



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Sales Tax
(Amendment) Bill, 2004**

(Bill No. 13 of 2004)

⁴³
~~To~~ be introduced in the Legislative Assembly of the State of Goa)

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
FEBRUARY, 2004

**THE GOA SALES TAX (AMENDMENT)
BILL, 2004**

(Bill No. 13 of 2004)

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BILL

*further to amend the Goa Sales Tax Act, 1964
(Act 4 of 1964).*

BE it enacted by the Legislative Assembly of Goa
in the Fifty-fifth Year of the Republic of India as
5 follows:-

1. *Short title and commencement.*— (1) This Act
may be called the Goa Sales Tax (Amendment) Act,
2004.

(2) Section 2 of this Act shall be deemed to have
10 come into force on the 1st day of April, 1996, and
section 3 of this Act shall come into force at once.

2. *Amendment of section 24.*—In section 24 of
the Goa Sales Tax Act, 1964 (Act 4 of 1964)
(hereinafter referred to as the "principal Act"),
15 after sub-section (6), the following sub-section
shall be inserted, namely:-

"(7) When two or more companies are
amalgamated by the Order of a Court/Tribunal
or of the Central Government and such Order is
20 to take effect from a date anterior to the date of
the Order and such companies have sold or
purchased any goods to or from each other
during the period commencing from the date
on which the Order is to take effect and existing

upto the date of the Order, then notwithstanding anything contained in such Order of amalgamation, such transactions of sale shall be included in the turnover of sales of the respective companies and shall be assessed to tax 5 accordingly, and for the purposes of this Act, the said companies shall be treated as distinct companies for entire said period upto the date of the said Order, and the Registration 10 Certificates of the said companies shall be cancelled or amended, where necessary, with effect from the date of the said Order of amalgamation.”.

3. *Insertion of new section 31B.*— After section 31A of the principal Act, the following section shall 15 be inserted, namely:-

“31B. *Establishment of the Goa Consumer Protection and Guidance Fund.*—(1) There shall be established a Fund to be called the Goa 20 *Consumer Protection and Guidance Fund* (hereinafter, in this section, referred to as “the Fund”) into which shall be entered and transferred under appropriation duly made by rules in this behalf, the amounts forfeited and 25 recovered, except amounts refunded to the purchasers, after deducting the expenses of collection and recovery as determined by the Government.

(2) No sum from the Fund shall be paid or applied for any purpose other than the purpose specified 26 in sub-section (3).

(3) The Fund shall be administered in the prescribed manner. The amount in the Fund shall be utilized for meeting the expenses of any

activities related to consumer protection and guidance as the Government may direct and also for giving grant in the prescribed manner to any 5 voluntary consumer organization, society, association, body or institution engaged in protection of interests of the consumers and having such qualifications as may be prescribed.”.

Statement of Objects and Reasons

Whenever two or more companies registered under the Companies Act, 1956 (Act 1 of 1956), are amalgamated by Order of the Court/Tribunal or of the Central Government with retrospective effect, the amalgamated company claim refund of tax stating that there is no sale but only transfer between the amalgamated companies, from the date, Order of amalgamation takes effect. The Bill seeks to insert sub-section (7) to section 24 of the Goa Sales Tax Act, 1964 (Act 4 of 1964) to provide for transactions of sale upto the date of Order of amalgamation of Court/Tribunal shall be included in turnover of sales and assessed accordingly, as these transactions fall within the purview of definition of "sale" contained in the said Act, 1964 and sales tax is paid and collected on the same.

Under sub-section (2) of section 31A of the said Act, 1964, there exists a provision for forfeiture to the Government of any sum collected by way of tax by any person in contravention of sub-section (2) of section 7A or of section 16. There is, however, no provision in the said Act, 1964, for establishment of Fund for crediting such amounts.

The Bill seeks to provide establishment of the Goa Consumer Protection and Guidance Fund by inserting section 31B in the said Act.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendment.

Memorandum Regarding Delegated Legislation

Clause 3 of the Bill empowers the Government to make rules for appropriating the amount to the Fund and manner of administering and giving of grants from the Fund.

These delegations are of normal character.

Assembly Hall,
Porvorim-Goa.

MANOHAR PARRIKAR
Chief Minister

10th February, 2004.

Assembly Hall,
Porvorim-Goa.

S. A. NARVEKAR
Secretary (Legislature)

10th February, 2004.

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, Kidar Nath Sahani, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Sales Tax (Amendment) Bill, 2004.

ANNEXURE

.....
Extract of the Goa Sales Tax Act, 1964
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Section 24

24. SPECIAL PROVISION REGARDING LIABILITY IN CERTAIN CASES.

(1) Where a dealer, liable to pay tax under this Act, dies then,

(a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax due from such dealer under this Act, and

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax (including any penalty) due from such dealer under this Act, whether such tax (including any penalty) has been assessed before his death but has remained unpaid, or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu undivided family and the joint family property is partitioned amongst the various members or groups of members, then each member or groups of members, and the legal representative of any such member who is deceased, notwithstanding such partition shall be jointly and severally liable to pay the tax (including any penalty) due from the dealer under this Act, upto the time of the partition but has remained unpaid, or is assessed after partition.

(3) Where a dealer liable to pay tax under the Act is a firm, or other association of persons, and such firm or

association of persons, is partitioned, or dissolved, as the case may be, then every person who was a partner or member, and the legal representative of any such person or member who is deceased shall, notwithstanding such partition or dissolution, be jointly and severally liable for the payment of tax, penalty, or other amount payable under the Act by such firm or association of persons, whether such tax including any penalty has been assessed before such partition or dissolution but has remained unpaid or is assessed after partition or dissolution.

(4) Where a dealer, liable to pay tax, under this Act, transfers or otherwise disposes of his business in whole or in part, or effects any changes in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person the dealer and the person succeeding shall jointly and severally be liable to pay the tax (including any penalty) due from the dealer under this Act, upto the time of such transfer, disposal or change, whether such tax (including any penalty) has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(5) Where the dealer, liable to pay tax under this-

(a) is the guardian of a ward on whose behalf, the business is carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or, as the case may be the beneficiary shall be liable to pay the tax (including any penalty) due from the dealer upto the time of termination of the guardianship or trust, whether such tax (including any penalty) has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

(6) Where a dealer, liable to pay tax under this Act, is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section

(4), then such person shall be liable to pay tax on the sales of goods made by him on or after the date of succession, and shall (unless he already holds a certificate of registration) within 30 days thereof apply for registration;

Provided that where such person re-sells, or uses within Goa, in the manufacture of goods for sale any goods purchased by the dealer while carrying on business before such succession he shall be entitled to such deductions in respect thereof as are permissible under sub-section (3) of section 7, had the re-sale or use in the manufacture of goods for sale, as the case may be, been effected by the dealer himself.

Section 31A

31A. PENALTY FOR CONTRAVENING PROVISIONS REGARDING COLLECTION OF TAX BY DEALERS.

(1) If the Commissioner is satisfied that any person has acted in contravention of the provisions of sub-section (2) of section 7A or section 16, he may, after giving such person a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times the tax collected in contravention of the said provision.

(2) Any sum collected by way of tax by any person in contravention of sub-section (2) of section 7A or of section 16 shall be forfeited to the State Government in addition to penalty leviable under sub-section (1), after giving such person reasonable opportunity of being heard.