

KARNATAKA ACT NO 6 OF 2008
THE KARNATAKA TAXATION LAWS (AMENDMENT) ACT, 2008

Arrangement of Sections

Sections:

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STATEMENT OF OBJECTS AND REASONS

It is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 and the Karnataka Tax on Luxuries Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith or incidental thereto.

Opportunity is also taken to rationalise taxation and make certain consequential amendments also.

Hence the Bill.

(LA Bill No. 3 of 2008, File No.DPAL 11 Shashana 2008)

[Entries 54, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.)

KARNATAKA ACT NO. 6 OF 2008

(First Published in the Karnataka Gazette Extra-ordinary on the Second day of August, 2008)

THE KARNATAKA TAXATION LAWS (AMENDMENT) ACT, 2008

(Received the assent of the Governor on the First day of August, 2008)

An Act further to amend certain taxation laws in force in the State of Karnataka.

Whereas it is expedient further to amend certain taxation laws for the purposes hereinafter appearing;

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

1. Short title and commencement.- (1) This Act may be called the Karnataka Taxation Laws (Amendment) Act, 2008.

(2) It shall come into force with effect from the first day of August, 2008.

2. Amendment of Mysore Act IX of 1932.- In the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), for section 3-A, the following shall be substituted, namely :-

"3-A. Payment of totalisator tax by way of composition.- Notwithstanding anything contained in section 3, but subject to such conditions as may be prescribed, the State Government may if a licensee so elects, accept in lieu of the totalisator tax payable under section 3 during any year, by way of composition, an amount at the rate of four percent of the total amount of moneys paid into the totalisator.

Explanation: Where rate of composition amount is varied in the middle of the year, the tax may be compounded, for the part of year at the rates applicable to that part of the year."

2A. Amendment of Karnataka Act 25 of 1957.- In the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), in section 20, in sub-section (5), after clause (b), in the second proviso as it existed prior to the first day of August, 2004, for the words "shall be completed", the words "as far as possible may be completed" shall be and shall be deemed to have been *substituted* from the first day of April, 2002 .

3. Amendment of Karnataka Act 30 of 1958.- In the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958),-

(1) for section 3-C, the following shall be substituted, namely:-

"3-C. Special provision in respect of certain films.- Notwithstanding anything contained in sections 3 and 3-A, no tax shall be levied under the said sections on a cinematograph show of a Kannada, Kodava, Konkani, Tulu or Banjara film which is not a dubbed version of a film of other language, subject to production of a certificate by the proprietor, as may be prescribed."

(2) in section 4-A, in sub-section (1), for the provisos, the following proviso shall be substituted, namely:-

"Provided that no tax shall be levied under this sub-section on a cinematograph show of a Kannada, Kodava, Konkani or Tulu film which is not a dubbed version of a film of other language, subject to production of a certificate by the proprietor, as may be prescribed ."

(3)in section 8-B, in sub-section (3),-

(a) in sub-clause (a), after the words “in appeal”, the words “and one half of the tax or other amount disputed in appeal” shall be inserted;

(b) for the proviso, the following proviso shall be *substituted*, namely:-

“ Provided that the appellate authority may, in its discretion, stay payment of the balance half of tax or other amount disputed in appeal, if the appellant furnishes security to its satisfaction in such form and in such manner as may be prescribed.”

(c) after the proviso so substituted, the following provisos shall be *inserted*, namely:-

“ Provided further that 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 or other amount disputed and furnishing 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:

Provided also that where an order staying proceedings of recovery of any tax or other amount is passed under the first proviso, the Appellate Authority shall dispose of the appeal within a period of one hundred twenty days from the date of such order:

Provided also that if such appeal is not so disposed of within the period specified in third proviso, the order of stay shall stand vacated after the expiry of the said period and the Appellate Authority shall not make any further order staying proceedings of recovery of the said tax or other amount.”

(d) after the provisos so inserted, the following explanation shall be *inserted*, namely:-

“Explanation.- Every appeal filed after the commencement of the Karnataka Taxation Laws (Amendment) Act, 2008, shall be subject to clause (a) and the provisos of this sub-section.”

(4) in section 8-E,-

(a) 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;

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

“(6) Notwithstanding that an appeal has been preferred under sub-section (1), and notwithstanding anything contained in any other law, tax or any other amount shall be paid in accordance with the assessment or other order made in the case:

Provided that the Appellate Tribunal may, in its discretion, stay payment of balance half of the tax or other amount disputed, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed:

Provided further, that 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 such balance half of tax or other amount:

Provided also that if such appeal is not so disposed of within the period specified in second proviso, the order of stay shall stand vacated and the Appellate Tribunal shall not make any further order staying proceedings of recovery of the said tax or other amount.”

(c) in the second proviso as it exists prior to the commencement of this Act, for the word “further”, the word “also” shall be *substituted*;

(d) after the fourth proviso so amended, the following explanation shall be *inserted*, namely:-

“Explanation.- Every appeal filed after the commencement of the Karnataka Taxation Laws (Amendment) Act, 2008 shall be subject to sub-sections (4) and (6).”

4. Amendment of Act No.35 of 1976.- In the Karnataka Tax on Professions Trades, Callings and Employments Act, 1976 (Karnataka Act No.35 of 1976), in the Schedule,-

(1) in serial number 1, in column (2), the entries relating to item (a) and the corresponding entries in column (3) shall be omitted;

(2) after the entries relating to serial number 18, as it existed prior to the first day of April, 2003, the following explanation, shall be and shall always be deemed to have been *inserted*, namely:-

“Explanation.- For the purpose of this entry, ‘banking companies’ shall include any bank whose operations are governed by the provisions of the Banking Regulation Act, 1949 (Central Act 10 of 1949).”

(3) after the entries relating to serial number 24, the following explanation, shall be deemed to have been *inserted with effect* from the first day of April, 2003, namely:-

“Explanation.- For the purpose of this entry, ‘banking companies’ shall include any bank whose operations are governed by the provisions of the Banking Regulation Act, 1949 (Central Act 10 of 1949).”

5. Amendment of Karnataka Act 22 of 1979.- In the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979),-

(1) in section 3-C, for the words “fifteen per cent”, the words “twenty per cent” shall be substituted;

(2) in section 4, for sub-section (3), the following shall be *substituted*, namely:-

“(3)Where luxury provided in a hotel to any person (not being an employee of the hotel), is not charged at all, or is charged at a concessional rate, then the tax on such luxury shall be levied and collected as if full charges for such luxury were paid to the proprietor of the hotel.”

(3) for section 9, the following shall be *substituted*, namely:-

“9. Appeals.- (1) Any proprietor objecting to any order or proceedings passed under the provisions of this Act, by the Luxury Tax Officer, may appeal to the Appellate Authority as may be prescribed.

(2) The appeal shall be preferred,-

(a) in respect of an order of assessment, within thirty days from the date on which the notice of assessment, was served on the appellant, and

(b) in respect of any other order or proceedings, within thirty days from the date on which the order was communicated to the appellant:

Provided that the Appellate Authority may admit an appeal preferred after the period as aforesaid, but within a further period of one hundred and eighty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

(3) (a) Notwithstanding that an appeal has been preferred under sub-section (1), the tax or other amount due shall be paid in accordance with the order or proceedings against which an appeal has been preferred.

(b) No appeal against an order of assessment shall be entertained by the Appellate Authority, unless it is accompanied by satisfactory proof of the payment of, tax and other amount due if any, not disputed in the appeal and one half of the tax or other amount disputed in appeal.

Provided that the Appellate Authority may, in its discretion, stay payment of the balance half of tax or other amount disputed in appeal, if the appellant furnishes security to its satisfaction in such form and in such manner as may be prescribed:

Provided further that where any application filed 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 or other amount disputed and furnishing of sufficient security to the satisfaction of the Luxury Tax Officer in regard to the remaining half of such tax or amount within a further period of fifteen days:

Provided also that where an order staying proceedings of recovery of any tax or other amount is passed in any proceedings relating to an appeal under sub-section (1), the Appellate Authority shall dispose of the appeal within a period of one hundred twenty days from the date of such order:

Provided also that if such appeal is not so disposed of within the period specified in third proviso, the order of stay shall stand vacated after the expiry of the said period and the Appellate Authority shall not make any further order staying proceedings of recovery of the said tax or other amount.

(4) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(5) In disposing of an appeal, the Appellate Authority may, after giving the appellant a reasonable opportunity of being heard,-

(a) in the case of an order of assessment or penalty,-

(i) confirm, reduce or enhance the assessment including any part thereof whether or not such part is objected to in the appeal;

(ii) pass such other orders as it may think fit; and

(b) in the case of any other order or proceedings, confirm, cancel or vary such order.

Provided that in disposing of an appeal, the Appellate Authority shall not set aside any order or proceedings of assessment or any other order and direct the Luxury Tax Officer to make a fresh assessment or to make a fresh order:

Provided further that 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, with due notice of the same to the appellant.

(6) Every order passed on appeal under this section shall, subject to the provisions of sections 11 and 11-A, be final.

Explanation.- Every appeal filed after the commencement of the Karnataka Taxation Laws (Amendment) Act, 2008 shall be subject to this section.”;

(4) in section 11,-

(a) in sub-section (3), after the words “accompanied by”, the words “proof of payment of one half of the tax or other amount disputed and also” shall be inserted;

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

“(6) Notwithstanding that an appeal has been preferred under sub-section (1), and notwithstanding anything contained in any other law, tax or any other amount shall be paid in accordance with the assessment or other order made in the case:

Provided that the Appellate Tribunal may, in its discretion, stay the payment of the balance half of the tax or other amount disputed, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed:

Provided further that 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 such half of the tax or other amount and, if such appeal is not so disposed of within the period specified, the order of stay shall stand vacated and the Appellate Tribunal shall not make any further order staying proceedings of recovery of the said tax or other amount.

Explanation.- Every appeal filed after the commencement of the Karnataka Taxation Laws (Amendment) Act, 2008 shall be subject to this section.”

6. Validation of assessments, etc.,-Notwithstanding anything contained in any judgement, decree or order of any Court, Tribunal or other authority to the contrary, 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 the levy, assessment and collection of tax or amount purported to have been collected by way of tax in relation to such levy, assessment and collection) under the provisions of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) and the Karnataka Tax on Professions Trades, Callings and Employments Act, 1976 (Karnataka Act No. 35 of 1976) (hereinafter referred to as the said Acts) before the commencement of this Act shall be deemed to be valid and effective as if such levy, assessment or collection or action or thing had been made, taken or done under the said Acts, as amended by this Act and accordingly,-

(a) all acts, proceedings or things taken or done by any authority in connection with levy, assessment or collection of such tax shall, for all purposes be deemed to be, and to have always been taken or done in accordance with 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; and
- (c) no Court shall enforce any decree or order directing the refund of any such tax.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

ಜಿ.ಕೆ. ಬೋರೇಗೌಡ

ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನಾ ಇಲಾಖೆ.

ಸರ್ಕಾರಿ ಮುದ್ರಣಾಲಯ, ಏಕಾಶ ಸೌಧ ಘಟಕ, ಬೆಂಗಳೂರು - ೦೧.