



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA VALUE ADDED TAX (THIRD
AMENDMENT) BILL, 2008**

(Bill No. 11 of 2008)

^{AS}
(~~To be~~ introduced in the Legislative Assembly of the State of Goa)

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
MARCH, 2008.**

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AMENDMENT) BILL, 2008.**

(Bill No. 11 of 2008)

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BILL

*further to amend the Goa Value Added Tax
Act, 2005 (Goa Act 9 of 2005).*

5 BE it enacted by the Legislative Assembly of
Goa in the Fifty-~~eight~~^{ninth} Year of the Republic of
India as follows:-

10 **1. Short title and commencement .-** (1) This Act
may be called the Goa Value Added Tax
(Third Amendment) Act, 2008.

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

15 **2. Amendment of section 6 .-** In section 6 of the
Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005)
(hereinafter referred to as the "principal Act"),
for sub-section (3), the following sub-section shall
be substituted, namely:-

20 **" (3) In respect of any goods other than
capital goods and such other goods as
specified in Schedule 'G' appended to this
Act, or in sub-section (2) of section 9, used in
the manufacturing or processing of finished
products dispatched other than by way of
25 sales, the Government may, notwithstanding**

anything contained in section 9, by notification, allow input tax credit in excess of the rate of tax specified in sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) on such goods purchased within the State subject to such terms and conditions as may be specified in the notification." 5

3. Amendment of Section 9 .- In section 9 of the principal Act,- (i) in sub-section (2), - 10

(a) in clause (vi), for the words " in respect of capital goods", the words

" in respect of capital goods or capital assets" shall be substituted; 15

(b) after clause (xi) the following clauses shall be inserted, namely:-

" (xii) ice cream, alcoholic beverages including beer and wine and non-alcoholic beverages including packed juices, aerated water and soft drinks served in party, factory or industrial canteens, clubs, or served by caterer, for consumption at any place other than hotel/restaurant; 20

(xiii) condemned vehicles". 25

(ii) in sub-section (6), for the existing proviso, the following proviso shall be substituted, namely:-

" Provided that in respect of finished products dispatched by way other than sales, the input tax credit on goods other than those covered by 30

Schedule 'G' and capital goods shall be to the extent it exceeds the rate specified under sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) ". 5

4. Amendment of section 55 .- In section 55 of the principal Act, in sub-section (1), for the word and figures "Rs.500/-", the word and figures "Rs.1000/-" shall be substituted.

5. Amendment of section 70 .- In section 70 of the principal Act,- (i) for sub-section (1) the following sub-section shall be substituted, namely:- 10

" (1) Every dealer liable to pay tax shall, if his gross turnover of sales exceeds rupees one crore in any year, or in any other case, if the amount of input tax credit claimed by him in any year exceeds rupees ten lacs, get his accounts in respect of such year audited by an accountant by such date and in such manner as may be prescribed and furnish within the prescribed period the report of such audit in the prescribed form duly verified and signed by such accountant and setting forth such particulars and certificates as may be prescribed ", 15 20 25

(ii) for sub-section (3), the following sub-section shall be substituted, namely :-

"(3) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the period prescribed, the Commissioner shall, impose on him, in addition to any tax payable, a 30

penalty of rupees one thousand plus rupees one hundred per day during the first sixty days of default and rupees two hundred fifty per day thereafter, subject to a maximum of rupees one lac cumulatively. ”,

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(iii) after sub-section (3), the following sub-section shall be inserted, namely :-

“ (4) Notwithstanding anything contained in sub-section (3), the Commissioner, upon an application from the dealer and subject to such rules as may be prescribed, remit the whole or any part of the penalty imposed on such defaulting dealer ”.

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STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend sub-section (3) of section 6 of the Goa Value Added Tax Act, 2005 (Act 9 of 2005), so as to allow refund of input tax credit in excess of the rate of tax payable by any registered dealer under interstate trade. The existing provision of said sub-section (3) allows refund in excess of 4%. The Central Sales Tax is being phased out by reduction of 1% every year from April, 2007, and, therefore the necessary amendments are required to be made to bring it at par with Central Sales Tax rates.

The Bill seeks to amend sub-section (2) of section 9 of the said Act so as to make it more effective and restrict evasion of tax.

The Bill seeks to amend sub-section (6) of section 9 of the said Act in view of amendment to sub-section (3) of section 6.

The Bill seeks to amend sub-section (1) of section 55 of the said Act so as to enhance the penalty for failing to file return from existing Rs. 500/- to Rs.1000/-. Besides, the rate of interest for belated payment or non-payment of tax is proposed to be brought at par with the rate provided in sub-section (4) of section 25.

The Bill also seeks to amend sub-section (1) of section 70 of the said Act, so as to empower the Government to lay manner in which accounts of dealer are to be audited.

Sub-section (3) of section 70 is proposed to be amended so as to specify the penalty to be imposed for failing to get accounts audited.

The Bill seeks to insert of new sub-section (4) in section 70 of the said Act so as to enable the Commissioner to consider applications for remission of penalty imposed.

The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

No financial implication are involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 1(2) of the Bill empowers the Government to appoint a date for bringing into force the Act, by Notification in the Official Gazette.

Clause 2 of the Bill empowers the Government to issue notification for allowing input tax credit at the rate as specified therein

Clause 5 of the Bill empowers the Government to frame rules specifying the manner in which accounts to be audited.

Assembly Hall,
Porvorim, Goa
14th March, 2008.

D.G. NARVEKAR
Hon. Finance Minister

Assembly Hall,
Porvorim, Goa,
14th March, 2008.

R. KOTHANDARAMAN
Secretary to the Legislative
Assembly of Goa

Governor's Recommendation under Article 207 of the Constitution.

In pursuance of Article 207 of the Constitution of India, I S.C. Jamir, the Governor of Goa, hereby recommends to the Legislative Assembly of Goa, the introduction and consideration of the Goa Value Added Tax (Third Amendment) Bill, 2008.

Extract of the Goa Value Added Tax Act, 2005
(Goa Act 9 of 2005)

6. REIMBURSEMENT AND EXEMPTION OF TAX -

(1) Tax collected under this Act on purchases made by specialized agencies of United Nations Organizations or Diplomatic Mission/Consulates or Embassies of any other country and their diplomats shall be reimbursed in such manner and subject to such conditions as may be prescribed.

(2) In respect of any goods not entitled for input tax credit and covered by Schedule 'C' appended hereto purchased within the State on payment of tax under this Act, the Government may subject to such conditions as it may impose, by Notification exempt subsequent sales thereof from payment of output tax for such period as may be notified.

(3) In respect of any goods other than capital goods, used in the manufacturing or processing of finished products dispatched other than by way of sales, the Government may, notwithstanding anything contained in section 9, by Notification allow input tax credit in excess of 4% on such goods purchased within the State subject to such terms and conditions as may be specified in the Notification.

9. INPUT TAX CREDIT -

(1) Subject to such conditions and restrictions as may be prescribed Input Tax Credit either partially or wholly shall be allowed for the tax paid during the tax period in respect of goods including capital goods purchased and/or taken on hire or leased to him within Goa, other than those specified in Schedule 'G' and/or such other goods as may be notified from time to time by the Government, provided, the goods purchased are for sale in Goa or for

sale in course of Inter State trade or in course of export outside the territory of India or used by him as raw materials/capital goods in the manufacture or processing of taxable goods in Goa or for sale by transfer of right to use.

(2) No input tax credit under sub-section (1) shall be claimed or be allowed to a registered dealer:-

(i) in respect of goods purchased on payment of tax if such goods are not sold because of theft or destruction for any reason;

(ii) in respect of stock of goods remaining unsold at the time of closure of business;

(iii) in respect of any taxable goods under the Act purchased by him from another registered dealer for resale but given away by way of free samples or gifts;

(iv) in respect of capital goods/industrial Inputs and packing materials, covered under Schedule 'B' of the Act, if said goods are utilized for the purposes other than those covered in the prescribed declaration;

(v) in respect of goods purchased from a dealer who has opted for composition of tax under sub-section (1) of section 7;

(vi) in respect of capital goods:-

(a) purchased or paid prior to appointed day;

(b) capital expenditure incurred prior to The date of registration under this Act;

(c) capital goods not connected with the business of the dealer;

(d) capital goods used in the manufacture of goods or providing services which are not liable to tax under this Act;

(e) capital goods used in generation of energy/power including captive power;

(f) motor cars, its accessories and spare parts.

(vii) in respect of taxable goods sold within the State or in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), exempted from payment of tax under any specific notification issued under this Act or under the said Central Sales Tax Act, 1956;

(viii) in respect of goods used in the manufacture or processing of finished goods dispatched other than by way of sales outside the State;

(ix) in respect of purchase of motor vehicle including car, three wheeler and two wheeler under this Act or tax paid under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on import of such motor vehicle before grant of registration mark under the Motor Vehicles Act, 1988 (Central Act 58 of 1988), when such vehicle is resold as true value vehicle or otherwise by a registered dealer under this Act;

(x) in respect of raw material used in the manufacture of ready mixed concrete;

(xi) in respect of Naphta used as raw material by chemical fertilizer industry.

(3) If goods purchased are intended for use specified under sub section (1) and are subsequently used fully or partly, for purposes other than those

specified under the said sub-section, or loss of goods arising out of theft or destruction for any reason or the stock of goods remaining unsold at the time of closure of business, the input tax credit availed at the time of such purchase shall be reduced from the tax credit for the period during which the said utilization has taken place provided that if part of the goods purchased are utilized otherwise, the amount of reverse tax credit shall be proportionately calculated.

(4) Input tax credit shall be allowed to the registered dealer, subject to restrictions of sub-section (2), in respect of tax charged to him by a registered seller on taxable sales of goods made to him for the purpose of the business within three months prior to the date of his registration provided that no input tax credit shall be allowed in respect of goods which have been sold or otherwise disposed of prior to the date of registration.

(5) (a) where a registered dealer has availed of the input credit on any goods and the same goods are not used in the course of his business, input tax credit so availed becomes repayable in the tax period following the date on which these goods were put to such other use;

(b) where such goods were wholly or mainly used or are intended for use in sale of taxable goods prior to change of use, tax shall be calculated on the prevailing market value of such goods at the time of change of use.

(6) A registered dealer shall be eligible for input tax credit in respect of entry tax paid by him under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on goods other than those covered by Schedule 'G' and capital goods, brought by him in the local area for use or consumption in the manufacture or processing of goods within the State:

Provided that in respect of finished products dispatched by way other than sales, the input tax credit on goods other than those covered by Schedule 'G' and capital goods shall be to the extent it exceeds 4%.

(7) Balance unclaimed input tax credit of capital goods shall not be allowed in case of closure of business.

(8) The registered dealer shall be eligible for input tax credit on stock held on the appointed day, towards the tax paid under the earlier law subject to such conditions as may be prescribed. The period and the date from which such input tax credit is to be apportioned shall be as notified.

(9) The deduction of input tax credit on capital goods under this section shall be allowed in two equal annual instalments after the close of the respective year as under:

(i) in case of existing units, upon installation of such capital goods, and

(ii) in case of new units, upon commencement of commercial production.

55. PENALTY FOR FAILURE TO FILE RETURN -

(1) A person who fails to file a return within the time required under this Act is liable for penalty of Rs.500/- plus an amount equal to simple interest @ 15% per annum or such higher/lower rate as the Government may notify from time to time on the tax payable for the return period.

(2) Any registered dealer covered under Schedule 'E' appended to this Act, fails to file a return within the time required under this Act, he shall be liable for penalty of Rs.1000/- per quarter plus an amount equal to simple interest at the rate of 2% per month on the tax payable for the return period.

70. ACCOUNTS TO BE AUDITED IN CERTAIN CASES-

(1) Every dealer liable to pay tax shall, if his gross turnover of sales exceed rupees one crore in any year, or in any other case, if the amount of Input Tax Credit claimed by him in any year exceeds rupees 10 lakhs, get his accounts in respect of such year audited by an accountant within nine months from the end of that year and furnish within that period the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars and certificates as may be prescribed.

(2) For the purposes of this section, "Accountant" means a Chartered Accountant within the meaning of Chartered Accountants Act, 1949 (Central Act 38 of 1949).

(3) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the time as aforesaid the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, penalty of rupees one thousand plus rupees hundred per day during the first thirty days of default and rupees two hundred fifty per day thereafter, subject to a maximum of rupees one lakh cumulatively.

Extract of the Goa Value Added Tax Act, (First Amendment) 2005 (Goa Act 15 of 2005)

3. Amendment of section 7.- In section 7 of the principal Act, -

(i) in sub-section (1), -

(a) after the words " to pay tax under" and before the word and figure "section 3", the words and figures "sub-sections (1), (2) and (3) of" shall be inserted;

(b) the following proviso shall be inserted, namely:-

"Provided that any dealer of the class specified in Schedule 'E' who is liable to pay tax under sub-sections (2) and (3) of section 3, may, at any time during the year, by making self declaration that his turnover of sales during the said year will not exceed the limit specified in the said Schedule 'E', apply for composition of tax under this section";

(ii) after sub-section (1), the following new sub-section shall be inserted, namely:-

"(1A) In the event of transfer of business under any of the circumstances as provided under section 19, the total turnover for the purposes of sub-section (1) shall be the aggregate of the turnover of the transferor as well as the transferee during the year and the prescribed conditions, if any, shall be applicable with reference to such aggregate of the turnover".

4. Amendment of section 9.- In section 9 of the principal Act, -

(a) in sub-section (2), -

(i) in clause (iv), for the words "in respect of capital goods", the expression "in respect of capital goods industrial inputs and packing materials" shall be substituted;

(ii) after clause (vi), the following clauses shall be inserted, namely:-

"(vii) in respect of taxable goods sold within the State or in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), exempted from payment of tax under any specific notification issued under this Act or under the said Central Sales Tax Act, 1956;

(viii) in respect of goods used in the manufacture or processing of finished goods dispatched other than by way of sales outside the State";

(b) for sub-section (6), the following sub-section shall be substituted, namely:-

"(6) A registered dealer shall be eligible for input tax credit in respect of entry tax paid by him under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on goods other than those covered by Schedule 'G' and capital goods, brought by him in the local area for use or consumption in the manufacture or processing of goods within the State:

Provided that in respect of finished products despatched by way other than sales, the input tax credit on goods other than those covered by Schedule 'G' and capital goods shall be to the extent it exceeds 4%".

5. *Amendment of section 10.*- In section 10 of the principal Act, in sub-section (1), after the expression "penalty or interest under this Act or earlier law", the expression "or under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956)" shall be added.

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**Extract of the Goa Value Added Tax Act, (Second
Amendment) Act, 2006 (Goa Act 18 of 2006)**
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2. *Amendment of section 2.*- In section 2 of the Goa Value Added Tax Act, 2005 (Act 9 of 2005) (hereinafter referred to as the "principal Act"), in clause (i), the expression "Sales Tax or Value Added Tax" shall be omitted.

3. *Amendment of section 7.*- In section 7 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

" (3) Any dealer who is eligible for composition of tax under sub-section (1), fails to file returns for all the quarters of the year within the time prescribed, he shall be disqualified for the composition of tax for the next two consecutive years."

4. *Amendment of section 9.*- In section 9 of the principal Act, in sub-section (2), after clause (viii) the following clauses shall be inserted, namely:-

"(ix) in respect of purchase of motor vehicle including car, three wheeler and two wheeler under this Act or tax paid under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on import of such motor vehicle before grant of registration mark under the Motor Vehicles Act, 1988 (Central Act 58 of 1988), when such vehicle is resold as true value vehicle or otherwise by a registered dealer under this Act;

(x) in respect of raw material used in the manufacture of ready mixed concrete;

(xi) in respect of Naphta used as raw material by chemical fertilizer industry."

5. *Amendment of section 19.*— In section 10 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) After adjustment under sub-section (1), the excess input tax credit of a registered dealer other than those covered under sub-section (3) shall be carried over as an input tax credit to the subsequent period upto the end of the respective financial year and if there is any unadjusted input tax credit thereof, the same shall be refunded in the prescribed manner within three months, from the date of filing of the last quarterly return of the respective financial year or from the date of filing an application by the dealer claiming such refund, whichever is later".

6. *Amendment of section 29.*— In section 29 of the principal Act, (i) for sub-section(3), the following sub-section shall be substituted, namely:-

"(3) No assessment under this section for any year shall be made after a period of two years from the end of the year to which the return under section 24 is submitted by a dealer and no assessment under sub-section (9) shall be made after the expiry of five years from the end of the year in respect of which or part of which such assessment is to be made:

Provided that where assessment is made in consequence of or to give effect to, any order of an Appellate Authority or Revisional Authority or of a Court, the said period of two years shall be reckoned from the date of such order.

Provided further that in computing the period laid down in this sub-section, any period during which assessment proceedings are stayed by an order or injunction of any Court or authority such period shall be excluded";

(ii) after sub-section (8), the following sub-section shall be inserted, namely:-

"(9) Where, the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, the Commissioner shall proceed to assess, to the best of his judgement, wherever necessary, the amount of tax due from the dealer in respect to such period and all subsequent periods and, in making such assessment, he shall give the dealer reasonable opportunity of being heard; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed."

7. *Amendment of section 33.*— In section 33 of the principal Act, in sub-section (1), for the expression "due from him under this Act and also excess of input tax credit" the expression "due from him under this Act or unduly paid by him and also excess of input tax credit" shall be substituted.

8. *Amendment of section 30.*— The existing provision of section 39 of the principal Act, shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:-

"(2) Subject to such rules as may be prescribed, any assessment made or order passed under this Act or under the rules made thereunder by any authority appointed under section 13 of this Act, may be reviewed by the respective authority passing it upon an application or of it's own motion, as the case may be:

Provided that no order of assessment or any other order shall be reviewed after expiry of two years from the date of order, by any authority under this sub-section."

9. *Amendment of section 55.*- The existing provision of section 55 of the principal Act, shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:-

“(2) Any registered dealer covered under Schedule ‘E’ appended to this Act, fails to file a return within the time required under this Act, he shall be liable for penalty of Rs.1000/- per quarter plus an amount equal to simple interest at the rate of 2% per month on the tax payable for the return period.”.

10. *Amendment of section 79.*- In section 79 of the principal Act, in sub-section (3), in clause (f), for the expression “Sales Tax Department” the expression “Commercial Tax Department” shall be substituted.

11. *Amendment of section 82.*- In section 82 of the principal Act, -

(i) in sub-section (1), -

(A) in clause (c), for the expression “sales tax practitioner”, the expression “commercial tax practitioner” shall be substituted;

(B) for the expression “sales tax practitioner is authorized”, the expression “commercial tax practitioner or sales tax practitioner is authorized” shall be substituted.

(ii) in sub-section (2), for the expression “sales tax practitioner” wherever it occurs, the expression “commercial tax practitioner” shall be substituted.

Assembly Hall
Porvorim, Goa
14th March, 2008

R. KOTHANDARAMAN
Secretary to the Legislative
Assembly of Goa