

MADHYA PRADESH ACT No. 12 of 2012**THE MADHYA PRADESH VAT (AMENDMENT) ACT, 2012**

TABLE OF CONTENTS

Sections :

1. Short title and commencement
2. Substitution of long title
3. Amendment of section 3
4. Amendment of section 4-A
5. Amendment of section 4-B
6. Amendment of section 5
7. Amendment of section 6
8. Amendment of section 9-B
9. Insertion of section 9-C
10. Amendment of section 10
11. Amendment of section 11
12. Amendment of section 11-A
13. Amendment of section 14
14. Amendment of section 17
15. Amendment of section 18
16. Amendment of section 20
17. Amendment of section 24
18. Amendment of section 28
19. Amendment of section 43
20. Amendment of section 46
21. Amendment of section 47
22. Amendment of section 53
23. Amendment of section 57
24. Amendment of section 70
25. Amendment of section 71
26. Amendment of Schedule I
27. Amendment of Schedule II

MADHYA PRADESH ACT No. 12 of 2012**THE MADHYA PRADESH VAT (AMENDMENT) ACT, 2012**

[Received the assent of the Governor on the 31st March, 2012; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)", dated the 31st March, 2012].

An Act further to amend the Madhya Pradesh Vat Act, 2002.

Be it enacted by the Madhya Pradesh Legislature in the Sixty Third Year of the Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Madhya Pradesh Vat (Amendment) Act, 2012.

(2) (a) The provisions of clause (vi) of Section 13 of this amending Act shall be deemed to have come into force from 1st August, 2009;

(b) The provisions of clause (i) of Section 26 of this amending Act shall be deemed to have come into force from 1st April, 2006 to 31st March, 2007;

(c) The remaining provisions of this amending Act shall come into force from 1st April, 2012.

2. Substitution of long title

For long title of the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) (hereinafter referred to as the Principal Act), the following long title shall be substituted, namely:-

"An Act to levy tax on sale and purchase of goods, tax on buildings and tax on goods carried by road in the State of Madhya Pradesh."

3. Amendment of Section 3

In Section 3 of the Principal Act-

(i) in sub-section (1),-

(a) for clause (a), the following clauses shall be substituted, namely:-

"(a) Special Commissioner of Commercial Tax;

(aa) Director of Commercial Tax;"

(b) in clause (f), the word "and" shall be omitted and for clause (g), the following clauses shall be substituted, namely:-

"(g) Inspector of Commercial Tax; and

(h) Taxation Assistant.";

(ii) in sub-section (2), for the words "The Commissioner of Commercial Tax", the words "The Commissioner of Commercial Tax, the Special Commissioner of Commercial Tax" shall be substituted; and

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

"(3) The Commissioner of Commercial Tax, Special Commissioner of Commercial Tax, the Director of Commercial Tax and the Additional Commissioner of Commercial Tax shall exercise all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act throughout the State and for this purpose any reference to the Commissioner in this Act, shall be construed as a reference to the Special Commissioner of Commercial Tax, the Director of Commercial Tax and the Additional Commissioner of Commercial Tax."

4. Amendment of Section 4-A.

In Section 4-A of the Principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) On an application under sub-section (6) of Section 46, the Appellate Board may, after considering the merits of the application made by the dealer, pass an order of stay for a period of three hundred and sixty

five days from the date of such order and the Appellate Board shall dispose of the appeal within the said period of stay specified in that order:

Provided that where such appeal is not so disposed of within the said period of stay as specified in the order of stay, the Appellate Board may, on an application made in this behalf by the dealer and on being satisfied that the delay in disposing of the appeal is not attributable to the dealer, extend the period of stay till decision of appeal."

5. Amendment of Section 4-B

In Section 4-B of the Principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) The Chairman or any other member of the Appellate Board may, sitting singly, dispose of any case which pertains to a dealer whose total amount of tax, interest and/or penalty as computed by the assessing authority in the case does not exceed rupees one lac and the Chairman may for the disposal of any particular case, constitute a special bench consisting of three or more members, one of whom shall necessarily be a judicial member and one an accountant member."

6. Amendment of Section 5

In Section 5 of the Principal Act, in sub-section (2), the words "under the said sub-section" shall be omitted.

7. Amendment of Section 6-

In Section 6 of the Principal Act, in sub-section (1), for the words "twelve months", the words "twelve calendar months" shall be substituted.

8 Amendment of Section 9-B-

In Section 9-B of the Principal Act-

(i) in sub-section (4), for the word and figure "Part III", the words, figures and letter "Part-III and Part-III A" shall be substituted;

(ii) in sub-section (5), for full stop, the colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided that the purchase value of goods, on which tax under the Act has been paid at the time of purchase and no input tax rebate is admissible on such purchase, shall be deducted from the capital value of the building."

9- Insertion of Section 9-C -

After Section 9-B of the Principal Act, the following Section shall be inserted, namely:-

"9-C Tax on goods

(1)(a) Every transporter shall be liable to pay tax on such goods, as the State Government may, by notification specify, carried by road in the State of Madhya Pradesh:

Provided that no tax shall be payable in respect of the goods belonging to a person other than a dealer or a builder who carries on business in or outside the State of Madhya Pradesh.

(b) The tax shall be levied on freight at the rate specified in column (3) of Schedule II, against the corresponding entry of the goods notified under clause (a).

(c) Where no freight is charged or only token freight is charged the tax shall be levied on the normal freight prevalent on the route.

(d) Where the goods are carried by a motor vehicle owned by the owner of the goods, the tax shall be levied on the normal freight prevalent on the route.

(e) Where goods are carried by a motor vehicle from any place outside the State to any place within the State or from any place within the State to any place outside the State or from any place outside the State to any other place outside the State but through the State or from any place within the State to any other place

within the State but through the intervening territory of another State, the tax shall be payable in respect of the freight relating to the distance covered within the State.

(f) The person in-charge of a motor vehicle carrying the goods shall carry with him a receipt in the prescribed form issued by the transporter.

(2) Every transporter liable to pay tax under sub-section (1), shall get himself registered in such manner as may be prescribed:

Provided that if the transporter is owner, registered under Section 17 or enrolled under Section 9-B, of the goods being carried, such transporter shall not be required to register under this sub-section.

(3) (a) A registered dealer or an enrolled builder who gets his goods carried by a transporter after payment to him tax under sub-section (1), shall claim or be allowed in such manner and within such period as may be prescribed, rebate of the amount of such tax.

(b) The rebate under clause (a) shall be claimed or be allowed only in respect of the tax on freight relating to the goods which are sold within the State of Madhya Pradesh or in the course of interstate trade or commerce or in the course of export out of the territory of India or to the goods consumed in the manufacture or processing of goods and the goods so manufactured or processed are sold within the State of Madhya Pradesh or in the course of inter-state trade or commerce or in the course of export out of the territory of India or to the goods consumed in the construction of a building and tax is paid under Section 9-B on the building so constructed.

(c) The rebate under clause (a) shall be claimed or be allowed only in respect of the tax on freight which is part of the sale price of the goods sold Within the State of Madhya Pradesh or in the course of inter-state trade or commerce or in the course of export out of the territory of India.

(4) (a) Every consignor or consignee, who is a dealer registered under section 17 or a builder enrolled under section 9-B, of goods notified, shall deduct tax payable under sub-section (1) from the amount payable by him to the transporter for carrying the goods.

(b) On deduction of the amount under clause (a), the registered dealer or the enrolled builder shall issue a certificate of deduction of tax to the transporter in such form and manner as may be prescribed.

(c) The certificate of deduction of tax shall constitute a good and sufficient discharge of the liability of the transporter to pay tax in respect of such transaction and the amount so deducted shall be adjusted by him in such manner as may be prescribed.

(d) The registered dealer or the enrolled builder shall retain as refund the amount deducted under clause (a) which is equal to the amount of rebate notionally admissible under sub-section (3).

(e) The registered dealer or the enrolled builder shall deposit the amount deducted under clause (a) which is over and above the amount of rebate notionally admissible under sub-section (3).

(5) The rebate under sub-section (3) shall be adjusted towards the amount payable under sub-section (4) and the tax payable under the Act.

(6) The provisions of this Act shall mutatis mutandis apply to a transporter who is liable to pay tax under sub-section (1).

Explanation.- For the purpose of this Section,-

(a) "Goods" means goods specified in Schedule II;

(b) "Motor vehicle" means a motor vehicle, including trailer when attached to any such vehicle within the meaning of the Motor Vehicles Act, 1988 (No. 59 of 1988);

(c) "Transporter" means the person transporting goods in or through the territory of the State of Madhya Pradesh by a motor vehicle."

10. Amendment of Section 10

In Section 10 of the Principal Act, for the word and figure "Part-III" wherever they occur, the words, figures and letter "Part-III and Part III A" shall be substituted.

11. Amendment of Section 11

In Section 11 of the Principal Act, in sub-section (1), for the word and figure "Part-III" the words, figures and letter "Part III and part III A" shall be substituted.

12. Amendment of Section 11-A

In Section 11-A of the Principal Act, in sub-section (1), in clause (b), for full stop, the colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

"Provided that if a registered dealer makes an application for refund of excess amount deducted under sub-section (2) of Section 26 or deposited in a year, the assessment of such dealer shall be made in accordance with the provisions of Section 20."

13. Amendment of Section 14

In Section 14 of the Principal Act,-

(i) in sub-section (1), in clause (a), clause (b) and clause (e), for the word and figure "Part-III", the words, figures and letter "Part-III and Part-III A" shall be substituted;

(ii) in sub-section (1A) and (1AA), for the word and figure "Part-III", the word, figure and letter "Part-III A" shall be substituted;

(iii) after sub-section (1AA), the following sub-sections shall be inserted, namely:-

(1AB) Subject to such restrictions and conditions as may be prescribed, where a registered dealer purchases natural gas as specified in Part-III A of Schedule II within the State of Madhya Pradesh from another such dealer after payment to him input tax, and sells the natural gas so purchased within the State of Madhya Pradesh, he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate of the amount of such input tax.

(1AC) Subject to such restrictions and conditions as may be prescribed, where a registered dealer purchases diesel and Petrol as specified in Part-III A of Schedule II within the State of Madhya Pradesh from another such dealer after payment to him input tax, and sells the diesel and petrol so purchased within the State of Madhya Pradesh, he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate of the amount of such input tax.

(1AD) Subject to such restrictions and conditions as may be prescribed, where a registered dealer purchases tendu leaves as specified in Part-III A of Schedule II within the State of Madhya Pradesh from another such dealer after payment to him input tax, and

(a) sells the tendu leaves so purchase within the State of Madhya Pradesh; or

(b) consumes the tendu leaves so purchased in manufacture of bidi and the bidi so manufactured is sold within the State of Madhya Pradesh or in the course of inter-state trade or commerce or in the course of export out of the territory of India.

he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate of the amount of such input tax."

(1AE) Subject to such restrictions and conditions as may be prescribed, where a registered dealer purchases timber as specified in Part-III A of Schedule II within the State of Madhya Pradesh from another such dealer after payment to him input tax, and

(a) sells the timber so purchased within the State of Madhya Pradesh; or

(b) consumes the timber so purchased in manufacture of ready to use furniture and the furniture so manufactured is sold within the State of Madhya Pradesh or in the course of inter-state trade or commerce or in the course of export out of the territory of India,

he shall claim or be allowed in such manner" and within such period as may be prescribed, input tax rebate of the amount of such input tax.";

(iv) in sub-section (2), for the word and figure "Part-III", the words, figures and letter "Part-III and Part-III A" shall be substituted;

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

"(3) The input tax rebate by a registered dealer under this Section shall be adjusted in such manner as may be prescribed towards the tax, interest and penalty payable by him under this Act or under the Central Sales Tax Act, 1956 (No. 74 of 1956) and the balance, if any, shall be carried over for adjustment towards tax, interest and penalty payable in the subsequent year:

Provided that the input tax rebate, which remains unadjusted even after two years from the close of the relevant financial year, shall be granted by way of refund.";

(vi) in sub-section (6), for clause (vii), the following clause shall be substituted, namely:-

"(vii) in respect of goods, the amount of bill, invoice or cash memorandum of which exceeds rupees forty thousand, any payment of which has not been made by crossed cheque or bank draft or pay order or internet banking of a scheduled bank :

Provided that in respect of the transactions referred to in explanation (d) of clause (u) of Section 2, payment by book adjustment shall be deemed to be a compliance of the above requirement;".

14. Amendment of Section 17

In Section 17 of the principal Act, in sub-section (3), for the words "a registration fee of five hundred rupees", the words "a registration fee, as may be prescribed," shall be substituted.

15. Amendment of Section 18

In Section 18 of the principal Act, in sub-section (4), in clause (d), for the words "one thousand", the words "five thousand" shall be substituted.

16. Amendment of Section 20

In Section 20 of the principal Act, in sub-section (1), for the words "three months", the words "three calendar months" shall be substituted.

17. Amendment of Section 24

in Section 24 of the principal Act, in sub-section (11), in clause (b), in sub-clause (iii), for the word "Director of Commercial Tax", the words "Special Commissioner of Commercial Tax, Director of Commercial Tax" shall be substituted.

18. Amendment of Section 28

In Section 28 of the principal Act, in sub-section (1), for the word, bracket and letter "clause (g)", the words, brackets and letters "clause (g) and clause (h)" shall be substituted.

19. Amendment of Section 43

in Section 43 of the principal Act, in sub-section (2), for the word "Inspector", the words "Inspector or Taxation Assistant" shall be substituted.

20. Amendment of Section 46

In Section 46 of the principal Act-

(i) in sub-section (1), in the existing proviso, for full stop, the colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided further that an appeal against an order passed under section 57, wherein the consignor or consignee of the State of Madhya Pradesh has been authorised in accordance with the provision of sub-section (14) of Section 57, may, in the prescribed manner, be filed before the Appellate Authority having jurisdiction over the principal place of business of the consignor or consignee, as the case may be.";

(ii) in sub-section (8), in clause (a), in the existing proviso for full stop, the colon shall be substituted and thereafter the following proviso shall be added, namely:-

"Provided further that the Appellate Authority may, before disposing of any appeal, make such further inquiry as he thinks fit, or may direct the Assessing Authority to make further inquiry and report the result of the same to the Appellate Authority.";

(iii) in sub-sections (8) and (9), for the words "twelve months", the words "twelve calendar months" shall be substituted.

21. Amendment of Section 47

In Section 47 of the principal Act-

(1) in sub-section (1) and (2), for the words "six months", the words "six calendar months" shall be substituted;

(ii) in sub-section (5), for the words "the Director of Commercial Tax", the words "the Special Commissioner of Commercial Tax or the Director of Commercial Tax" shall be substituted.

22. Amendment of Section 53.

In Section 53 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

(2) (a) The Commissioner aggrieved by any order referred to in sub-section (1) passed by the Appellate Board, may file an appeal to the High Court and such appeal shall be filed within one hundred eighty days from the date of the communications to the Commissioner of the order appealed against, in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(b) A dealer aggrieved by any order referred to in sub-section (1) passed by the Appellate Board, may file an appeal to the High Court and such appeal shall be filed within ninety days from the date of the communication to the dealer of the order appealed against, in the form of a memorandum of appeal precisely stating therein the substantial question of law involved."

23. Amendment of Section 57

In Section 57 of the principal Act, after sub-section (11), the following sub-section shall, be inserted, namely:-

"(11A) (a) Notwithstanding anything to the contrary contained in this Section, the check post officer or the officer empowered under sub-section (5) may release the goods or the vehicle or carrier along with the goods seized in favour of the transporter, if seized and not already released under clause (c) of sub-section (6), if adequate security in the form of cash security or irrevocable bank guarantee of the amount equal to the penalty levied under sub-section (8) or (10) is furnished.

(b) If an appeal against the order passed under sub-section (8) or (10) is filed under sub-section (1) of Section 46, the cash security or irrevocable bank guarantee furnished under clause (c) of sub-section (6) or clause (a) above shall not be appropriated towards the penalty levied under sub-section (8) or (10) till the decision in the first appeal."

24. Amendment of Section 70

In Section 70 of the principal Act-

(i) in sub-section (1), in clause (ii), for the words "within six months", the words "as early as possible, not later than twelve calendar months" shall be substituted;

(ii) in sub-section (2), for the proviso, the following provisos shall be substituted, namely:-

"Provided that no review of an earlier order passed on application of a dealer shall be made unless a reasonable opportunity of being heard is given to the dealer who is likely to be adversely affected by the review:

Provided further that if the application for review relates to reduction of rate of tax, the Commissioner shall reduce the rate of tax after obtaining approval from the State Government."

25. Amendment of Section 71

In Section 71 of the principal Act, in sub-section (2), clause (eb) shall be renumbered as clause (ed), and before the clause (ed) as so renumbered, the following clauses shall be inserted, namely:-

"(eb) determination value of land assigned to a building under clause (a) of sub-section (2), the manner in which a builder shall get himself enrolled and the manner and period in which input tax rebate shall be claimed by or be allowed to a enrolled builder under sub-section (4) of Section 9-B;

(ec) form of receipt under clause (f) of sub-section (1) of Section 9-C, the manner in which a transporter shall get himself registered under sub-section (2) of Section 9-C, the manner and period in which rebate shall be claimed by or be allowed to a registered dealer or an enrolled builder under sub-section (3) of Section 9-C, and the form of certificate to be issued, the manner in which it is to be obtained and the manner in which any amount deducted shall be adjusted under sub-section (4) of Section 9-C;"

26. Amendment of Schedule I

In Schedule I to the principal Act,-

(i) for serial number 50 and entries relating thereto, existing between 1-4-2006 to 31-3-2007, the following serial number and entries relating thereto shall be substituted, namely-

"50 Tobacco manufactured or un-manufactured, cured or uncured and tobacco products including cigarettes, cigars, cheroots and bidis, on which additional excise duty was leviable, but exempted by the Government of India";

(ii) against serial number 61, in column (2), for the words "iron and steel", the words "iron and steel or plastic" shall be substituted;

(iii) against serial number 72, in column (2), for the words and brackets "sprinklers and equipments used in drip irrigation (other than pipe and motor)", the words and brackets "Parts and accessories (other than motor) specific to the sprinkler system and drip irrigation system including pipes which are used exclusively for sprinkler and the drip system (but not used for ordinary works as carriage pipes)" shall be substituted.

27. Amendment of Schedule II

In Schedule II to the principal Act,-

(i) in part II,-

(a) against serial number 5A, in column (2), for the existing entry, the following entry shall be substituted, namely:-

"all kinds of Compact Fluorescent Lamp (CFL)/Light Emitting Diode (LED) bulb and tube";

(b) serial number 14A and entries relating thereto shall be omitted;

(c) against serial number 18, in column (2), for the existing entry, the following entry shall be substituted, namely:-

"Buckets, Ghamela, Tasla and Tagadi made of Aluminium or other material except precious materials, buckets made of iron and steel or plastic, and crow bar";

(d) against serial number 34, in column (2), for the existing entry, the following entry shall be substituted, namely:-

"34.	Fabrics other than those specified in Schedule I	5";
------	--	-----

(e) against serial number 51, in column (2), if entry (8), for the word "board", the word "mode" shall be substituted;

(f) after serial number 52, the following serial number and entries relating thereto shall be inserted, namely:-

"53.	Khas-khas	5";
------	-----------	-----

(g) against serial number 55, in column (2), after entry number 11, the following entry shall be inserted, namely-

"11A. Aluminium circles and sheets;

(h) after serial number 57, the following serial number and entries relating thereto shall be inserted, namely:

"57A.	Adult diaper and sanitary napkin	5";
-------	----------------------------------	-----

(i) against serial number 61, in column (2), for the existing entry, the following entry shall be substituted, namely:-

"Nuts, bolts, screws and fasteners that is to say-hinges, nails, rivets, cotter, cotter pins, staples and panel pins, (including their washers)";

(j) after serial number 63, the following serial numbers and entries relating thereto shall be inserted, namely:-

"63A.	PCC poles	5";
63B	Photography paper	5";

(k) in serial number 84A, for the words "Sabudana Khichadi and Shrikhand", the words "Sabudana Khichadi, Shrikhand and Khakhara" shall be substituted;

(ii) for Part-III, the following parts shall be substituted, namely:-

"PART-III		
1.	Aviation turbine fuel other than those specified in clause (ii-d) of section 14 of the Central Sales Tax Act, 1956 (No. 74 of 1956),-	
	(i) when sold to aviation companies for fueling at Bhopal and Indore airports.	23
	(ii) when sold to aviation companies for fueling at other airports/airstrips other than Bhopal and Indore.	13
2.	Raw opium	13
3.	Kerosene oil sold through Public Distribution System	5
4.	Old and second hand motor vehicle as the State Government may by notification, specify	13
5.	Capital goods (other than plant and machinery and motor vehicle), on which tax under the Act has been paid at the time of purchase and no input tax rebate was admissible on such purchase.	1.5

PART-III A

"PART-IIIA		
1.	Diesel (other than light diesel oil and furnace oil)	23
2.	Petrol	27
3.	Natural gas including compressed natural gas	13
4.	Tendu leaves	25
5.	Timber	13:"

(iii) in Part-IV, in column (2), for the existing entry, the following entry shall be substituted, namely:-

"All other goods, not covered by Schedule-I and any other part of this Schedule.".