

The Punjab Value Added Tax (Second Amendment) Act, 2013

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Act 38 of 2013

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The Punjab Value Added Tax (Second Amendment) Act, 2013(Punjab Act No. 38 of 2013)[Dated 29th June, 2016]Ministry of Home AffairsG.S.R. 636(E). - In exercise of the powers conferred by section 87 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Central Government hereby extends to the Union territory of Chandigarh, the Punjab Value Added Tax (Second Amendment) Act, 2013, (Punjab Act No.38 of 2013), as in force in the State of Punjab on the date of publication of this notification, subject to the following modifications, namely:-Modifications

1. In section 1,-

(a)in sub-section (1), after the words, brackets and figures "the Punjab Value Added Tax (Second Amendment) Act, 2013", the words "as extended to the Union territory of Chandigarh" shall be inserted ;(b)in sub-section (2), the proviso shall be omitted.

2. In section 2, after the words, figures and brackets "the Punjab Value Added Tax Act, 2005", the words "as extended to the Union territory of Chandigarh" shall be inserted.

3. Section 3 shall be omitted.

4. In section 4,-

(a)in the new section 8-C, as so inserted, for the words "State Government", whenever they occur, the word "Administrator" shall be substituted;(b)new sections 8D and 8E, as so inserted, shall be omitted.

5. In section 5, clause (ii) shall be omitted.

6. Section 7 shall be omitted.

7. Section 10 shall be omitted.

1. Short title and commencement.

(1) This Act may be called the Punjab Value Added Tax (Second Amendment) Act, 2013. (2) It shall come into force at once. Provided that amendment of sub-section (1) of section 13 shall come into force on and with effect from the 1st day of April, 2014 and omission of sub-section (1-A) of section 13 shall be deemed to have come into force on and with effect from the 4th day of October, 2013.

2. Amendment of section 4 of Punjab Act 8 of 2005.

- In the Punjab Value Added Tax Act, 2005 (hereinafter referred to as the principal Act), in section 4, for sub-section (2), the following sub-section shall be substituted, namely:-(2) The Tribunal may consist of Chairman and three other members to be appointed by the State Government from time to time."

3. Amendment in section 6 of Punjab Act 8 of 2005.

- In the principal Act, in section 6, for sub-section (7), the following sub-section shall be substituted, namely:-(7) (a) Notwithstanding anything contained in this Act or the rules made thereunder, the State Government may by notification specify the goods on which a taxable person shall pay tax in advance at the rates notified by the Government but not exceeding the rates including surcharge applicable on such goods under this Act, when he imports such goods into the State subject to such conditions, as the State Government may specify in the notification. The aforesaid payment of tax in advance shall be counted towards the final tax liability of the taxable person: Provided that the State Government may by notification exempt any taxable person or class of taxable persons from payment of tax in advance or reduce the rate of payment of tax in advance subject to such conditions, as may be notified: Provided further that if on an application made by a taxable person, the Commissioner or an officer authorized by him, after verifying all aspects of the case, arrives at a decision that such taxable person should be exempted from payment of tax in advance or that the rate of payment of tax in advance should be reduced for such taxable person, he may do so and impose such terms and conditions on such taxable person as he may deem fit. Explanation. - The taxable person, who imports goods into the State, shall pay tax in advance, on the presumption that such goods are meant for the purposes of sale or for use in manufacture or processing of goods meant for sale, unless, it is proved otherwise by such taxable person. It is further presumed, unless, it is proved otherwise by such taxable person, that such goods or any product manufactured therefrom, shall not be sold below the price at which such goods have been purchased and imported in the State. (b) The tax already paid in advance under the provisions of sub-section (7) of section 6 as it existed prior to commencement of the Punjab Value Added Tax (Second Amendment) Act, 2013,

shall be deemed to have been paid tax in advance under the provisions of clause (a)".

4. Insertion of new sections 8-C, 8-D and 8-E in Punjab Act 8 of 2005.

- In the principal Act, after section 8-B, the following sections shall be inserted, namely:-"8C. Tax on maximum retail price. - (1) Notwithstanding anything contained in this Act, the State Government, if satisfied that it is necessary or expedient so to do in public interest, may, by notification in the Official Gazette, direct that, in respect of any goods or class of goods covered under the Standards of Weights and Measures (Packaged Commodities) Rules, 1977, a taxable person who is a manufacturer or a first importer of goods, may, at his option, pay tax on the basis of Maximum Retail Price (MRP) as printed upon such goods subject to such conditions as the State Government may specify in the notification.(2)A taxable person, who opts to pay tax as provided under sub-section (1), shall pay tax at the rate as notified by the State Government on the value of Maximum Retail Price (MRP) by issuing an invoice showing value of goods and tax separately, as Maximum Retail Price (MRP) printed would be inclusive of the tax payable. For the purpose of computing tax liability, such a taxable person shall not be entitled to claim any deduction on account of any trade discount or incentive in terms of quantity or cash discount that he may have given to the purchaser.(3)The taxable person, who has opted under sub-section (1), shall be at liberty to cancel his option by making an application to the designated officer, in such form and subject to such conditions as the State Government may specify in the notification.(4)All subsequent taxable persons, purchasing goods on which tax on the basis of Maximum Retail Price (MRP) as provided under sub-section (1) has already been paid, shall be exempted from payment of tax on the sale of such goods, subject to such conditions as the State Government may specify in the notification.

8D. Power to grant tax incentives to certain class of Industries. -

Notwithstanding anything contained in this Act, the State Government may, if satisfied that it is necessary or expedient so to do in the interest of Industrial development of the State, grant tax incentives to such class of Industries for such period and subject to such conditions, as may be prescribed, in the case of Industries, which came into production for the first time, as and when notified in the Industrial Policy framed by the Department of Industries.

8E. Retention of tax collected. - Notwithstanding anything contained in the Act, the State Government, may, if satisfied that it is necessary or expedient so to do in the interest of Industrial development of the State, allow retention of tax collected to such class of Industries subject to such conditions, as may be prescribed."

5. Amendment in section 13 of Punjab Act 8 of 2005.

- In the principal Act, in section 13,-(i)in sub-section (1), for the first proviso, the following proviso

shall be substituted, namely:-"Provided that the input tax shall not be available as input tax credit unless such goods are sold within the State or in the course of inter-State trade or commerce or in the course of export or are used in the manufacture, processing or packing of taxable goods for sale within the State or in the course of inter-State trade or commerce or in the course of export."(ii)sub-section (1-4) shall be omitted;(iii)for sub-section (9), the following sub-section shall be substituted, namely:-"(9) A person shall reverse input tax credit availed by him on goods which remained in stock at the time of closure of the business."; and(iv)for sub-section (12), the following sub-section shall be substituted, namely:-"12) Save as otherwise provided hereinafter, input tax credit shall be claimed only against the original VAT invoice and will be claimed during the period in which such invoice is received. The input tax shall be utilized in accordance with the conditions mentioned in this section, but in no case the amount of input tax credit on any purchase of goods shall exceed the amount of tax, in respect of the same goods or goods used in manufacture of same goods, actually paid, if any, under this Act, into the Government treasury."

6. Amendment in section 29 of Punjab Act 8 of 2005.

- In the principal Act, in section 29.-(i)for sub-section (4), the following sub-section shall be substituted, namely:-"4) An assessment under sub-section (2) or sub-section (3), may be made within a period of six years after the date when the annual statement was filed or due to be filed, whichever is later:Provided that the assessment under sub-section (2) or sub-section (3), in respect of which annual statement for the assessment year 2006-07 has already been filed, can be made till the 20th day of November, 2014.Explanations: (1) The limitation period of six years for an assessment under sub-section (2) or sub-section (3), shall also apply to those cases in which the aforesaid period of six years has yet not expired.(2)It is clarified that prior to commencement of the Punjab Value Added Tax (Second Amendment) Act, 2013, the Commissioner was not required to issue any notice to the concerned person before extending the limitation period of assessment."; and(ii)after sub-section (10), the following sub-section shall be inserted, namely:-"(10-A) Notwithstanding anything to the contrary contained in any judgment, decree or order of any court, tribunal or other authority, an order passed by the Commissioner under sub-section (4) prior to commencement of the Punjab Value Added Tax (Second Amendment) Act, 2013, shall not be invalid on the ground of prior service of notice or communication of such order to the concerned person."

7. Insertion of new section 39-A in Punjab Act 8 of 2005.

- In the principal Act, after section 39, the following new section shall be inserted, namely:-"39A. Punjab VAT Refund Fund. - (1) There shall be constituted a fund to be called the Punjab VAT Refund Fund, which shall be maintained and operated by the Department of Excise and Taxation in such manner, as may be prescribed.(2)The amount collected on account of advance tax under sub-section (7) of section 6, shall directly be credited into the Punjab VAT Refund Fund.(3)After allowing refund claims from the Fund, the balance amount in the Fund, shall be deposited in the Consolidated Fund of the State, as may be prescribed."

8. Insertion of new section 45-A in Punjab Act 8 of 2005.

- In the principal Act, after section 46, the following new section shall be inserted, namely:-"46A. Power to purchase under priced goods. - (1) Where a designated officer has, for the purpose of any of proceeding under this Act, reasons to believe that any of the goods as notified by the State Government whether in stock or in transit, are underpriced as shown in a document or book of account produced before him, he may, with the prior approval of the Commissioner or such other officer, as the Commissioner may, in writing, authorize for the purpose, make an offer to purchase such goods at the price shown in the document or book of account, increased by ten per cent plus freight and other expenses, if any, incurred by the owner in relation to the goods.(2)If the owner of the goods accepts the offer, as provided under sub-section (1), he shall make delivery of the goods on a date, time and at such place, as specified by the officer making the offer and shall be paid the offered price with other expenses within a period of ten days of the delivery of the goods, but, if he rejects the offer, or after accepting the offer fails to deliver the goods on the specified date, time and at the specified place, it shall be construed as a conclusive proof that the owner has underpriced the goods and the price of the goods as determined by the designated officer to the best of his judgment shall be considered as the actual price of such goods.(3)The goods purchased under sub-section (2), shall be sold by public auction in the manner, as may be prescribed, as early as possible, but, if the goods are of a perishable nature or subject to speedy and natural decay or are such as may, if held, lose their value or when the expenses of keeping them are likely to exceed their value, then, such goods shall be immediately sold or otherwise disposed of in the manner, as may be prescribed. The sale proceeds of the goods or the amount obtained by disposal of the goods shall be deposited in the Government treasury."

9. Amendment in section 51 of Punjab Act 8 of 2005.

- In the principal Act, in section 51, -(i)in sub-section (6), for clause (b), the following clause shall be substituted, namely:-"(b) If the owner or the person Incharge of the goods has not submitted the documents as mentioned in sub-sections (2) and (4) or has not submitted the information, as specified in the rules at the nearest check post or information collection Centre, in the State, as the case may be, on his entry into or before exit from the State, such goods shall be detained along with the vehicle for a period not exceeding seventy two hours subject to orders under clause (c) of sub-section (7).Note: - (1) "Person in-charge of the goods" shall include carrier of goods or agent of a transport company or booking agency or any other bailee for transportation and in-charge or owner of a bonded warehouse or of any other warehouse.(2)"information collection Centre" shall include Virtual information collection Centre."; and(ii)after sub-section (12), the following sub-section shall be inserted, namely:-"(12A) Where a goods vehicle is found transporting the goods on an escape route and a penalty exceeding rupees two lacs has been imposed upon the owner of the goods under clause (c) of sub-section (7) and if the officer imposing the penalty is satisfied that the owner of the goods vehicle or the transporter is also involved in committing the aforesaid offence, then the owner of the goods vehicle or the transporter, as the case may be, shall also be liable to pay a penalty of rupees twenty five thousands for the first time of occurrence of such an offence and if the same vehicle is again found to be involved in such like an offence and a penalty exceeding rupees two lacs is again imposed, then such officer shall order the confiscated, shall be sold by public auction in the

prescribed manner. Note. - "An 'escape route' shall mean the route on the way of which no Information Collection Centre is located."

10. Amendment in section 56 of Punjab Act 8 of 2005.

- In the principal Act, in section 56, in the last line, for the sign ".", the sign "." shall be substituted and thereafter, the following proviso shall be added, namely: - "Provided that in case a person, who has availed of a refund under a star rating/fast track refund scheme, as may be prescribed, is subsequently found to have willfully or fraudulently claimed refund which was not due to him, he shall be liable to pay penalty subject to the maximum of five times the refund amount so claimed, as may be prescribed by State Government, in addition to the payment of refund amount so claimed and interest payable thereon."

11. Amendment in section 66 of Punjab Act 8 of 2005.

- In the principal Act, in section 66, for sub-section (2), the following sub-section shall be substituted, namely: - "(2) The Tribunal may suo-moto or on a reference from the affected person of the Commissioner or any other officer so authorized by the Commissioner may, consider rectification of a mistake or an error apparent from the record in an order within a period, of five years from the date of passing of such order; Provided that on such rectification shall be made, if it has the effect of enhancing the tax or reducing the amount of refund without affording an opportunity of being heard to the affected person. Explanation: Error apparent from the record in an order shall include an order that has become erroneous as a result of amendment of this Act."