be taken or done and always be taken or done, for all purposes, validly and effectively, assessed, collected, adjusted, reduced, computed or taken or done as if the said Act, as amended by this Act, had been in force at all material times and, notwithstanding anything

contained in any judgment, decree, or order or any court, or Tribunal or other Authority:-(a)no suit or other proceeding shall be maintained or continued in any Court or Tribunal or other Authority for the refund of any amount received or paid as such tax, interest or penalty;(b)no Court, Tribunal or other Authority shall enforce any decree or order directing the refund of any amount received or paid as such tax, interest or penalty;(c)recoveries may be made, in accordance with the provisions of sub-section (u) of Section 2 read with the provisions of Section 3 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), of all amounts which could have been collected as tax under the said Act by reason of amendment made in sub-section (u) of Section 2 by this Act but which had not been collected.(ii)For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

3. Amendment in Sub-Section (1) of Section 62 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).

(1)Sub Section (1) of Section 62 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) shall be substituted by the following, namely -"62. Transportation of goods through State of Bihar. - (1) If any consignment of goods is being transported by road from a place outside the State of Bihar to another such place and the vehicle carrying the consignment passes through the territory of the State, the driver or any other person in-charge of the vehicle shall obtain transit permission in the prescribed manner from the authority of the first check-post falling en route after entry into the State and shall surrender the same transit permission to the authority of the last check-post before leaving the State and in the event failure to do so within such time of leaving the first check-post falling en route, being a time not earlier than twenty four hours but not later than seventy two hours, as the Commissioner may by notification specify, it shall be deemed that goods so transported have been sold by the owner or the person in-charge of the vehicle within the State of Bihar."

4. Insertion of a new section 46A in the Bihar Value Added Tax Act, 2005 (Act 27 of 2005).

- After section 46 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the following new section 46A shall be inserted, namely:-"46A. Recovery Cell. - (1) The State Government may, by an order published in official gazette, constitute such number of recovery cells as required and it shall consist of such personnel and such number of officers and such hierarchy of supervision and control as may be specified by the State Government in the said orderProvided that if authorities appointed under sub section(1) of section 10 are specified as such they shall, without prejudice to the powers under sub section(1) of section 10, exercise the powers of an authority under section 39, section 46 and section 47 for carrying out the purposes of this Act.(2)The State Government may, by an order published in the official Gazette, vest the power of an officer in-charge of a police station under the code of the Criminal procedure, 1973, (2 of 1974) and with such other powers under different Acts, as it may consider necessary to any officer of the Recovery cell.(3)The Commissioner may, by an order published in the official Gazette, authorize an officer of the Recovery Cell to exercise the

powers of an authority appointed under section 10 in cases of the matters specified in the order.(4)The Recovery Cell shall function under the control & supervision of the Commissioner, and perform such duties as may be assigned to it by the Commissioner."

5. Amendment in section 11 of the Bihar value Added Tax Act, 2005 (Act 27 of 2005).

- Immediately after the word "section 10" in section 11 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the words and figures "or section 46A" shall be added.

6. Amendment in section 12 of the Bihar value Added Tax Act, 2005 (Act 27 of 2005).

- Immediately after the word "section 10" in sub-section (1) of section 12 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the words and figures "or section 46A" shall be added.

7. Amendment in section 46 of the Bihar value Added Tax Act, 2005 (Act 27 of 2005).

- Immediately after the words "all provisions" in sub-section (2) of section 46 of the Bihar Value Added Tax Act, 2005 (Act 27 of 2005), the words "and rules" shall be added. Part-2 Amendment in the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993).

8. Amendment in Section 2 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993).

(1)The words "the Bihar Finance Act, 1981" in clause (a) of sub-section (1) of section 2 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the words and figures "the Bihar Value Added Tax Act, 2005". (2) Clause (b) of sub-section (1) of Section 2 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the following: "(b) 'Dealer' means any person who, whether regularly or otherwise, in the course of business, buys, sells, supplies, distributes or does anything incidental to such buying, selling, supplying or distributing of goods, directly or indirectly, whether for cash, or for deferred payment or for commission, remuneration or other valuable consideration and it includes -(A) a local authority; (B) a Hindu undivided family; (C) a company, or any society (including a co-operative society), club, firm, association of persons or body of individuals, whether incorporated or not, which carries on such business; (D) a society (including a co-operative society), club, firm or association which buys goods from, or sells, supplies or distributes goods to its members; (E) an industrial, commercial, banking or trading undertaking, whether or not of the Central Government or of any of the State Governments or of a local authority; (F) a casual trader; (G) a commission agent, broker, factor, a del-credere agent, an auctioneer or any other mercantile agent, by whatever name

called, who carries on the business of buying, selling, supplying or distributing goods on behalf of the principal. Explanation I. - Every person who acts as an agent on behalf of a dealer residing outside the State of Bihar and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer as -(a) a commission agent, broker, factor, a del-credere agent, an auctioneer or any other mercantile agent, by whatever name called; or (b) an agent for handling goods or documents of title to goods; or (c) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment; or (d) a local branch of a firm or company situated outside the State, shall be deemed to be a dealer for the purpose of this Act. Explanation II. - A Government which whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purpose of this Act. Explanation III. - Every person engaged in the business of supplying or delivering Scheduled goods to any buyer or importer within the State through any System of electronic commerce or otherwise shall be deemed to be a dealer for the purpose of this Act. (3) The words "the Bihar Finance Act, 1981" in sub section (2) of section 2 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the words and figures "the Bihar Value Added Tax Act, 2005".

9. Amendment in Section 3 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993).

(1) The words and figures "the Bihar Finance Act, 1981" used in sub section (2) of section 3 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the words and figures "the Bihar Value Added Tax Act, 2005". (2) The words "twenty five thousands" used in first proviso of sub-Section (2) of Section 3 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the words "one thousand". (3) The words and figures "sub-section (3) of Section 7 of the Bihar Finance Act, 1981, reduction of his liability under the Bihar Finance Act, 1981" used in third proviso of sub section (2) of section 3 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the words and figures "Section 7 of the Bihar Value Added Tax Act, 2005, reduction of his liability under the Bihar Value Added Tax Act, 2005".

10. Substitution of section 3A of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993).

- Section 3A of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the following: "3A. Power of the state Government to amend or alter the Schedule-(1) The State Government may, by notification, amend or alter the Schedule of this Act or add anything in it." (2) Validation. - The amendments made in section 3A of the Act shall be deemed to be in force and always be in force, for all purposes, validly and effectively for all material times with effect from the twenty-ninth day of August, 2006. (3) Saving. - (i) Any assessment, collection, adjustment, reduction or computation made or any

other action taken or anything done or purported to have been taken or done under the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or sale Therein, Act, 1993 (Bihar Act 16 of 1993) and notifications issued and rules made thereunder shall be deemed to be taken or done and always be taken or done, for all purposes, validly and effectively, assessed, collected, adjusted, reduced, computed or taken or done as if the said Act, as amended by this Act, had been in force for all material times and, notwithstanding anything contained in any judgment, decree, or order of any court, or Tribunal or other Authority:-(a)no suit or other proceeding shall be maintained or continued in any Court or Tribunal or other Authority for the refund of any amount received or paid as such tax, interest or penalty;(b)no Court, Tribunal or other Authority shall enforce any decree or order directing the refund of any amount received or paid as such tax, interest or penalty;(c)recoveries may be made, in accordance with the provisions of Section 3A read with the provisions of Section 3 of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein, Act, 1993 (Bihar Act 16 of 1993), of all amounts which could have been collected as tax under the said Act by reason of amendment made in Section 3A by this Act but which had not been collected.(ii)For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

11. Insertion of a new Section 3AA in the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 (Bihar Act 16 of 1993).

- After Section 3A of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993), the following new Section 3AA shall be inserted:"3AA. Collection of tax from importers in certain cases. - (1) Notwithstanding anything contained in the Act, every person or dealer engaged in the business of delivering or supplying goods to any buyer or importer within the State who are not registered under the Act, through any System of electronic commerce or otherwise shall, at the time of or before delivery of the said Scheduled goods, recover entry tax at the prescribed rate on the said scheduled goods from the buyer or importer of the said goods.(2)No such delivery of any imported scheduled goods shall be made without recovery of entry tax to be recovered under sub section (1)(3)The power to recover tax under sub-section (1) shall be without prejudice to any other mode of recovery.(4)Any person or dealer collecting any amount under sub-section (1) shall, within the prescribed time, deposit the amount so collected into Government Treasury in the manner prescribed for deposit of tax under the Act:(5)The provisions of sub-section (3), sub-section (4), sub-Section (5) and sub- Section (6) of Section 40 of the Bihar Value added Tax Act, 2005 (Act 27 of 2005) relating to collection, deposit and liability of the person or dealer collecting such tax, discharge of liability, recovery and imposition of penalty shall, mutatis mutandis, apply to any amount collected under the provisions of sub-section (1).(6)Every person or dealer collecting tax under the provisions of this section shall, within such period as may be prescribed, furnish to the buyer a certificate to the effect that tax has been collected, and specifying the sum so collected, the rate at which the tax has been collected and such other particulars as may be prescribed.(7)Every person or dealer collecting tax under the provisions of this section shall prepare within the prescribed time after the end of each month, quarter and year and deliver or cause to be delivered to the prescribed authority such returns in such form and verified in such

manner and setting forth such particulars and within such time as may be prescribed.(8)Every person or dealer, under sub-section (1), shall maintain true and complete accounts, registers and documents, as may be prescribed, in respect of the scheduled goods handled by him and the documents of title relating thereto and shall produce the said accounts, registers and documents before the prescribed authority as and when required by him.(9)Every person or dealer responsible for collecting tax, in accordance with the provisions of this section shall apply for and obtain registration under the Act in the manner prescribed under section 5 of the Act."

12. Amendment in Section 7 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993).

- The words and figures "the Bihar Finance Act,1981(Act 5,1981)" used in sub section (4) of section 7 of the Bihar tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the words and figures "the Bihar Value Added Tax Act, 2005 (Act 27 of 2005)".

13. Substitution of Section 8 of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 (Bihar Act 16 of 1993).

- Section 8 of the Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1993 (Bihar Act 16 of 1993) shall be substituted by the following:"8. Application of the provisions of the Bihar Value added Tax Act, 2005 (Act 27 of 2005) and Rules made thereunder. - Subject to other provisions of this Act and the Rules framed thereunder, the authority empowered to scrutinize returns, audit, survey, assess, reassess, collect and enforce payment of tax, interest, fine and penalty payable by a dealer under the Bihar Value Added Tax Act, 2005 (Act 27 of 2005) may scrutinize returns, audit, survey, assess, reassess, collect and take action for payment of tax, interest, fine and penalty payable under this Act and for this purpose they may exercise all or any of the powers assigned to them under the said Act and Rule made thereunder for the time being in force including the provisions relating to returns, audit, survey, assessment, reassessment, escaped assessment, recovery of tax, scrutiny of returns, interest, fine and penalty, special mode of recovery, maintenance of accounts, inspection, search and seizure liability in representative character, tax refund, appeal, revision and reviews, statement of cases to the High Court, appeal before the High Court, compounding of offences and other miscellaneous matters, the provisions of the said Act shall mutatis mutandis apply accordingly."Part-3 Amendment In Section-4 of The Bihar Finance Act 2014(Bihar Act 15, 2014), Which is Related to Bihar Motor Vehicle Taxation Act, 1994

14. Amendment in section 4 of The Bihar Finance act 2014 (Bihar Act 15,2014).

- In section 4 of Bihar Finance Act 2014 (Bihar Act 15, 2014) '3-a (ii) and (ii)in place of shall be read as '3 - a (ii) a' and '(ii) a' respectively.