



LEGISLATIVE ASSEMBLY OF GOA

**The Goa Tax on Luxuries (Hotels
and Lodging Houses)
(Amendment) Bill, 2000**

(Bill No. 12 of 2000)

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

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM-GOA
MARCH, 2000

The Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Bill, 2000

(Bill No. 12 of 2000)

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BILL

further to amend the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988.

Be it enacted by the Legislative Assembly of the State of Goa in the Fifty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 2000.

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

2. *Amendment of section 2.*— In the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Goa Act No.17 of 1988)(hereinafter referred to as the “principal Act”); in section 2,—

(i) the existing clause (c) shall be re-numbered as clause (cc) thereof and before clause (cc) as so re-numbered, the following clause shall be inserted, namely:—

“(c) ‘club’ includes both, an incorporated as well as unincorporated association of persons, by whatever name called;”;

(ii) for clause (d), the following clause shall be substituted, namely:—

“(d) ‘hotel’ includes a residential accommodation, a lodging house, an inn, a public house or a building or part of a building, a club, a boat, vessel or any place where a residential accommodation is provided by way of business;”.

3. *Amendment of section 13.*— In section 13 of the principal Act,—

(i) for sub-section (4), the following shall be substituted, namely:—

“(4) If any hotelier, having furnished returns under sub-section (2), discovers any omission or incorrect statement, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing the payment in the manner provided in sub-section (3) of the extra amount:

Provided that no such revised return shall be considered as such and it shall not be taken into consideration, if the assessing authority is satisfied that the return originally furnished was with the intention to delay the payment of tax due in time, or with intent to defraud the State Government of its revenue.”;

(ii) sub-sections (4A) and (4B) shall be omitted;

(iii) sub-section (4C) shall be re-numbered as sub-section (4A) thereof.

4. *Amendment of section 20.*— Section 20 of the principal Act shall be re-numbered as section 20A thereof

and before section 20A as so re-numbered, the following shall be inserted, namely:—

“20. *Charge on the property of defaulter and levy of interest for delayed payment of tax.*— (1) If a hotelier or person does not pay the tax within the time he is required by or under the provisions of this Act and the rules made thereunder to pay it, then,—

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act; and

(ii) the hotelier or the person shall be liable to pay by way of simple interest, in addition to the amount of such tax, a sum equal to,—

(a) one and half percent of the amount of such tax for each month, for the first three months after the last date by which he should have paid such tax;

(b) two percent of such amount for each month subsequent to the first three months as aforesaid.

Explanation.— For the purpose of clause (ii) above, the interest payable for a part of the month shall be worked out proportionately.

(2) If any tax, other than the tax on which interest is leviable under sub-section (1), has remained unpaid on the date prescribed for filing the last return in respect of any period of assessment, then the hotelier or the person shall be liable to pay by way of simple interest, a sum equal to two percent on such tax for each month or part thereof on the expiry of 30 days from the date immediately following the date on which the period for which the hotelier or person has been assessed expires, till the date of order of

assessment and where any payment of such unpaid tax, whether in full or in part, is made on or before the date of order of assessment, the amount of such interest shall be calculated by taking into consideration the amount of and the date of such payment. If, as a result of any order passed under this Act, the amount of tax which had so remained unpaid is enhanced or reduced, as the case may be, the interest shall be enhanced or reduced, accordingly.

(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any hotelier, person or class of persons.”

Statement of Objects and Reasons

Certain amendments to the Goa Tax on Luxuries (Hotels and Lodging Houses) Act, 1988 (Act 17 of 1988) are found necessary so as to enlarge the scope of the term ‘hotel’ so as to include club, boat, vessel or any other place where residential accommodation is provided and to bring into the tax net the Luxuries provided therein. Accordingly, new clause (c) is proposed to be inserted to define the term “club” and existing clause (d) defining “hotel” is proposed to be substituted by new clause.

Sub-section (4) of section 13 of the Act, 1988, provide for furnishing of revised return in case of any omissions or other error in any return furnished. However, it does not specifically prescribe the period within which revised return is to be filed. It is, therefore, proposed to substitute sub-section (4) with new sub-section so as to provide that the revised return should be filed before the expiry of three months next following the last date prescribed for furnishing the original return.

Clause (ii) of sub-section (4A) of section 13 of the Act, 1988, provides for levy of interest on the amount of tax due from the defaulter as per the returns or other amount due under this Act. In view of the various Court rulings on the subject, it is found necessary to omit sub-sections (4A) and (4B) of section 13 and insert new section 20 in the Act, 1988, so as to link the levy of interest to default in the payment of tax within the time required by or under the provisions of the Act instead of default of tax due as per the returns.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved towards implementation of the provisions of the Bill since no additional expenditure will be incurred on account of proposed amendments.

Porvorim,
28th March, 2000.

FRANCISCO SARDINHA
Chief Minister

Assembly Hall,
Porvorim,
28th March, 2000.

P. N. RIVANKAR
Secretary to the
Legislative Assembly of Goa

Governor's recommendation under Article 207 of the Constitution.

In pursuance of Article 207 of the Constitution the Governor of Goa has recommended to the Legislative Assembly of Goa the introduction and consideration of the Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Bill, 2000.

(Annexure to Bill No. 12 of 2000)

The Goa Tax on Luxuries (Hotels and Lodging Houses)
(Amendment) Bill, 2000

**The Goa Tax on Luxuries (Hotels and Lodging Houses) Act,
1988**
(Goa Act No. 17 of 1988)

2. *Definitions.*— In this Act, unless the context otherwise requires, —

(a) 'appointed day' means the day on which this Act comes into force;

(b) 'business' includes the activity of providing residential accommodation and any other service in connection with, or incidental or ancillary to, such activity of providing residential accommodation, by a hotelier for monetary consideration;

(c) 'Commissioner' means the person appointed to be the Commissioner of Luxury Tax under section 3 for the purposes of this Act;

(d) 'hotel' includes a residential accommodation, a lodging house, an inn, a public house or a building or part of a building, where a residential accommodation is provided by way of business;

(e) 'hotelier' means the owner of the hotel and includes the person who for the time being is in charge of the management of the hotel;

(f) 'luxury provided in a hotel' means accommodation and other services provided in a hotel, the rate of charges for which including the charges for air conditioning, telephone, television, raw music, entertainment, extra beds and the like is one hundred rupees per day or more; but do not include the supply of food and drinks when such supply is separately charged for;

(g) 'person' includes any company or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm, a local authority, a corporation, a State Government and the Central Government.

(h) 'place of business' includes an office, or any other place which a hotelier uses for the purpose of his business or where he keeps his books of accounts;

(i) 'prescribed' means prescribed by rules made under this Act;

(j) 'receipt' means the amount of monetary consideration received or receivable by a hotelier or by his agent for any luxury provided in a hotel.

(k) 'registered hotelier' means a hotelier registered under section 9 of this Act;

(l) 'rules' means rules made under this Act;

(m) 'State' means the State of Goa;

(n) 'tax' means the tax levied on luxuries provided in a hotel payable under this Act;

(o) 'Tribunal' means a Tribunal constituted under section 4;

(p) 'Turnover of receipts' means the aggregate of the amounts of monetary consideration received or receivable by a hotelier or by his agent in respect of the luxuries provided in a hotel during a given period;

(q) 'year' means —

(i) the financial year; or

(ii) in relation to any particular registered hotelier for the purposes of this Act, means the year by reference to which the accounts of the hotelier are ordinarily maintained in his books of accounts.

13. *Payment of tax and returns.*— (1) Tax payable under this Act shall be paid in the manner hereinafter provided and at such intervals as may be prescribed.

(2) Such hoteliers as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered hotelier shall furnish such returns of the total turnover of the period to which such returns relate, in such manner, by such date and to such authority as may be prescribed.

(3) Before any registered hotelier furnishes the returns required by such-section (2), he shall pay into a Government treasury or the State Bank of India or in such other manner as may be prescribed the full amount of tax due from him under this Act according to such returns, and shall furnish along with the returns a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any hotelier discovers any omission or other error in any return furnished by him, he may at any time before the date prescribed for the furnishing of the next return by him, furnish a revised return; and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the extra amount.

Provided that no such revised return shall be considered as such and it shall not be taken into consideration, if the assessing authority is satisfied that the return originally furnished was with the intention to delay the payment of tax due in time, or with intent to defraud the State Government of its revenue.

"(4A) if default is made in making payment in accordance with the provisions of sub-section (3) or sub-section (4), —

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act; and

(ii) the person or persons liable to pay tax or any other amount due under this Act shall also be liable to pay interest during the period of default as under:—

(a) one and half per cent of the amount of tax remaining unpaid for each month for the first three months after the expiry of the time prescribed;

(b) two per cent on such amount for each month subsequent to the first three months as aforesaid.

Explanation.— For the purposes of clause (ii) above, the interest payable for a part of the month shall be worked out proportionately.

(4B) Notwithstanding anything contained in sub-section (4A), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(4C) Any tax assessed or any other amount due under this Act from a hotelier or any other person may, without prejudice to any other mode of collection, be recovered—

(a) as if it were an arrears of land revenue; or

(b) by attachment and sale or by sale without attachment of any property of such hotelier or any other person by the officer appointed under sub-section (2) of section 3, in accordance with such rules as may be prescribed”.

(ii) for the proviso to clause (b) of sub-section (6), the following shall be substituted, namely:—

“Provided further that, the Commissioner or any person appointed to assist him under sub-section (2) of section 3, may, in respect of any particular hotelier or person, and for reasons to be recorded in writing and on payment of interest at such rate as may be specified in the order, extend the date of such payment, or allow him to pay tax due or penalty or interest levied, if any, by instalment”;

(iii) for clauses (a) and (b) of sub-section (7), the following clauses shall be respectively substituted, namely:—

“(a) When a hotelier is in default in making payment of the tax assessed or re-assessed or of penalty imposed or interest levied, there shall be paid by such hotelier for the period commencing from the date of expiry of the date specified in the notice for payment and ending on the date of payment of the amount, simple interest at the rate of 24% per annum of the amount not so paid.

(b) Notwithstanding anything contained in clause (a), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(c) Any amount of tax or penalty or interest which remains unpaid after the date prescribed for payment or the date specified in the notice for payment, or in the order of imposition of penalty, or after the extended date of payment and any instalments not duly paid, shall be recoverable as arrears of land revenue.”.

(5) with a view to encourage prompt payment of tax the State Government may prescribe rates of remissions or rebate in respect thereof in accordance with such principles as may be prescribed.

(6) (a) The hotelier shall pay the amount of tax assessed or reassessed for any period under section 14 or section 16 of this Act less any sum already paid by him in respect of such period; and

(b) the amount of penalty, if any, levied under this Act shall be paid by the hotelier or by the person liable thereof into the appropriate Government Treasury by such date as may be specified in a notice or orders issued under this Act, being a date not earlier than sixty days from the date of service of the notice or order.

Provided that, the Commissioner may, in respect of any particular hotelier or person, and for reasons to be recorded in writing, extend the date of such payment, or allow him to pay the tax due or penalty if any, or both by instalments.

(7) (a) when a hotelier is in default in making payment of the tax assessed or reassessed or of penalty imposed, the Commissioner may in his discretion direct that, in addition to the amount of arrears a sum not exceeding ten percent thereon per annum by way of interest plus a penalty equal to the amount of such interest shall be recovered from the hotelier.

(b) Any amount of tax or penalty which remains unpaid after the date specified in the notice for payment, or in the order of imposition of penalty, or after the extended date of payment and any installments not duly paid, shall be recoverable as arrears of land revenue.

(8) The State Government may, by general or special order published in the Official Gazette, authorise any officer not below the rank of a Luxury Tax Officer, to exercise, for the purpose of effecting recovery of the amount of tax or penalty due from any hotelier or person under this Act the powers of a Collector under the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969) to recover the dues as arrears of land revenue.

20. *Special mode of recovery.*— (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time, or from time to time, by notice in writing, a copy of which shall be forwarded to the hotelier at his last address known to the Commissioner, require,—

(a) any person from whom any amount of money is due or any become due to a hotelier who has failed to pay amount of tax due or penalty imposed under this Act, or

(b) any person who holds or may subsequently hold money for or on account of such hotelier,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the hotelier in respect of the arrears of tax and penalty, or both, or the whole of the money when it is equal to or less than that amount.

Explanation.— For the purpose of this section, the amount of money due to a hotelier from, or money held for or on account of a hotelier by any person, shall be calculated after deducting therefrom such claims, if any, lawfully subsisting as may have fallen due for payment by such hotelier to such person.

(2) The Commissioner may at any time, amend or revoke any such notice, or extend the time for making any payment in pursuance of such notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the hotelier, and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the hotelier after receipt of the notice referred to in this section shall be personally liable to the Commissioner to the extent of the liability discharged, or to the extent of the liability of the hotelier for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent objects to it, by a statement in writing that the sum demanded or any part thereof is not due or payable to the hotelier or that the amount held for or on account of the hotelier is under genuine dispute, the Commissioner shall hold an enquiry and after giving a reasonable opportunity of being heard to such person and the hotelier, shall make such order as he thinks fit.

(6) Any amount of money which a person is required to pay to the Commissioner or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

Assembly Hall,
Porvorim,
28th March, 2000.

P. N. RIVANKAR
Secretary to the
Legislative Assembly of Goa.