



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA VALUE ADDED TAX  
(SIXTH AMENDMENT) BILL, 2012**

(Bill No. 23 of 2012)

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(To be introduced in the Legislative Assembly of the State of Goa)

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**GOA LEGISLATURE SECRETARIAT,  
ASSEMBLY HALL, PORVORIM, GOA  
JULY, 2012**

# THE GOA VALUE ADDED TAX (SIXTH AMENDMENT) BILL, 2012

(Bill No. 23 of 2012)

A

Bill

*further to amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005).*

5 BE it enacted by the Legislative Assembly of Goa, in the Sixty-third Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Value Added Tax (Sixth Amendment) Act, 2012.

(2) It shall come into force at once except sections 3, 4(i) which shall be deemed to have come into force on 1st day of April, 2012 and section 4(ii) on 1st day of April, 2011.

15 2. *Amendment of section 6.*— In section 6 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) (hereinafter referred to as the "principal Act"), in sub-section (2), for the words "by Notification", the expression "by Notification in the Official Gazette, to take effect, either prospectively or retrospectively, from the date as  
20 may be mentioned therein", shall be substituted.

3. *Amendment of section 9.*— In section 9 of the principal Act,—

(i) in sub-section (2), for clause (viii), the following clause shall be substituted, namely:—

"(viii) in respect of goods used in the manufacture or processing of finished goods dispatched other than by way of sales outside the State except in case of input tax credit claimed against entry tax paid under sub-section (6) of this section;" 5

(ii) in sub-section (6), the following proviso shall be inserted, namely:—

"Provided that in respect of finished products dispatched by way other than sales, the input tax credit on goods other than those covered by Schedule 'G' shall be to the extent it exceeds the rate specified under sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956)." 15

4. *Amendment of section 10.*— In section 10 of the principal Act,—

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) After adjustment under sub-section (1), the excess input tax credit of a registered dealer, other than those covered under sub-section (3), shall be carried over as an input tax credit to the subsequent period: 20

Provided that in case input tax credit at the end of the last quarter of the year exceeds rupees two lakhs, the dealer shall file an application in the prescribed form within three months to carry forward input tax credit and the Commissioner shall decide the same within three months from the date of filing of such application and thereafter the excess input tax credit, if any, shall be allowed to be carried forward accordingly. 25 30

Provided further that if any assessment, is done for the period then only the excess input tax credit as determined in the said assessment shall be allowed to be carried forward.";

(ii) in sub-section (4), the "Explanation" thereto shall be omitted. 5

5. *Amendment of section 24.*—In section 24 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:— 10

"(1) Every registered dealer shall file a correct and complete return in such form, in such manner, for such period, by such date and to such authority, as may be prescribed. In addition, the Commissioner may require the registered dealers to furnish any data, for the purpose of collecting statistics, relating to any matter dealt with in connection to this Act."; 15

(ii) after sub-section (3), the following sub-section shall be inserted, namely:— 20

"(4) Any return filed under sub-section (1), without proper payment of tax as due, shall not be considered as a return filed under the provisions of this Act and therefore shall be liable for penalty." 25

6. *Amendment of section 70.*— In section 70 of the principal Act,—

(i) in sub-section (1), the following proviso shall be inserted, namely:— 30

"Provided that except in case of oil marketing company, the turnover of goods

listed in Schedule 'D' and Schedule 'G' shall not be included in the gross turnover of sales specified above.";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the period prescribed, the Commissioner shall impose on him, in addition to any tax payable, a penalty of rupees one hundred per day for each day of delay, subject to a maximum of rupees twenty-five thousand cumulatively.";

(iii) the sub-section (4) shall be omitted.

7. *Amendment of section 75.*— In section 75 of the principal Act,—

(i) in sub-section (2), in clause (a), the following shall be added at the end, namely:—

"and file at the check post such declaration or document as may be prescribed";

(ii) in sub-section (5), the expression "or twenty per cent of the value of goods, whichever is higher" shall be omitted.

8. *Insertion of new section 89A.*— In the principal Act, after section 89, the following section shall be inserted, namely:—

"89A. *Incentive Scheme to Industry.*— (1) Notwithstanding anything contained in this Act or the Rules or notifications, issued thereunder, the Government may frame Scheme under this

Act to grant some incentives to the Industrial units in the State.";

(2) The Scheme framed by the Government under this sub-section (1) shall, as soon as may be after it is framed, be laid before the Legislative Assembly of Goa while it is in session for a total period of not less than fourteen days, which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of its publication in the Official Gazette subject to such modification or annulment as the Legislative Assembly of Goa may, during the said period, agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder."

9. *Repeal and Saving.*— (1) The Goa Value Added Tax (Amendment) Ordinance, 2012 (Ordinance No. 4 of 2012) is hereby repealed.

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



## Statement of Objects and Reasons

The Bill seeks to amend section 6(2) of the Goa Value Added Tax Act, 2005(Goa Act 9 of 2005)(hereinafter referred to as the "said Act"), so as to empower the Government to issue notifications as specified therein, either prospectively or retrospectively.

The Bill further seeks to substitute clause (viii) of sub-section (2) of section 9 of the said Act, so as to make clear the case about allowing input tax credit against entry tax paid under sub-section (6) thereof which is also sought to be amended to provide the extent of input tax credit in respect of finished products dispatched by way other than sales.

The Bill also seeks to substitute sub-section (2) of section 10 of the said Act so as to allow to carry forward of excess input tax credit at the end of the year in the manner and subject to such conditions as provided therein ; and further to omit "Explanation" to sub-section (4) thereof so as to do away with the provision relating to reversal and to carry forward of input tax credit proportionate to the closing stock at the end of the year.

The Bill also seeks to substitute sub-section (1) of section 24 of the said Act, so as to enable the Government to prescribe different periods other than a quarter, for different classes of dealers including annual return for small dealers and further seeks to insert a new sub-section (4) in said section 24 so as to make clear that a return filed without proper payment of tax would not be considered as a return filed as per the provisions of the said Act and would be liable for penalty.

The Bill also seeks to insert a proviso in sub-section (1) of section 70 of the said Act so as to exclude the dealers other than oil marketing companies, dealing in goods listed in Schedule 'D' and 'G' to the said Act from getting their accounts audited as per the provisions of section 70 of the said Act and further seeks to substitute sub-section (3) of said section 70 so as to reduce the maximum penalty specified for non-compliance with the requirements of sub-section (1) of section 70, from Rs. 1,00,000/- to Rs. 25,000/- and simultaneously omit sub-section (4) of said section 70 to do away with the power of the Commissioner to remit the said penalty.

The Bill also seeks to amend clause (a) of sub-section (2) of section 75 of the said Act so as to make it mandatory for the driver or person in charge of vehicle or carrier of goods, to file at the Check Post such documents or declaration as may be prescribed by the Government and further seeks to amend sub-section (5) of said section 75 so as to impose the penalty equal to twice the amount of tax leviable under that sub-section.

The Bill seeks to insert a new section 89A in the said Act so as to empower the Government to frame Scheme for granting incentives to the industrial units in the State of Goa.

The Bill also seeks to repeal the Goa Value Added Tax (Amendment) Ordinance, 2012 (Ordinance No. 4 of 2012) promulgated by the Governor of Goa on 01-06-2012.

This Bill seeks to achieve the above objects.

## Financial Memorandum

No financial implications are involved in this Bill.

### **Memorandum Regarding Delegated Legislation**

Clause 4 of the Bill empowers the Government to prescribe by way of rules the form of filing application.

Clause 5 of the Bill empowers the Government to prescribe by way of rules, the form, manner and period of filing return by a registered dealer and the date by which and the authority to whom the same shall be filed.

Clause 6 of the Bill empowers the Government to prescribe by way of rules the period within which a copy of report of audit to be submitted.

Clause 7 of the Bill empowers the Government to frame rules specifying the declaration or document to be filed at the Check post.

Clause 8 of the Bill empowers the Government to frame Scheme for granting incentives to the industrial Units in the State of Goa.

These delegations are of normal character.

Assembly Hall,  
Porvorim, Goa.  
31st July, 2012.

**SHRI MANOHAR PARRIKAR**  
Chief Minister/Finance Minister

Assembly Hall,  
Porvorim, Goa.  
31st July, 2012.

**N. B. SUBHEDAR**  
Secretary to the Legislative  
Assembly of Goa

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

In pursuance of Article 207 of the Constitution of India, I, Bharat Vir Wanchoo, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Value Added Tax (Sixth Amendment) Bill, 2012.

RAJ BHAVAN  
Date:1/8/2012.

**BHARAT VIR WANCHOO**  
Governor of Goa



**ANNEXURE**

Bill No 23 of 2012

Extract of the Goa Value Added Tax Act, 2005  
(Act 9 of 2005)

**6. Reimbursement and Exemption of Tax.—**

(1) Tax collected under this Act on purchases made by specialized agencies of United Nations Organizations or Diplomatic Mission/Consulates or Embassies of any other country and their diplomats shall be reimbursed in such manner and subject to such conditions as may be prescribed.

(2) In respect of any goods not entitled for input tax credit and covered by Schedule 'C' appended hereto purchased within the State on payment of tax under this Act, the Government may subject to such conditions as it may impose, by Notification exempt subsequent sales thereof from payment of output tax for such period as may be notified.

(3) In respect of any goods other than capital goods and such other goods as specified in Schedule 'G' appended to this Act, or in sub-section (2) of section 9, used in the manufacturing or processing of finished products dispatched other than by way of sales, the Government may, notwithstanding anything contained in section 9, by notification, allow input tax credit in excess of the rate of tax specified in sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) on such goods purchased within the State subject to such terms and conditions as may be specified in the notification.

(4) Notwithstanding anything contained in sub-section (2), the Government may, in respect of any goods covered by Schedule 'G' appended to this Act, by notification, exempt the sales inter-se dealers thereof,

from levy and payment of output tax, when effected within the State, on such conditions as may be specified therein, and any such sales shall not be treated as "subsequent sale" as provided, in sub-section (2).

**9. Input Tax Credit.—**

(1) Subject to such conditions and restrictions as may be prescribed Input Tax Credit either partially or wholly shall be allowed for the tax paid during the tax period in respect of goods including capital goods purchased and/or taken on hire or leased to him within Goa, other than those specified in Schedule 'G' and/or such other goods as may be notified from time to time by the Government, provided, the goods purchased are for resale in Goa or for sale in course of Inter State Trade or in course of export outside the territory of India or used by him as raw materials/capital goods in the manufacture or processing of taxable goods in Goa or for sale by transfer of right to use.

(2) No input tax credit under sub-section (1) shall be claimed or be allowed to a registered dealer:—

(i) in respect of goods purchased on payment of tax if such goods are not sold because of theft or destruction for any reason;

(ii) in respect of stock of goods remaining unsold at the time of closure of business;

(iii) in respect of any taxable goods under the Act purchased by him from another registered dealer for resale but given away by way of free samples or gifts;

(iv) in respect of capital goods/industrial inputs and packing materials, covered under Schedule 'B' of the Act, if said goods are utilized for the purposes other than those covered in the prescribed declaration;

(v) in respect of goods purchased from a dealer who has opted for composition of tax under sub-section (1) of section 7;

(vi) in respect of capital goods or capital assets:—

(a) purchased or paid prior to appointed day;

(b) capital expenditure incurred prior to the date of registration under this Act;

(c) capital goods not connected with the business of the dealer;

(d) capital goods used in the manufacture of goods or providing services which are not liable to tax under this Act;

(e) capital goods used in generation of energy/power including captive power;

(f) motor cars, its accessories and spare parts.

(vii) in respect of taxable goods sold within the State or in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), exempted from payment of tax under any specific notification issued under this Act or under the said Central Sales Tax Act, 1956;

(viii) in respect of goods used in the manufacture or processing of finished goods dispatched other than by way of sales outside the State.

(ix) in respect of purchase of motor vehicle including car, three wheeler and two wheeler under this Act or tax paid under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on import of such motor vehicle before grant of registration mark under

the Motor Vehicles Act, 1988 (Central Act 58 of 1988), when such vehicle is resold as true value vehicle or otherwise by a registered dealer under this Act;

(x) in respect of raw material used in the manufacture of ready mixed concrete;

(xi) in respect of naptha and furnace oil used either as raw material or fuel by chemical fertilizer industry.

(xii) ice cream, alcoholic beverages including beer and wine and non-alcoholic beverages including packed juices, aerated water and soft drinks served in party, factory or industrial canteens, clubs, or served by caterer, for consumption at any place other than hotel/restaurant;

(xiii) condemned vehicles.

(3) If goods purchased are intended for use specified under sub-section (1) and are subsequently used fully or partly, for purposes other than those specified under the said sub-section, or loss of goods arising out of theft or destruction for any reason or the stock of goods remaining unsold at the time of closure of business, the input tax credit availed at the time of such purchase shall be reduced from the tax credit for the period during which the said utilization has taken place provided that if part of the goods purchased are utilized otherwise, the amount of reverse tax credit shall be proportionately calculated.

(4) Input tax credit shall be allowed to the registered dealer, subject to restrictions of sub-section (2), in respect of tax charged to him by a registered seller on taxable sales of goods made to him for the purpose of the business within three months prior to the date of his registration provided that no input tax credit shall be allowed in respect of goods which have been sold or otherwise disposed of prior to the date of registration.



(5) (a) where a registered dealer has availed of the input credit on any goods and the same goods are not used in the course of his business, input tax credit so availed becomes repayable in the tax period following the date on which these goods were put to such other use;

(b) where such goods were wholly or mainly used or are intended for use in sale of taxable goods prior to change of use, tax shall be calculated on the prevailing market value of such goods at the time of change of use.

(6) Any registered dealer who has paid entry tax under the Goa Tax on Entry of Goods Act, 2000 (Goa Act 14 of 2000), either on raw material or on capital goods, other than on goods covered by Schedule 'G' and/or sub-section (2) of this section, brought by him into the local area for use or consumption in the manufacture or processing of goods within the State, shall be entitled for input tax credit under sub-section (1) of this section.

(7) Balance unclaimed input tax credit of capital goods shall not be allowed in case of closure of business.

(8) The registered dealer shall be eligible for input tax credit on stock held on the appointed day, towards the tax paid under the earlier law subject to such conditions as may be prescribed. The period and the date from which such input tax credit is to be apportioned shall be as notified.

(9) The deduction of input tax credit on capital goods under this section shall be allowed in two equal annual installments after the close of the respective year as under:

(i) in case of existing units, upon installation of such capital goods, and

(ii) in case of new units, upon commencement of commercial production.

#### 10. *Input Tax Credit Exceeding Tax Liability.*—

(1) Subject to the provisions of sub-section (2), if the input tax credit of a registered dealer, determined under section 9 of this Act for a period exceeds the tax liability for that period, the excess credit shall be set off against any outstanding tax, penalty or interest under this Act or earlier law or under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

(2) After adjustment under sub-section (1), the excess input tax credit of a registered dealer other than those covered under sub-section (3) shall be carried over as an input tax credit to the subsequent period upto the end of the respective financial year and if there is any unadjusted input tax credit thereof, the same shall be refunded in the prescribed manner within three months, from the date of filing of the last quarterly return of the respective financial year or from the date of filing an application by the dealer claiming such refund, whichever is later.

(3) In case of exporter selling goods outside the territory of India, the excess input tax credit, if any, admissible as per provision of this Act, proportionate to the goods exported and carried over at the end of any quarter shall be refunded in the prescribed manner within 3 months from the date of filing of application claiming the refund.

(4) Notwithstanding anything contained in sub-section (2), the Government may allow, carry forward of excess input tax credit, if any, to such shorter period and grant refund of unadjusted portion thereof in respect of such goods to such registered dealer on such conditions and at such proportion as may be specified by the Notification in the Official Gazette.

*Explanation.*— (i) For the purposes of sub-sections (1) and (2) of this section, the input tax credit proportionate to the closing stock (other than stock of processed goods)

at the end of financial year, shall be reversed and such amount shall be carried forward to the succeeding financial year as input tax credit corresponding to the opening stock. The term "processed goods", for the purposes of this sub-section, means finished or semi-finished goods.

*24. Returns and Payment of Tax, Etc.—*

(1) Every registered dealer shall file a correct and complete quarterly return in such form, by such date and to such authority, as may be prescribed. In addition to any data required for proper quantification of tax, the Commissioner may require the registered dealers to furnish data for the purpose of collecting statistics relating to any matter dealt with, by or in connection to this Act.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), every registered dealer may be required to furnish correct and complete returns in such form for such period, by such dates, and to such authority, as may be prescribed:

Provided that the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such dealer from furnishing such returns or permit any such dealer to furnish them for such different periods.

(3) If any dealer having furnished a return under sub-section (1), discovers any omission or incorrect statement therein, he may furnish a revised return at any time before a notice for assessment is served on him in respect of the period covered by the said return or before the expiry of one year following the last date prescribed for furnishing the said return, whichever is earlier.

*70. Accounts to be audited in certain Cases.—*

(1) Every dealer liable to pay tax shall, if his gross turnover of sales exceeds rupees one crore in any year, or in any other case, if the amount of input tax credit claimed by him in any year exceeds rupees ten lacs, get

his accounts in respect of such year audited by an accountant by such date and in such manner as may be prescribed and furnish within the prescribed period the report of such audit in the prescribed form duly verified and signed by such accountant and setting forth such particulars and certificates as may be prescribed.

(2) For the purposes of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (Central Act 38 of 1949).

(3) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the period prescribed, the Commissioner shall, impose on him, in addition to any tax payable, a penalty of rupees one thousand plus rupees one hundred per day during the first sixty days of default and rupees two hundred fifty per day thereafter, subject to a maximum of rupees one lac cumulatively.

(4) Notwithstanding anything contained in sub-section (3), the Commissioner, upon an application from the dealer and subject to such rules as may be prescribed, remit the whole or any part of the penalty imposed on such defaulting dealer.

*75. Establishment of Check Posts for Inspection of Goods in Transit.—*

(1) The Government may, with a view to prevent or check avoidance or evasion of tax, by notification in the Official Gazette, direct establishment of the check post or barrier at such places as may be specified in the notification and every officer who exercise powers and discharges his duties at such check post by way of inspection of documents produced and goods being moved, shall be in-charge of such check post or barrier.



(2) The driver or person in charge of vehicle or carrier of goods in movement shall:—

(a) carry with him the records of the goods including "Challan", bills of sale or despatch memos and prescribed declaration form or way bill duly filled in and signed by the consignor of goods carried;

(b) stop the vehicle or carrier at every check post set up under sub-section (1) or at any other place as desired by an officer authorized by the Commissioner in this behalf;

(c) produce all the documents relating to the goods before the officer in charge of the check post or the authorized officer;

(d) give all the information in his possession relating to the goods;

(e) allow the inspection of the goods and search of the vehicle by the officer in charge of the check post or any authorized officer.

(3) Where any goods are in movement within the territory of the State of Goa, an officer empowered by the Government in this behalf may stop the vehicle or the carrier or the person carrying such goods, for inspection, at any place within his jurisdiction and provisions of sub-section (2) shall mutatis mutandis apply.

(4) Where any goods in movement are without documents, or are not supported by documents as referred to in sub-section (2), or documents produced appear to be false or forged, the officer in charge of the check post or the officer empowered under sub-section (3), may—

(a) direct the driver or the person in-charge of the vehicle or carrier of the goods not to part with the goods in any manner including by transporting or re booking, till a verification is done or an enquiry is made, which shall not take more than seven days;

(b) seize the goods for reasons to be recorded in writing and shall give receipt of the goods seized to the person from whose possession or control they are seized.

(5) The officer in charge of the check post or the officer empowered under sub-section (3), after having given the person in charge of the goods a reasonable opportunity of being heard and after having held such enquiry as he may deem fit, shall, impose, for possession or movement of goods, whether seized or not, in violation of the provisions of clause (a) of sub-section (2) or for submission of false or forged documents, a penalty, equal to twice the amount of the tax leviable on such goods or twenty percent of the value of goods, whichever is higher.

(6) During the pendency of the proceeding under sub-section (5) if any one prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the said officer in charge of the check post or the empowered officer, on being satisfied, may permit him to be included as a party to the case; and thereafter, all provisions of this section shall mutatis mutandis apply to him.

(7) The officer in charge of the check post or the officer empowered under sub-section (3) may release the goods to the owner of the goods or to any person duly authorized by such owner, on payment of the penalty imposed under sub-section (5).

(8) Where the driver or person in charge of the vehicle or the carrier is found guilty of violation of the provisions of sub-section (2), the officer in charge of the check post or the officer empowered under sub-section (3) may detain such vehicle or carrier and after affording an opportunity of being heard to such driver or person in charge of the vehicle or the carrier, may impose a penalty on him as provided under sub-section (5).



(9) Where a transporter, while transporting goods, is found to be in collusion with dealer to avoid or evade tax, the officer in charge of the check post or the officer empowered under sub-section (3), shall detain the vehicle or carrier of such transporter and after affording him an opportunity of being heard and with prior approval in writing of the Commissioner may confiscate such vehicle or carrier.