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TELANGANA BILLS
TELANGANA LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Telangana Legislative Assembly on 30th August, 2016.

L. A BILL No.10 OF 2016.

A BILL FURTHER TO AMEND CERTAIN TAXING STATUTES TO PROVIDE FOR CONSTITUTION OF A STATE LEVEL AUTHORITY FOR CLARIFICATION AND ADVANCE RULINGS AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Telangana State Legislature in the Sixty-seventh Year of the Republic of India as follows:-

B.137-1 G

[1]

Short title, extent and commencement. 1. (1) This Act may be called the Telangana Taxing Statutes (Providing for Constitution of State Level Authority for Clarification and Advance Rulings) (Amendment) Act, 2016.

(2) It extends to the whole of the State of Telangana.

(3) It shall be deemed to have come into force with effect from the 14th June, 2016.

Definitions. 2. (1) In this Ordinance, unless the context otherwise requires, the Telangana Taxing Statute means,-

1. The Telangana Horse Racing and Betting Tax Regulation, 1358 F. (Regulation No. XLIX of 1358 F.);

2. The Telangana Entertainments Tax Act, 1939 (Act No. X of 1939);

3. The Telangana Tax on Professions, Trades, Callings and Employment Act, 1987 (Act No. 22 of 1987);

4. The Telangana Tax on Luxuries Act, 1987 (Act No. 24 of 1987);

5. The Telangana Rural Development Act, 1996 (Act No. 11 of 1996); and

6. The Telangana Tax on Entry of Motor Vehicles into Local Areas Act, 1996 (Act No. 26 of 1996).

(2) The words used but not defined herein, shall have the same meaning as assigned to them, in the respective principal Acts.

Amendment of Regulation No. XLIX of 1358 F. 3. In the Telangana Horse Racing and Betting Tax Regulation, 1358 F. after section 21, the following sections shall be added, namely,-

“Clarification and
Advance Rulings.”

22. (1) (i) The Commissioner may constitute a State Level Authority for Clarification and Advance Rulings comprising 3 officers not below the rank of Joint Commissioner to clarify, in the manner prescribed any aspect of the implementation of the Act.

(ii) The State Level Authority for Clarification and Advance Rulings constituted under section 67 of the Telangana Value Added Tax Act, 2005 shall also function as State Level Authority for issue of Clarifications and Advance Rulings on issues raised under this Act.

(2) No application shall be entertained where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or any Court;

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax:

Provided that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(3) No officer or any other authority of the Department shall proceed to decide any issue in respect of which an application has been made by an applicant under this section and is pending.

(4) The order of the authority shall be binding:-

(i) on the applicant who had sought clarification;

(ii) in respect of the transaction in relation to which a clarification was sought; and

(iii) on all the officers other than the Commissioner:

Provided the applicant does not file an appeal before the Telangana Value Added Tax Appellate Tribunal within 30 days of the Ruling in the manner prescribed.

(5) (i) The authority for clarifications shall have power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties;

(ii) An order giving affect to such review or amendment or revocation shall not be subject to the period of limitation.

(6) The Commissioner may also prefer any matter for opinion of the Authority for clarification without prejudice to his authority.”.

“Appeal to the Telangana Value Added Tax Appellate Tribunal. 23. Any proprietor, objecting to an order passed by the State Level Authority for Clarification and Advance Rulings may appeal to the Telangana Value Added Tax Appellate Tribunal within 30 days from the date on which the order was communicated to him:

Provided that the Appellate Authority may admit on appeal preferred after the period of sixty days aforesaid if it is satisfied that the proprietor had sufficient cause for not preferring the appeal within that period.”.

Amend-
ment of
Act No. 10
of 1939.

4. In the Telangana Entertainments Tax Act, 1939 (hereinafter referred to as the principal Act),

(1) after section 9-B of the principal Act, the following section shall be inserted, namely,-

"Appeal to the
Telangana Value
Added Tax
Appellate Tribunal.

9-BA. Any proprietor, objecting to an order passed by the State Level Authority for Clarification and Advance Rulings may appeal to the Telangana Value Added Tax Appellate Tribunal within 30 days from the date on which the order was communicated to him:

Provided that the Appellate Authority may admit on appeal preferred after the period of sixty days aforesaid if it is satisfied that the proprietor had sufficient cause for not preferring the appeal within that period."

(2) after section 16 of the principal Act, the following section shall be inserted, namely,-

"Clarification and
Advance Rulings.

16-A. (1) (i) The Commissioner may constitute a State Level Authority for Clarification and Advance Rulings comprising 3 officers not below the rank of Joint Commissioner to clarify, in the manner prescribed any aspect of the implementation of the Act.

(ii) The State Level Authority for Clarification and Advance Rulings constituted under section 67 of the Telangana Value Added Tax Act, 2005 shall also function as State Level Authority for issue of Clarifications and Advance Rulings on issues raised under this Act.

(2) No application shall be entertained where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or any Court.

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax:

Provided that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(3) No officer or any other authority of the Department shall proceed to decide any issue in respect of which an application has been made by an applicant under this section and is pending.

(4) The order of the authority shall be binding:-

(i) on the applicant who had sought clarification;

(ii) in respect of the transaction in relation to which a clarification was sought; and

(iii) on all the officers other than the Commissioner:

Provided the applicant does not file an appeal before the Telangana Value Added Tax Appellate Tribunal within 30 days of the Ruling in the manner prescribed.

(5) (i) The authority for clarifications shall have power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties.

(ii) An order giving affect to such review or amendment or revocation shall not be subject to the period of limitation.

(6) The Commissioner may also prefer any matter for opinion of the Authority for clarification without prejudice to his authority.”.

**Amend-
ment of
Act No. 22
of 1987.**

5. In the Telangana Tax on Professions, Trades, Callings and Employment Act, 1987, after section 30, the following section shall be inserted, namely,-

“Clarification and Advance Rulings.”

30-A. (1) (i) The Commissioner may constitute a State Level Authority for Clarification and Advance Rulings comprising 3 officers not below the rank of Joint Commissioner to clarify, in the manner prescribed any aspect of the implementation of the Act.

(ii) The State Level Authority for Clarification and Advance Rulings constituted under section 67 of the Telangana Value Added Tax Act, 2005 shall also function as State Level Authority for issue of Clarifications and Advance Rulings on issues raised under this Act.

(2) No application shall be entertained where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or any Court.

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax:

Provided that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(3) No officer or any other authority of the Department shall proceed to decide any issue in respect of which an application has been made by an applicant under this section and is pending.

(4) The order of the authority shall be binding:-

(i) on the applicant who had sought clarification;

(ii) in respect of the transaction in relation to which a clarification was sought; and

(iii) on all the officers other than the Commissioner:

Provided the applicant does not file an appeal before the Telangana Value Added Tax Appellate Tribunal within 30 days of the Ruling in the manner prescribed.

(5) (i) The authority for clarifications shall have power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties.

(ii) An order giving affect to such review or amendment or revocation shall not be subject to the period of limitation.

(6) The Commissioner may also prefer any matter for opinion of the Authority for clarification without prejudice to his authority.”.

Amend-
ment of
Act No. 24
of 1987.

6. In the Telangana Tax on Luxuries Act, 1987 (hereinafter referred to as the principal Act),-

(1) in section 12-A of the principal Act, for the expression “Andhra Pradesh General Sales Tax Act, 1957”, the expression “Telangana Value Added Tax Act, 2005 (Act No. 5 of 2005):” shall be substituted.

(2) after section 25 of the principal Act, the following section shall be inserted, namely,-

“Clarification and Advance Rulings. 25-A. (1) (i) The Commissioner may constitute a State Level Authority for Clarification and Advance Rulings comprising 3 officers not below the rank of Joint Commissioner to clarify, in the manner prescribed any aspect of the implementation of the Act.

(ii) The State Level Authority for Clarification and Advance Rulings constituted under section 67 of the Telangana Value Added Tax Act, 2005 shall also function

as State Level Authority for issue of Clarifications and Advance Rulings on issues raised under this Act.

(2) No application shall be entertained where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or any Court.

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax:

Provided that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(3) No officer or any other authority of the Department shall proceed to decide any issue in respect of which an application has been made by an applicant under this section and is pending.

(4) The order of the authority shall be binding:-

(i) on the applicant who had sought clarification;

(ii) in respect of the transaction in relation to which a clarification was sought; and

(iii) on all the officers other than the Commissioner:

Provided the applicant does not file an appeal before the Telangana Value Added Tax Appellate Tribunal within 30 days of the Ruling in the manner prescribed.

(5) (i) The authority for clarifications shall have power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties.

(ii) An order giving affect to such review or amendment or revocation shall not be subject to the period of limitation.

(6) The Commissioner may also prefer any matter for opinion of the Authority for clarification without prejudice to his authority.”.

Amend-
ment of
Act No. 11
of 1996.

7. In the Telangana Rural Development Act, 1996, after section 10, the following sections shall be added, namely,-

“Clarification and Advance Rulings.” 10-A. (1) (i) The Commissioner may constitute a State Level Authority for Clarification and Advance Rulings comprising 3 officers not below the rank of Joint Commissioner to clarify, in the manner prescribed any aspect of the implementation of the Act.

(ii) The State Level Authority for Clarification and Advance Rulings constituted under section 67 of the Telangana Value Added Tax Act, 2005 shall also function as State Level Authority for issue of Clarifications and Advance Rulings on issues raised under this Act.

(2) No application shall be entertained where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or any Court.

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax:

Provided that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(3) No officer or any other authority of the Department shall proceed to decide any issue in respect of which an application has been made by an applicant under this section and is pending.

(4) The order of the authority shall be binding:-

(i) on the applicant who had sought clarification;

(ii) in respect of the transaction in relation to which a clarification was sought; and

(iii) on all the officers other than the Commissioner:

Provided the applicant does not file an appeal before the Telangana Value Added Tax Appellate Tribunal within 30 days of the Ruling in the manner prescribed.

(5) (i) The authority for clarifications shall have power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties.

(ii) An order giving affect to such review or amendment or revocation shall not be subject to the period of limitation.

(6) The Commissioner may also prefer any matter for opinion of the Authority for clarification without prejudice to his authority.”.

“Appeal to the
Telangana Value
Added Tax
Appellate
Tribunal.

10-B. Any proprietor, objecting to an order passed by the State Level Authority for Clarification and Advance Rulings may appeal to the Telangana Value Added Tax Appellate Tribunal within 30 days from the date on which the order was communicated to him:

Provided that the Appellate Authority may admit on appeal preferred after the period of sixty days aforesaid if it

is satisfied that the proprietor had sufficient cause for not preferring the appeal within that period.”.

Amend-
ment of
Act No. 26
of 1996.

8. In the Telangana Tax on Entry of Motor Vehicles into Local Areas Act, 1996 (hereinafter referred to as the principal Act),-

(1) after section 13, the following section shall be inserted, namely,-

“Clarification and Advance Rulings.” 13-A. (1) (i) The Commissioner may constitute a State Level Authority for Clarification and Advance Rulings comprising 3 officers not below the rank of Joint Commissioner to clarify, in the manner prescribed any aspect of the implementation of the Act.

(ii) The State Level Authority for Clarification and Advance Rulings constituted under section 67 of the Telangana Value Added Tax Act, 2005 shall also function as State Level Authority for issue of Clarifications and Advance Rulings on issues raised under this Act.

(2) No application shall be entertained where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or any Court.

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax:

Provided that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(3) No officer or any other authority of the Department shall proceed to decide any issue in respect

of which an application has been made by an applicant under this section and is pending.

(4) The order of the authority shall be binding:-

(i) on the applicant who had sought clarification;

(ii) in respect of the transaction in relation to which a clarification was sought; and

(iii) on all the officers other than the Commissioner:

Provided the applicant does not file an appeal before the Telangana Value Added Tax Appellate Tribunal within 30 days of the Ruling in the manner prescribed.

(5) (i) The authority for clarifications shall have power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties.

(ii) An order giving affect to such review or amendment or revocation shall not be subject to the period of limitation.

(6) The Commissioner may also prefer any matter for opinion of the Authority for clarification without prejudice to his authority.”.

(2) In section 15 of the principal Act, in sub-section (1), after clause (b), the following clause shall be added, namely,-

“(c) by any authority following the ruling or order passed under section 13-A.”.

9. The Telangana Taxing Statutes (Providing for Constitution of State Level Authority for Clarification and Advance Rulings) (Amendment) Ordinance, 2016 is hereby repealed.

Repeal of
Ordinance
2 of 2016.

STATEMENT OF OBJECTS AND REASONS

In order to help every citizen and tax payer, and to address the delay and other lengthy procedures involved in various statutes and to enable the tax payers to get their required licences / permits or any clarification on the provisions of the statutes, Government of India announced the policy of Ease of Doing Business. The Government of Telangana also falling in line with the Ease of Doing Business, announced many reforms and simplified all the procedural aspects in the statutes. The Commercial Taxes Department as a part of Ease of Doing Business simplified the procedure and has taken care to issue the registration certificates in one day under all the Acts administered by the Department.

The State Level authority for Clarification and advance Rulings constituted under section 67 of the Telangana Value Added Tax Act, 2005 is already functioning under the Act to issue clarifications and advance rulings on issues raised under the Telangana Value added Tax Act, 2005.

In continuation of the process, it has been decided to have a similar provision in certain Telangana Taxing statutes viz., the Telangana Horse Racing and Betting Tax Regulation, 1358 F. (Regulation No. XLIX of 1358 F.), the Telangana Entertainments Tax Act, 1939 (Act No. X of 1939), the Telangana Tax on Professions, Trades, Callings and Employment Act, 1987 (Act No. 22 of 1987), the Telangana Tax on Luxuries Act, 1987 (Act No. 24 of 1987), the Telangana Rural Development Act, 1996 (Act No. 11 of 1966) and the Telangana Tax on Entry of Motor Vehicles into Local Areas Act, 1996 (Act No. 26 of 1996) also, as in the Telangana Value Added Tax Act, 2005, so as to enable the dealer or the person enrolled thereunder to get the certified information of clarifications on the transactions / goods dealt by him, by incorporating a new provision "Clarification and advance Rulings" on the lines of section 67 of the Telangana Value Added Tax Act, 2005, by suitably amending the said Acts respectively, which will reduce the tax litigations also under the relevant Acts.

As the Legislature of the State was not then in session and as it was decided to amend the Act immediately, the Governor of Telangana has promulgated the Telangana Taxing statutes (Providing for Constitution of State

Level Authority for Clarification and Advance Rulings) (Amendment) Ordinance, 2016 (Telangana Ordinance No. 2 of 2016) and the same was published in the Telangana Gazette on 14-06-2016.

The bill seeks to replace the said Ordinance.

K. CHANDRASHEKAR RAO,
Chief Minister.

**MEMORANDUM UNDER RULE 95 OF THE RULES OF
PROCEDURE AND CONDUCT OF BUSINESS IN THE
TELANGANA LEGISLATIVE ASSEMBLY.**

The Telangana Taxing Statutes (Providing for Constitution of State Level Authority for Clarification and Advance Rulings) (Amendment) Bill, 2016, after it is passed by the Legislature of the State, may be submitted to the Governor for his assent under article 200 of the Constitution of India.

K. CHANDRASHEKAR RAO,
Chief Minister.

Dr. S. RAJA SADARAM,
Secretary to State Legislature.