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PART III
Laws, Regulations and passed thereunder.

GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT-LAW DEPARTMENT
JAMMU, THE 20TH MARCH, 2009.

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 20th March, 2009 and is hereby published for general information:-

**THE JAMMU AND KASHMIR TAXATION LAWS
(AMENDMENT) Act, 2009.
(Act No.VII of 2009)**

[20th March, 2009]

An Act to amend the Jammu and Kashmir Value Added Tax Act, 2005, the Jammu and Kashmir General Sales Tax Act, 1962, the Jammu and Kashmir Entry Tax on Goods Act, 2000, the Stamps Act, Samvat 1977 and the Jammu and Kashmir Motor Spirit and Diesel Oil (Taxation of Sales) Act, Samvat 2005.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixtieth Year of the Republic of India as follows :-

1. *Short title and commencement* - (1) This Act may be called the Jammu and Kashmir Taxation Laws (Amendment) Act, 2009.

(2) It shall come into force from the date of its publication in the Government Gazette.

CHAPTER I

Amendments to the Jammu and Kashmir Value Added Tax Act, 2005

2. *Amendment in section 31, Act III of 2005.*— For sub-section (3) of section 31 of the Jammu and Kashmir Value Added Tax Act, 2005 (hereinafter referred to as "the principal Act"), the following Sub-section shall be substituted, namely:—

"(3) Any person or dealer who having furnished a return under sub-section (1) or (2), discovers any omission or incorrect statement therein, may furnish a revised return on conditions as may be prescribed, at any time before a notice of assessment is served on him, in respect of the period covered by the return or before the expiry of a period of six months from the end of the year, for the period to which the return relates, whichever is earlier."

3. *Amendment in Section 38, Act No.III of 2005.* — After sub-section (1) of Section 38 of the principal Act, the following proviso shall be added, namely:-

"Provided that before proceeding to assess the dealer provisionally, the Assessing Authority shall afford an opportunity to such dealer of being heard."

4. *Amendment to Section 42, Act III of 2005.*— After sub-section (2) of Section 42 of the principal Act, the following section shall be inserted, namely:—

“42-A. Power to review in certain cases.— Notwithstanding anything contained in Sections 37,38 and 39, the Government may, if it is of the opinion that it is expedient to do so in public interest, direct review of the cases for the accounting year 2005-06 where demands have been raised due to technical defaults.”

5. *Amendment of Section 44, Act III of 2005.—* After sub-section (10) of Section 44 of the principal Act, the following sub-section shall be inserted, namely:—

“(11) If the tax or any other amount due under this Act excluding interest is not paid by the dealer or any other person, by whom it is payable within the period allowed, the dealer or such other person shall be liable to pay interest on the tax or other amount from the date it was payable to the date of actual payment @ 2% per month.”

6. *Amendment of section 50, Act No. III of 2005: —* In sub-section (1) of section 50 of the principal Act, for the words “to a dealer the amount of tax, penalty and interest if any, paid by such dealer”, the words “in the prescribed manner any sum paid by a person under this Act” shall be substituted.

7. *Insertion of sections 67-B and 67-C in Act III of 2005. —* After section 67-A of the principal Act, following sections shall be inserted, namely: —

“67-B. Incentive and rewards.— The Government may, by a notification in the Government Gazette, provide for a scheme of incentives and rewards for persons and employees of Commercial Taxes Department who are instrumental in providing vital information leading to better tax recovery and seizures associated with tax evasion.”

“67-C Lucky Coupon Scheme. — The Government may, by a notification in the Government Gazette, provide for a Lucky Coupon Reward Scheme to encourage consumers to demand cash memos for the goods purchased by them.”

8. *Amendment of section 69, Act III of 2005.* — In section 69 of the principal Act, in sub-section (1), in sub-clause (ii) of the clause(s), for the words “till the time such return is furnished”, the words “subject to maximum of rupees five thousand” shall be substituted.

9. *Insertion of section 96-A in Act III of 2005.*— After section 96 of the principal Act, the following section shall be inserted namely.—

“96-A. Effect of registration.— If at the time at which the registration of an unregistered dealer takes effect after the commencement of this Act, and the dealer holds trading stock, for the purpose of sale, or for use as raw materials for the production of finished goods, the dealer shall be entitled to a tax credit for the trading stock or raw materials held by him on the date when his registration takes effect:

Provided that the dealer furnishes a statement of his trading stock and raw material to the Assessing Authority, in the format as may be prescribed by the Commissioner and is able to prove to the satisfaction of the Assessing Authority, through documentary evidence that he has borne input tax on the purchase of the trading stock or raw materials.

Explanation I: - The dealer must claim the entire amount of tax credit to which he is entitled, in a single claim, which accompanies the first return to be furnished under the Act.

Explanation II: - This section applies where goods have borne tax after the commencement of the Act.

Explanation III: - In case of manufacturers claiming remission/availing remission, no input tax credit shall be available on the raw material purchased.

CHAPTER-II

Amendments to the Jammu and Kashmir General Sales Tax Act, 1962

10. *Amendment of section 2, Act XX of 1962.* — In section 2 of the Jammu and Kashmir General Sales Tax Act, 1962 (hereinafter referred to as ‘the principal Act’), in sub-section (2), clause (1) of explanation to sub-clause (n) shall be omitted and clauses (2) and (3) thereof renumbered as clauses (1) and (2).

11. *Amendment of section 7, Act XX of 1962.*— In section 7 of the principal Act, the full-stop at the end of sub-section (3) shall be substituted by colon and thereafter the following proviso shall be inserted, namely.—

“Provided that the Commissioner may, subject to such conditions and restrictions as may be prescribed, exempt any such dealer or class of dealers from furnishing such returns or permit any such dealer—

- (a) to furnish them for such different periods; or
- (b) to furnish a consolidated return relating to all or any of the places of business of the dealer in the state for said period or for such different periods and to such authority, as he may direct.”

12. Insertion of section 16-AA in Act XX of 1962. — After section 16-A of the principal Act, the following section shall be inserted, namely:—

“16-AA. **Liability under the Act to be first charge.** — Notwithstanding anything contained in any contract to the contrary, but subject to any provision regarding creation of first charge in any Central Act for the time being in force, any amount of tax, penalty, interest, sum forfeited, fine or any other sum, payable by a dealer or any other person under this Act, shall be the first charge on the property of the dealer or, as the case may be, person.”

CHAPTER-III

Amendments to the Jammu and Kashmir Entry Tax on Goods Act, 2000

13. *Amendment of section 3, Act IV of 2000.*— In section 3 of the Jammu and Kashmir Entry Tax on Goods Act, 2000, in sub-section (1), in the proviso, sub-clause (a) of clause (iii) shall be substituted by the following namely:—

“(a) the goods are imported into the State by a person in connection with tourism or pilgrimage.

Explanation: - For the purpose of this sub-clause, the person means a person visiting the State temporarily in connection with tourism or pilgrimage.]”

CHAPTER-IV

Amendments to the Stamps Act, Samvat 1977

14. *Amendment of section 48, Act XI of Samvat 1977.* — In section 48 of the Stamps Act, Samvat, 1977, for the words, “by the Collector” the words “by the Collector or Deputy Commissioner of Stamps” shall be substituted.

CHAPTER-V

Amendments to the Jammu and Kashmir Motor Spirit and Diesel Oil (Taxation of Sales) Act, Samvat, 2005

15. *Amendment in Section 3-B, Act V of 2005.*— In the Jammu and Kashmir Motor Spirit and Diesel Oil (Taxation of Sales) Act, Samvat, 2005, Section 3-B shall be omitted.

(sd.) MOHD. ASHRAF
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