

THE CONSTITUTION (EIGHTY-EIGHTH AMENDMENT) ACT, 2003

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[15th January, 2004.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:-

1. Short title and commencement. - (1) This Act may be called the Constitution (Eighty-eighth Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new article 268A. - After article 268 of the Constitution, the following article shall be inserted, namely:-

Service tax levied by Union and collected and appropriated by the Union and the States.

"268A. Service tax levied by Union and collected and appropriated by the Union and the States.-(1) Taxes on services shall be levied by the Government of India and such tax shall be collected and appropriated by the Government of India and the States in the manner provided in clause (2).

(2) The proceeds in any financial year of any such tax levied in accordance with the provisions of clause (1) shall be-

(a) collected by the Government of India and the States;

(b) appropriated by the Government of India and the States,

in accordance with such principles of collection and appropriation as may be formulated by Parliament by law."

3. Amendment of article 270. - In article 270 of the Constitution, in clause (1), for the words and figures "articles 268 and 269", the words, figures and letter "articles 268, 268A and 269" shall be substituted.

4. Amendment of Seventh Schedule. - In the Seventh Schedule to the Constitution, in List I-Union List, after entry 92B, the following entry shall be inserted, namely:-
"92C. Taxes on services."

T.K. VISWANATHAN,

Secy. to the Govt. of India.

STATEMENT OF OBJECTS AND REASONS

At present, the item relating to "taxes on services" is not specifically mentioned in any entry either in the Union List or in the State List of the Seventh Schedule of the Constitution. Parliament has the exclusive power to make laws with respect to entry 97 of the Union List for any other matters not enumerated in List II or List III including any tax not mentioned in either of those Lists. In exercise of this power, the Central Government has periodically taxes certain services at the rate of five per cent. ad valorem.

2. The States have taken a unanimous decision to replace their existing sales tax system with the system of Value Added Tax (VAT) from the 1st April, 2003. In this context, with a view to widening their tax base, the States have suggested that they should be enabled to collect and appropriate tax on services.

3. The "service" sector accounted for 48.5% of the country's Gross Domestic Product (GDP) in the financial year 2000-2001. The role of this sector in the economy is quite significant. Expert Committees set up by the Central Government have repeatedly recommended taxation of services. On the basis of the deliberations between the State Governments and the Central Government and in view of the recommendations of various Expert Committees, it is proposed to suitably amend the Constitution to provide, (i) tax on services as a specific entry in the Union List, (ii) insertion of a new article, namely, article 268A and (iii) consequential amendment to article 270, to enable Parliament to formulate by law principles for determining the modalities of levying the said tax by the Central Government and collection of the proceeds thereof by the Central Government and the States.

4. The proposed amendment would help in significant augmentation of revenues of the States in accordance with the proposed law, and pave the way for eventual inclusion of services within the purview of State level VAT.

5. The Bill seeks to achieve the above objects.

JASWANT SINGH.

New Delhi:

The 11th February, 2003.