

KARNATAKA ACT NO. 6 OF 2005
THE KARNATAKA VALUE ADDED TAX (AMENDMENT) ACT, 2005
Arrangement Sections

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STATEMENT OF OBJECTS AND REASONS

To give effect to the decisions taken at the national level in the design of the Value Added Tax that is replacing the present sales tax system.

Opportunity is also taken to make certain other incidental and consequential provisions.

Hence the Bill.

[L.A. Bill No. 4 of 2005]

[Entry 54 of list II of the Seventh Schedule to the Constitution of India]

KARNATAKA ACT NO. 6 OF 2005

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THE KARNATAKA VALUE ADDED TAX (AMENDMENT) ACT, 2005

(Received the assent of the Governor on the Nineteenth Day of March, 2005)

An Act to amend the Karnataka Value Added Tax Act, 2003.

Whereas it is expedient to amend the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty-sixth year of the Republic of India, as follows.-

1. Short title and commencement.- (1) This Act may be called the Karnataka Value Added Tax (Amendment) Act, 2005.

(2) It shall come into force at once.

2. Amendment of Section 2.- In Section 2 of the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004), (hereinafter referred to as the principal Act), after clause (5), the following shall be inserted, namely:-

“(5-A) ‘**Branded**’ means any goods sold under a name or trade mark registered or pending registration or pending registration of transfer under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958) or the Trade Marks Act, 1999 (Central Act 47 of 1999).”.

3. Amendment of Section 4.- In Section 4 of the principal Act, in sub-section (1), in clause (b), for the words “twenty five”, the words “twelve and one half” shall be substituted.

4. Insertion of new Section 9-A.- After Section 9 of the principal Act, the following section shall be inserted, namely:-

“9-A. Deduction of tax at source (in case of works contract).-(1) Notwithstanding anything contained in this Act, the Central Government, or any State Government, or an industrial, commercial or trading undertaking of the Central Government or of any State, or any such undertaking in joint sector or any other industrial, commercial or trading undertaking or any other person or body as may be notified by the Commissioner from time to time or a local authority or a statutory body, shall deduct out of the amounts payable by them to a dealer in respect of any works contract executed for them in the State, an amount equivalent to the tax payable by such dealer under the Act.

(2) No such deduction shall be made under sub-section (1), if the amounts payable by them are in respect of sales of any goods, in the course of inter-State trade or commerce or, in the course of export out of the territory of India or, import into the territory of India or, outside the State.

(3) The deduction under sub-section (1) shall be made by an authority on the basis of tax payable as calculated by the dealer.

(4) Where it is found that the tax payable as calculated by any dealer was less than the tax payable for the works contract executed by more than fifteen percent and being so informed, the authority shall make deduction out of any amounts payable subsequently based on the certificate issued by the assessing authority of the area or the assessing authority of the dealer on an application to be made by the authority or dealer which shall be disposed of by the assessing authority within ten days from the date of its receipt, failing which deduction shall be made as calculated by the dealer till issue of a certificate.

(5) The authority making deduction under sub-section (1), shall send every month to the prescribed authority a statement in the prescribed form containing particulars of tax deducted during the preceding month and pay full amount of the tax so deducted by it within twenty days after the close of the preceding month in which such deductions were made and the amount so payable shall for the purposes of Section 42 be deemed to be an amount due under this Act.

(6) Where default is made in complying with the provisions of sub-section (5), the prescribed authority may, after such enquiry as it deems fit and after giving opportunity to the concerned authority of being heard, determine to the best of its judgment, the amount of tax payable under this sub-section by such authority and the amount so determined shall be deemed to be the tax due under the Act for the purpose of section 42.

(7) If default is committed in the payment of tax deducted beyond ten days after the expiry of the period specified under sub-section (5), the authority making deductions under sub-section (1) shall pay, by way of interest, a sum equal to the interest specified under sub-section (1) of Section 37 during the period in which such default is continued.

(8) The authority making deduction under sub-section (1), shall furnish to the dealer from whom such deduction is made, a certificate obtained from the prescribed authority containing such particulars as may be prescribed.

(9) Payment by way of deduction in accordance with sub-section (5), shall be without prejudice to any other mode of recovery of tax due under this Act from the dealer executing the works contract.

(10) Where tax in respect of the works contract is remitted under sub-section (5), the tax payable by the dealer for any period, in respect of such works contract shall be reduced by the amount of tax already remitted under the said sub-section.

(11) The burden of proving that the tax on such works contract has already been remitted and of establishing the exact quantum of tax so remitted shall be on the dealer claiming the reduction of tax under sub-section (10).”

5. Amendment of Section 10.- In Section 10 of the principal Act, in sub-section (2), for the figures, comma and word “17,18 and 19”, the figures and word “17 and 18” shall be substituted.

6. Amendment of Section 11.- In Section 11 of the principal Act, in sub-section (a), in clause (3), after the word “purchased”, the words “including when transferred in the execution of a works contract” shall be inserted.

7. Amendment of Section 12.- In Section 12 of the principal Act, in sub-section (1), after the words “registered dealer in respect of the purchase of capital goods”, the words “on or after the commencement of this Act,” shall be inserted.

8. Amendment of Section 18.- For Section 18 of the principal Act, the following shall be substituted, namely:-

“18. Transitional provisions.- Transitional provisions covering relief on tax paid under the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) on stock in hand relating to goods purchased on or after first day of April, 2004 and used for manufacture or resale, at the date of commencement of this Act shall be as prescribed.”.

9. Amendment of Section 20.- In section 20 of the principal Act,-

- (i) in sub-section (1), clauses (c) and (d) shall be omitted.
- (ii) after the word and figure “ Section 10”, the words “subject to such conditions as may be prescribed” shall be inserted.
- (iii) for sub-section (2), the following shall be substituted, namely.-

“(2) Tax paid under this Act on purchase of inputs by a registered dealer who is a unit located in any special economic zone established under authorisation by the authorities specified by the Central Government in this behalf, shall be deducted as provided under Section 10 subject to such conditions as may be prescribed, from the output tax payable by such dealer.”

- (iv) explanation 2 shall be omitted.

10. Amendment of Section 22.- In section 22 of the principal Act,-

- (i) in sub-section (1) and (2), for the figures “2003”, the figures “2005” shall be substituted.
- (ii) after sub-section (9), the following shall be inserted, namely:-

“(9-A) Every dealer engaged in the execution of works contract shall be liable to register and shall report such liability after the end of the month in which execution of any works contract is undertaken.”

11. Amendment of Section 38.- In section 38 of the principal Act, after sub-section (5), the following shall be inserted, namely:-

“(6) Notwithstanding anything contained in this Act, where a dealer is a body corporate and has more than one place of business, Commissioner may, subject to such conditions as may be prescribed and with the consent of the dealer, treat each of such places of business as a separate unit for the purposes of levy, assessment and collection of tax and thereupon all the provisions of this Act regarding registration, filing of returns, assessment and collection of tax, shall apply as if each of such places of business is a separate unit.”

12. Amendment of Section 50.- In section 50 of the principal Act, in sub-section (1), for the words “twelve per cent”, the words “six per cent” shall be substituted.

13. Amendment of Section 53.- In section 53 of the principal Act,

- (i) in sub-section (2), in clause (c), before the words “produce the”, the words “report at the first check-post or barrier situated on the route ordinarily taken from the place in the State, from which the movement of the goods commences, to its destination and” shall be inserted;
- (ii) in sub-section (2), in clause (c), for the words “in sub-clauses”, the words “in clauses” shall be substituted.
- (iii) in sub-section (12), in clause (a), in sub-clause (i), for the words, brackets and letter “clause (e) and ”, the words, brackets and letter “clause (c) or ” shall be substituted.
- (iv) in sub-section (14), for clause (d), the following shall be substituted, namely,-

“(d) Before taking possession or within ten days after taking possession of the goods or the goods vehicle, if the owner or person in-charge of the goods vehicle or the dealer registered under the Act, makes payment of penalty levied, the officer taking such possession shall forthwith return the goods or the goods vehicle to the person making such payment.”

14. Amendment of Section 54.- In section 54 of the principal Act, for sub-section (10), the following shall be substituted, namely:-

“(10) In case where a vehicle owned by a person is hired for transportation of goods by some other person including a transporting or any other similar agency, both the persons shall for the purposes of this Section, be deemed to be the owner of the vehicle, and shall be jointly and severally liable to pay any amount of tax or penalty payable.”

15. Amendment of Section 62.- In section 62 of the principal Act,-

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

“(c) (i) The appellate authority may, in its discretion, stay payment of one half of tax, if the appellant makes payment of the other half of the tax along with the prescribed form of appeal.

(ii) Where any application made by an applicant for staying proceedings of recovery of any tax or other amount has not been disposed of by the Appellate Authority within a period of thirty days from the date of such application, it shall be deemed that the Appellate Authority has made an order staying proceedings of recovery of such tax or other amount subject to payment of one half of the tax disputed and furnishing of sufficient security to the satisfaction of the assessing authority in regard to the other half of such tax or amount within a further period of fifteen days”

(ii) in clause (e), after the words “said period”, the words “and the Appellate Authority shall not make any further order staying proceedings of recovery of the said tax or other amount” shall be substituted.

- (iii) after sub-section (6), the following shall be inserted, namely:-

“(6A) (i) In disposing of an appeal before it, the appellate authority shall not remand the case to make fresh assessment or fresh order, but shall proceed to dispose of the appeal on its merit, as it deems fit, if necessary by taking additional evidence.”

(ii) The appellate authority shall pass an order disposing of an appeal, within a period of thirty days from the date on which the hearing of the case was concluded and where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the appellate authority shall fix a future date for passing the order, and such day shall not be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the appellant.”

16. Amendment of Section 63.- In section 63 of the principal Act,-

(i) in sub-section (4), after the words “accompanied by”, the words “proof of payment of one half of tax or other amount disputed and also” shall be inserted.

(ii) in sub-section (6), clause (b), shall be omitted.

(iii) for sub-section (7), the following shall be substituted, namely:-

“(7) (a) The Appellate Tribunal may, in its discretion, stay payment of one half of the tax or other amount disputed, if the appellant makes payment of the other half of the tax or other amount disputed along with the prescribed form of appeal.

(b) The Appellate Tribunal shall dispose of such appeal within a period of one hundred eighty days from the date of the order staying proceedings of recovery of one half of tax or other amount and, if such appeal is not so disposed of within the period specified, the order of stay shall stand vacated after the said period and the Appellate Tribunal shall not make any further order staying proceedings of recovery of the said tax or other amount.”

17. Amendment of Section 64.- In section 64 of the principal Act, in sub-section(2), after the words “to him”, the words “or the Authority for Clarification and Advance Rulings constituted under Section 60” shall be inserted.

18. Amendment of Section 69.- In section 69 of the principal Act, after sub-section (2), the following shall be inserted, namely:-

“(2-a) Where an application is made by an assessee for rectification of any mistake in an order, as being apparent from the record and, such application has not been rejected by the assessing authority within sixty days from the date of receipt of the application, the order shall be deemed to have been amended rectifying such mistake.”

19. Amendment of Section 71.- In section 71 of the principal Act,-

(i) in sub-section (1), for the words “penalty of ”, the words “ penalty not exceeding” shall be substituted.

(ii) in sub-section (2), for the words “penalty of ”, the words “ penalty not exceeding” shall be substituted.

20. Amendment of Section 72.- In section 72 of the principal Act,-

- (i) in sub-section (1), for the words “penalty of two hundred rupees ”, the words “ penalty not exceeding two hundred rupees” shall be substituted.
- (ii) in sub-section (3), for the words “penalty of ”, the words “ penalty not exceeding” shall be substituted.
- (iii) in sub-section (4), for the words “penalty equal to ”, the words “ penalty not exceeding” shall be substituted.

21. Amendment of Section 73.- In section 73 of the principal Act, in sub-section (1), for the words “equal to ”, the words “ not exceeding” shall be substituted.

22. Amendment of Section 74.- In section 74 of the principal Act,

- (i) in sub-section (1), for the words “penalty of ”, the words “ penalty not exceeding” shall be substituted;
- (ii) in sub-section (1), for the words “two hundred rupees”, the words “a further penalty not exceeding two hundred rupees ” shall be substituted.

23. Amendment of Section 75.- In section 75 of the principal Act, for the words “penalty of ”, the words “ penalty not exceeding” shall be substituted.

24. Amendment of Section 76.- In section 76 of the principal Act, in sub-section (1), for the words “five thousand ”, the words “ one thousand” shall be substituted.

25. Amendment of Section 77.- In section 77 of the principal Act,

- (i) in sub-section (1), for the words “fifty thousand ”, the words “ twenty five thousand” shall be substituted;
- (ii) in sub-section (1), the words “not less than fifteen days but ” shall be omitted;
- (iii) in sub-section (2), for the words “penalty of ”, the words “ penalty not exceeding” shall be substituted.

26. Amendment of Section 78.- In section 78 of the principal Act, for the words “fifty thousand rupees and imprisonment for a period not less than fifteen days but not exceeding one year”, the words “ twenty five thousand rupees or to imprisonment for a period not exceeding one year or both” shall be substituted.

27. Amendment of First Schedule.- In First Schedule of the principal Act, after the entries relating to serial number 40, the following shall be inserted, namely:-

“41. Animal shoe nails.

42. Plastic bangles.

43. Un-branded broomsticks.

44. Leaf plates and cups whether pressed or stitched.

45. Vibhuthi.

46. All varieties of textiles namely, cotton, woollen or artificial silk including rayon or nylon whether manufactured in mills, power looms or in handlooms and hosiery cloth in lengths (produced or manufactured in India) as described from time to time in Column 2 of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957).

47. Sugar (produced or manufactured in India) as described from time to time in Column 2 of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957).

48. Tobacco and all its products (produced or manufactured in India) as described from time to time in Column 2 of the First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957) . ”

28. Amendment of Third Schedule.- In Third Schedule of the principal Act,-

(i) in the entries relating to serial number 6, in column (2), after the word “Bamboo”, the words “and cane” shall be inserted.

(ii) in the entries relating to serial number 10, in column (2), the word and comma “perambulators,” shall be omitted.

(iii) in the entries relating to serial number 21, after the words “de-oiled cake”, the words “but excluding coconut oil sold in consumer sachets, bottles or tins of 200 grams or 200 millilitre each or less, including when such consumer containers are sold in bulk in a common container” shall be inserted.

(iv) in the entries relating to serial number 43, for the words“ of Aluminium, brass, bronze, copper, cadmium, lead and zinc”, the words “ and other extrusions of aluminium, brass, bronze, copper, cadmium, lead and zinc metal powders, metal pastes of all types and grades, metal scraps” shall be inserted.

(v) in the entries relating to serial number 65, after the brackets and word “(electrical)”, the words “and wires, and conductors such as Aluminium conductor steel reinforced” shall be inserted.

(vi) for the entries relating to serial number 68, the following entries shall be substituted, namely.-

“68. Vegetable oil including gingili oil, bran oil and castor oil excluding vegetable oil used as toilet article.”

(vii) in the entries relating to serial number 70, after the word “like”, the words “including refills of pens” shall be substituted.

(viii) after the entries relating to serial number 70, the following entries shall be inserted, namely:-

“71. Articles made of rolled gold or imitation gold.

72. Bagasse.

73. Centrifugal, monobloc and submersible pumps and parts thereof
74. Clay.
75. Embroidery or zari articles, that is to say, imi, zari, kasab, saima, dabka, chumki, gota, sitara, naqsi, kora, glass bead, badla, gizal.
76. Fireclay, coal ash, coal boiler ash, coal cinder ash, coal powder and clinker.
77. Lignite.
78. Lime, lime stone, products of lime, dolomite and other white washing materials.
79. Medicinal and pharmaceutical preparations.
80. Mixed PVC stabilizer.
81. Pulses other than those specified in serial number 20.”

The above translation of ಕರ್ನಾಟಕ ಮೌಲ್ಯ ವರ್ಧಿತ ತೆರಿಗೆ (ತಿದ್ದುಪಡಿ) ಅಧಿನಿಯಮ, 2005 (2005 ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 6) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

T.N. Chaturvedi
Governor of Karnataka

By Order and in the name of the Governor of Karnataka

G. Dakshina Moorthy
Secretary to Government,
Department of Parliamentary Affairs and Legislation.