

KARNATAKA ACT No. 10 of 2007
THE KARNATAKA MOTOR VEHICLES TAXATION (SECOND AMENDMENT)
ACT, 2007

Arrangement of Sections

Sections:

1. Short title and commencement
2. Amendment of section 3
3. Amendment of section 7
4. Validation

STATEMENT OF OBJECTS AND REASONS

Amending Act 10 of 2007.— During the period of March 1991 to April 2000, some of the transport operators, by arriving at an arrangement with some other companies, have paid taxes on their vehicles at a lower rate of tax though they were required to pay the tax at higher rate as applicable to Contract Carriages. In this connection, the Honorable High Court of Karnataka, while disposing of the Writ Appeals in No.s 2327-28/00 and other connected matters on 25.05.2005, made observation as follows:-

"One may say that there was a lacuna in the Taxation Act of which the company and the contractor took advantage of and without violating any law arrived at the aforesaid arrangement with a view to pay tax at a lower rate".

In order to remove the apparent lacuna in the Taxation Act and bring those vehicles under appropriate entry in the Schedule to the Taxation Act, it is expedient to amend the Karnataka Motor Vehicles Taxation Act, 1957 as proposed.

Hence the Bill.

[L.A. Bill No. 23 of 2007]

[Entry 57 of List II of the Seventh Schedule to the Constitution of India.]

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Karnataka Act No. 10 of 2007

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THE KARNATAKA MOTOR VEHICLES TAXATION (SECOND AMENDMENT) ACT, 2007

(Received the assent of the Governor on the twenty eighth day of April 2007)

An Act further to amend the Karnataka Motor Vehicles Taxation Act, 1957.

Whereas, it is expedient further to amend the Karnataka Motor Vehicles Taxation Act, 1957 (Karnataka Act 35 of 1957), for the purpose hereinafter appearing;

Be it enacted by the Karnataka Legislature in the fifty-eighth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Motor Vehicles Taxation (Second Amendment) Act, 2007.

(2) It shall come into force at once.

2. Amendment of section 3.- After the fourth proviso to section 3 of the Karnataka Motor Vehicles Taxation Act, 1957 (Karnataka Act 35 of 1957) (hereinafter referred to as the principal Act), the following proviso shall be deemed to have been inserted with effect from the 1st day of March, 1991 and shall be deemed to have been omitted with effect from 1st day of April, 2000, namely:-

“Provided also that in respect of Motor Vehicles owned by companies or industrial undertakings either on lease or agreement or arrangement of any kind whatsoever and operated under a Private Service Vehicle Permit by any other person on behalf of such companies or industrial undertakings, tax shall be levied at the rates specified for contract carriages in part A of the Schedule.”

3. Amendment of section 7.- In section 7 of the principal Act, after sub-section (5) and before the Explanation, the following shall be deemed to have been inserted with effect from the 1st day of March, 1991, namely:-

“(6) Notwithstanding any order or direction contained in any judgment, decree or order of any Court, Tribunal or other authority, no refund of tax shall be allowed in respect of Motor Vehicles on which tax is levied or deemed to have been levied and collected under the fifth proviso to section 3 of the principal Act before the commencement of the Karnataka Motor Vehicles Taxation (Second Amendment) Act, 2007.”

4. Validation.- (1) Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other Authority, anything done or any action taken or purporting to have been done or taken (including any notices or orders issued and all proceedings held for levy and collection of tax, penalty or amount purported to have been collected by way of tax) in relation to such levy or collection under the provisions of the principal Act before the commencement of this Act shall be and shall be deemed to be valid and effective as if such levy or collection or action or thing had been made, taken or done under the principal Act as amended by this Act and accordingly,-

- (a) all acts, proceedings or things done by the Government or any authority in connection with the levy or collection of such tax or penalty or other amount for all purposes be deemed to be and to have always been made, done or taken in accordance with this law;
- (b) no suit or other proceedings shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such tax, penalty or other amount; and
- (c) no Court shall enforce any decree or order directing the refund of any such tax, penalty or other amount.

(2) For the removal of doubts it is hereby declared that nothing under sub-section (1) shall be construed as preventing any person,-

- (a) from questioning, in accordance with the provisions of the principal Act as amended by this Act, any levy or collection of tax, penalty or other amount referred to in sub-section (1); or
- (b) from claiming refund of any excess amount paid by him by way of tax under the principal Act as amended by this Act.

By Order and in the name of the Governor of Karnataka

G.K. Boregowda

Secretary to Government,

Department of Parliamentary Affairs and Legislation