



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Tax on Infrastructure
Bill, 2009**

(Bill No. 23 of 2009)

A

BILL

^{AS}
(~~To be~~ introduced in the Legislative Assembly of the State of Goa)

GOA LEGISLATURE SECRETARIAT,
ASSEMBLY HALL, PORVORIM, GOA
JULY, 2009

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(Bill No. 23 of 2009)

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BILL

to consolidate and amend the law relating to levy
and collection of tax on buildings for
5 infrastructure in the State of Goa.

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

1. **Short title, extent and commencement.**— (1)
10 This Act may be called the Goa Tax on
Infrastructure Act, 2009.

(2) It shall extend to the whole of the State of
Goa.

(3) It shall come into force at once.

2. **Definitions.**— In this Act, unless the context
15 otherwise requires,-

(a) "classification of land" means the
classification assigned to land by zoning or use;

(b) "commercial building" means a building
20 or structure consisting of shop, godown or office
premises, either on ground floor or any other
floor, used wholly or partly for business activities;

(c) "competent authority" means such authority or officer of the Government, as the Government may, by notification in the Official Gazette, specify;

(d) "floor area" means floor area as defined in the Planning and Development Authority (Development Plan) Regulations, 2000, or any subsequent regulations thereto made under the Goa (Regulation of Land Development and Building Construction) Act, 2008 (Act 6 of 2008), for the time being in force;

(e) "Government" means the Government of Goa;

(f) "industrial building" means any building or structure constructed for the purpose of carrying out medium and large scale industrial activities within or outside the areas earmarked and notified as industrial estates/areas, but does not include building constructed for carrying out small scale industrial activity;

(g) "infrastructure" means the provision of potable water, electricity and other amenities like roads, drains, foot paths, sewerage system, etc;

(h) "local authority" means a Municipal Council constituted under the Goa Municipalities Act, 1968 (Act No. 7 of 1969) or a Panchayat constituted under the Goa Panchayat Raj Act, 1994 (Act No. 14 of 1994) or a Municipal Corporation constituted under any law and includes the Goa Industrial Development

Corporation constituted under the Goa Industrial Development Act, 1965 (22 of 1965);

(i) "notification" means a notification published in the Official Gazette;

(j) "prescribed" means prescribed by the rules made under this Act;

(k) "residential building" means any building or structure consisting either of a single self contained unit having built up area of more than 100 square meters or more than one independent unit used for domestic purpose but does not include building constructed for educational institution, orphanage, old age home, home for spastic/retarded children or by any other non-profitable organization and such other organizations as may be notified by the Government in public interest;

(l) "Schedule" means the Schedule appended to this Act.

3. Tax on Infrastructure.— (1) On any construction to be undertaken by any person on any land specified in the Schedule hereto, there shall be levied and paid a tax on infrastructure at the rates specified in the said Schedule.

(2) The Government may, by notification in the Official Gazette, amend any entry in the Schedule and the Schedule shall be deemed to have been amended accordingly.

(3) Every notification made under sub-section (2) shall be laid as soon as may be after it is made

on the table of Legislative Assembly while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the notification or the Legislative Assembly agrees that the notification should not be made and notify such decision in the Official Gazette, the notification shall from the date of publication of such decision have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that notification.

(4) Where a licence for construction has already been issued to any person before the commencement of this Act, the infrastructure tax shall be levied and paid at the time of the renewal of the construction licence or before the issuance of the occupancy certificate/completion certificate, whichever is earlier, after carrying out assessment of tax through the Competent Authority under this Act.

(5) The tax on infrastructure payable under subsection (1), shall be assessed and collected by the Competent Authority at the time of approving the construction plan or at the time of issuing construction licence.

Explanation: While assessing the said tax under this Act,-

(a) where a building proposed to be constructed is in a land earmarked for commercial use/zone, the rate of tax applicable thereto shall be as applicable to commercial buildings irrespective of its use;

(b) where a building proposed to be constructed is in a land earmarked for other use or in zone other than commercial zone, in any plan in force, such as residential or settlement zone, where commercial utilization of building is done partly on the ground floor or any other floor, the rate of tax applicable to commercial buildings shall be charged only to the floor area which is used for commercial purpose while for other area of the building which is used for residential purpose, the rate applicable to residential building shall be charged while assessing infrastructure tax.

(6) The tax collected by the Competent Authority shall be credited into the Government Treasury.

(7) Any person aggrieved by an assessment made by the competent authority under sub section (5) may, within thirty days of communication of such assessment by the competent authority, prefer an appeal before the prescribed authority whose decision shall be final and binding on all parties.

(8) An appeal under sub section (7) shall set out the grounds of appeal and shall be verified by the appellant. It shall accompany the order of the competent authority and its enclosures if any. The appellant shall also pay a fee of Rupees one thousand in the form of Court fee.

4. **Act not in derogation of other laws.**— The provisions of this Act shall be in addition to, the laws governing the building activities, including The Goa Municipalities Act, 1968 (Act 7 of 1969), The Goa, Daman and Diu Town and Country Planning Act, 1974 (Act 21 of 1975), The Goa Panchayat Raj Act, 1994 (Act 14 of 1994), The City of Panaji Corporation Act, 2002 (Act 1 of 2003) and The Goa (Regulation of Land Development and Building Construction) Act, 2008 (Act 6 of 2008).

5. **Local authority not to issue construction Licence.**— (1) No local authority shall issue a construction licence to any residential building or a commercial building or an industrial building unless a person applying for the construction licence has paid the infrastructure tax due under this Act, in respect of such building or structure.

(2) No person shall start constructing a residential building or a commercial building or an industrial building unless the tax payable under this Act, in respect of such building or structure, has been paid.

6. **Local Authority not to issue Occupancy Certificate.**— (1) No local authority shall issue Occupancy Certificate to any residential building or commercial building or industrial building for which the construction licence has been issued before the coming into force of this Act, unless the person applying for it produces a certificate from the competent authority that the tax due under this Act has been paid in respect of such building or structure, as the case may be.

(2) No person shall occupy any building or part thereof unless the tax payable under this Act in respect of such building or structure has been paid.

7. **Penalty.**— whoever contravenes the provisions of this Act shall, on conviction, be liable to imprisonment for a term not exceeding one year and/or liable to pay a fine, twice the amount of tax payable under this Act.

8. **Offences by Companies.**— (1) Where an offence under this Act has been committed by a company, every person, who, at the time when the offence was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such an offence.

(2) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or in connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall

be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purpose of this section,-

(a) "Company" means a body corporate and includes a firm or an association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

9. Recovery or Refund of Tax on Infrastructure.— (1) If any amount on account of tax on infrastructure is found to be due from any person, without prejudice to any other mode of recovery, the same may be recovered as arrears of land revenue under the provisions of the Goa Land Revenue Code, 1968 (Act No. 9 of 1969).

(2) Any amount paid in excess of infrastructure tax due to clerical error, typographical error or wrong assessment, the same shall be refunded to the concerned person/s on an application made by him to the competent authority, within a period of one year from the date of payment of the tax.

(3) In case of any revision in the plan, resulting in any addition or deletion of building area, then the tax on infrastructure levied on such building area shall be recovered or refunded, as the case may be, to the concerned person on an application made to the competent authority under this Act.

10. Power to remove difficulties.— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the Legislative Assembly.

11. Repeal and Saving.— (1) The Goa Tax on Infrastructure Act, 1997 (Goa Act No. 12 of 1997) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

SCHEDULE
(see section 3)

CLASSIFICATION OF LAND USE IN OUTLINE DEVELOPMENT PLAN (ODP)/ ZONING PLANS	CATEGORY OF BUILDING OR STRUCTURE BUILT ON THE LAND MENTIONED IN OUTLINE DEVELOPMENT PLAN (ODP)/ZONING PLANS AND AS SPECIFIED IN COLUMN (1)	RATE OF TAX ON INFRASTRUCTURE PAYABLE PER SQUARE METER OF FLOOR AREA
(1)	(2)	(3)
Residential	(1) Residential building or structure which admeasures 100 square metre or below	Nil
	(2) Residential building or structure which admeasures 101 square metre or above	Rs. 50/-
Commercial	(3) Commercial building or structure	Rs. 100/-
Industrial	(4) Industrial building or structure	Rs. 100/-

CLASSIFICATION OF LAND USE IN REGIONAL PLAN		CATEGORY OF BUILDING OR STRUCTURE BUILT ON THE SAID LAND USE IN REGIONAL PLAN	RATE OF TAX ON INFRASTRUCTURE PAYABLE PER SQUARE METER OF FLOOR AREA
Settlement	Residential	(1) Residential building or structure which admeasures 100 square meter or less	Nil
		(2) Residential building or structure which admeasures 101 square metre or above	Rs. 50/-
	Commercial	(3) Commercial building or structure	Rs. 100/-
Industrial		(4) Industrial building or structure	Rs. 100/-

STATEMENTS OF OBJECTS AND REASONS

In the year, 1997, the Legislative Assembly has enacted the legislation Viz. "The Goa Tax On Infrastructure Act, 1997" to enable the Government to levy and collect a tax called Infrastructure tax, to meet the expenditure that will have to be incurred by the Government for providing infrastructure facilities to the newly constructed multi dwelling buildings etc.

However, the provisions of the said Act are found to be inadequate, with reference to the smaller buildings coming up alongwith the multi storeyed building which are also used for both residential as well as the commercial purpose, requiring imposition of tax on infrastructure.

The present Bill seeks to consolidate and provide to levy and collection of tax on infrastructure on buildings based on the land use mentioned in the Outline Development Plan/ Zoning Plan on which the construction carried out such as residential, commercial and industrial or settlement areas in the Regional Plan. This would simplify the procedure as well as for recovery of tax due as well as refund of excess of tax paid on account of wrong interpretation or typographical error in the assessment of tax by the competent authority.

The proposed legislation also provides for an appeal against the wrong assessment made by the competent authority before the prescribed authority, so that any person aggrieved by any order of assessment of tax made by the competent

authority, could prefer an appeal before the authority as to be prescribed thereof.

This Bill seeks to achieve the above object.

FINANCIAL MEMORANDUM

In the State of Goa tax on infrastructure is already being collected since 1997. There is no major change in the present legislation and the Act which was enacted in 1997 and amended subsequently in the year 1998, 2007 and 2008, except that the levy is made relatable to the classification of land instead of restricting to multi dwelling building, commercial or non-residential building and industrial building. However the commercial rate will now be applicable in buildings having part commercial and part residential uses to only the part of the building used for commercial use unlike the earlier provision of reckoning the full building floor area for commercial use rate. The reduction in revenue on this count will be balanced on account of levy being made relatable to the classification of land. This is expected to yield higher revenue for the Government than what is presently being collected. The quantum that may be collected under this Act cannot, at this stage, be quantified as it depends on various factors like construction activities which may come up in future.

Memorandum Regarding Delegated Legislation

Clause 1 (3) of the Bill empowers the Government to issue notification for bringing into force the Act.

Clause 2 (c) of the Bill empowers the Government to issue notification for specifying Competent Authority.

Clause 3 (2) of the Bill empowers the Government to issue notification for amending any entry in the Schedule.

Clause 10 of the Bill empowers the Government to make an order for removing difficulty encountered while implementing provisions of the act.

These delegations are of normal character.

Porvorim – Goa
Dated:-

(Shri. DIGAMBAR KAMAT)
Hon. Chief Minister

Assembly Hall,
Porvorim – Goa
Dated:

(J. N. BRAGANZA)
Secretary to the Legislative
Assembly of Goa

**Governor's Recommendation under Article 207
of the Constitution**

In pursuance of Article 207 of the Constitution of India, I, S.S. Sidhu, Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction of the Goa Tax on Infrastructure Bill, 2009.