

Maharashtra Forest Development (Tax on Sale of Forest-Produce by Government or Forest Development Corporation) Act, 1983

MAHARASHTRA

India

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Act 22 of 1983

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Maharashtra Forest Development (Tax on Sale of Forest-Produce by Government or Forest Development Corporation) Act, 1983 Maharashtra Act No. 22 of 1983, MH79 For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1983, Part V, dated 24th March, 1983, at pages 176 and 177. [This Act received assent of the Governor on the 15th April 1983; assent was first published in the Maharashtra Government Gazette, Part IV, Extraordinary, on the 15th April 1983] An Act to levy and collect forest development tax on sales of forest-produce by or on behalf of the State Government or the Forest Development Corporation. Whereas both Houses of the State Legislature were not in session and the Governor of Maharashtra promulgated the Maharashtra Forest Development (Tax on sale of forest-produce by Government or Forest Development Corporation) Ordinance, 1982, on the 4th December 1982 (hereinafter referred to as "the said Ordinance"); And Whereas thereafter the State Legislature reassembled on the 13th December 1982; And Whereas the Maharashtra Forest Development (Tax "on sale of forest produce by Government or Forest Development Corporation) Bill, 1982 (L. A. Bill No. LVIII of 1982), for converting the said Ordinance, with certain modifications, into an Act of the Legislature, was introduced in the Maharashtra Legislative Assembly on the 16th December 1982, but was not passed in that session, which was prorogued on the 24th December 1982; And Whereas when the State Legislature had reassembled on the 13th December 1982 and the said Ordinance had not been replaced by an Act of the State Legislature, the said Ordinance would have ceased to operate after the 23rd January 1983; And Whereas both Houses of the State Legislature were not in session then, and the Governor of Maharashtra was satisfied that circumstances still existed which rendered it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance, with the modifications proposed to be made by L. A. Bill No. LVIII of 1982 referred to

above; and, therefore, promulgated the Maharashtra Forest Development (Tax on sale of forest-produce by Government or Forest Development Corporation) (Continuance) Ordinance, 1983, on the 17th January 1983; And Whereas it is expedient to replace the Maharashtra Forest Development (Tax on sale of forest-produce by Government or Forest Development Corporation) (Continuance) Ordinance, 1983, by an Act of the State Legislature; it is hereby enacted in the Thirty-fourth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1) This Act may be called the Maharashtra Forest Development (Tax on sale of forest-produce by Government or Forest Development Corporation) [***] [The word '(Continuance)' was deleted by Maharashtra 32 of 2001, Section 2 (w.e.f. 22-6-2001).] Act, 1983. (2) It extends to the whole of the State of Maharashtra. (3) It shall be deemed to have come into force on the 7th December, 1982.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a) "Appellate Authority" where the Recovery Officer is the Forest Officer or the officer of the Forest Development Corporation, means the officer of the Forest Department or of the Forest Development Corporation, as the case may be, immediately superior to the Recovery Officer, and where the Recovery Officer is the officer of a co-operative society, means the Divisional Forest Officer, or the Sub-Divisional Forest Officer in-charge of an independent Forest Sub-Division, as the case may be, within whose territorial jurisdiction the sale takes place. If any question arises as to who is the Appellate Authority, in respect of any sale, the same shall be referred to and decided by the Chief Conservator of Forests and his decision shall be final; (b) "co-operative society" means a co-operative society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960; (c) "Forest Development Corporation" means the Forest Development Corporation of Maharashtra Limited, being a private company within the meaning of the Companies Act, 1956, and having its registered office in Nagpur in the State of Maharashtra; (d) "forest-produce" means forest-produce as defined in the Indian Forest Act, 1927, in its application to the State of Maharashtra; (e) "Recovery Officer", in relation to any sale of forest-produce, means the Forest Officer, or the officer of the Forest Development Corporation, or the officer of co-operative society, as the case may be, by whom the sale is effected, and if any question arises as to who is the Recovery Officer in respect of the sale, the same shall be referred to and decided by the Chief Conservator of Forests and his decision shall be final; (f) "sale" or "sale" of forest-produce" means any sale of forest-produce by or on behalf of the State Government or the Forest Development Corporation, for cash or deferred payment or other valuable consideration, whether described as sale price, purchase price or royalty, and includes any such sale of forest-produce by a co-operative society on behalf of the State Government or the Forest Development Corporation; (g) "sale price" means the amount of valuable consideration, whether described as sale price, purchase price or royalty, paid or payable by any purchaser for sale of any forest-produce to him; and the words "sell" and "purchase" with all their grammatical variations and cognate expressions, shall be construed accordingly; (h) "tax" means the forest development tax on the sale of any forest-produce by or on behalf of the State Government or the Forest Development Corporation levied and collected under this Act; (i) words and expressions used in this Act, but not

defined herein, shall have the meanings assigned to them in the Indian Forest Act, 1927, in its application to the State of Maharashtra or in the Maharashtra Co-operative Societies Act, 1960, as the case may require.

3. Levy and collection of tax.

(1)Subject to the provisions of the Act, on and after the 7th December; 1982 there shall be levied and collected by the State Government the tax on every sale of forest-produce from the purchaser, at the rate of [twelve per cent] [These words were substituted for the words 'ten per cent' by Man. 32 of 2001, Section 3.] of the sale price of such produce sold to him.(2)Notwithstanding anything contained in sub-section (1), where any sale is effected before the 7th December 1982, and under the terms and conditions of such sale, the whole or any part of the sale price is payable on or after the said date, no tax under this Act shall be levied and collected on the whole or part of the sale price so payable.(3)It is hereby declared that the tax levied and payable under this Act shall be in addition to, and not in lieu of any tax levied and payable in respect of the sale or purchase of the same forest-produce under the Bombay Sales Tax Act, 1959, or any other law for the time being in force.

4. Recovery of tax through Recovery Officer.

- The amount of tax leviable under section 3 on the sale of any forest-produce shall be collected by the Recovery Officer effecting the sale from the purchaser along with the sale price:Provided that, where the sale price is payable in two or more instalments, the amount of tax shall also be recovered in instalments, in proportion to, and along with, the instalments of the sale price.

5. Appeal against amount of tax.

(1)Any person aggrieved by an order made by the Recovery Officer determining the amount of tax due from him or aggrieved by any other order made by the Recovery Officer, may, within thirty days from the date of receipt of intimation of any such order; appeal to the Appellate Authority. The Appellate Authority, on receipt of any such appeal, shall give a reasonable opportunity of being heard to the appellant and decide the matter.(2)Any order made by the Recovery Officer, subject to the appeal to the Appellate Authority, and the decision of the Appellate Authority on any such appeal, shall be final.

6. Utilisation of proceeds of tax.

- The proceeds of the tax levied and collected under this Act shall first be credited to the Consolidated Fund of the State, and thereafter; after deducting from the proceeds such sum as the State Government may determine as expense of collection, the remaining amount shall, under appropriation duly made by law in this behalf, be placed at the disposal of the Forest Department each year as additional budgetary resources to be expended only for forest plantations or other ancillary purposes connected with forest development programmes and for the welfare of the people dwelling in the forests and the weaker sections of the people dependent on forest-produce for their

livelihood.

7. Exemptions from payment of tax.

- Subject to such conditions (if any) as it may impose, the State Government may, if it is necessary so to do in the public interest, by notification in the Official Gazette, exempt any specified class of sales from payment of the whole or any part of the tax payable under this Act, and such exemption shall take effect from the date of publication of the notification in the Official Gazette, or such other date as may be specified therein.

8. Recovery of arrears of tax as arrears of land revenue.

- All arrears of tax due under this Act shall be recoverable by the Collector as arrears of land revenue.

9. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government or any officer of the State Government or the Forest Development Corporation or any co-operative society for anything which is in good faith done or intended to be done under this Act.

10. Power to make rules.

(1) Subject to the condition of previous publication, the State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session, for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

11. Sales by co-operative societies from 7th December, 1982 to 16th January, 1983.

(1) For the removal of doubt, it is hereby declared that sales of any forest-produce by any co-operative society on behalf of the State Government or the Forest Development Corporation during the period from the 7th December, 1982 to the 16th January, 1983 (both inclusive) are also liable to tax under this Act, and any amounts of tax recovered for such sales shall be deemed to have been validly levied and collected. If any amount of tax for any such sale remains to be recovered on the 7th January, 1983 (hereinafter in this section referred to as "the said date"), the purchaser shall

pay to the officer who effected the sale such amount within a period of thirty days from the said date.(2)Any person, who is aggrieved by any recovery of tax for sales referred to in sub-section (1), may within thirty days from the said date or from the date of recovery, whichever is later, appeal to the Appellate Authority, and the provisions of section 5 shall, so far as may be, apply to any such appeal.

12. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order, do anything, which appears to it to be necessary or expedient to remove the difficulty:Provided that, no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

13. Repeal of Maharashtra Order III of 1983 and saving.

(1)The Maharashtra Forest Development (Tax on sale of forest-produce by Government or Forest Development Corporation) (Continuance) Ordinance 1983, is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the said Ordinance shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.