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Ord No. 15/04

मंत्रालय प्रकाशित

रजिस्टर्ड नं. टीईसीएच/४७-३०३/एमबीआय/२००३-०५



महाराष्ट्र शासन राजपत्र

असाधारण

प्राधिकृत प्रकाशन

शनिवार, जुलै ३, २००४/आषाढ १२, शके १९२६

स्वतंत्र संकलन म्हणून फाईल करण्यासाठी या भागासाठी वेगळे पृष्ठ क्रमांक दिले आहेत.

भाग आठ

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Tax on Sale of Electricity (Amendment and Continuance) Ordinance, 2004 (Mah. Ord. XV of 2004), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

PRATIMA UMARJI,
Principal Secretary to Government,
Law and Judiciary Department.

(Translation in English of the Maharashtra Tax on Sale of Electricity (Amendment and Continuance) Ordinance, 2004 (Mah. Ord. XV of 2004), published under the authority of the Governor.)

INDUSTRIES, ENERGY AND LABOUR DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 3rd July 2004

MAHARASHTRA ORDINANCE No. XV OF 2004.

AN ORDINANCE

furtherto amend the Maharashtra Tax on Sale of Electricity Act, 1963.

WHEREAS the Governor of Maharashtra had promulgated the Maharashtra Tax on Sale of Electricity (Amendment) Ordinance, 2004 on the 5th April 2004;

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(४३९)

[किंमत : रुपये ४.००]

AND WHEREAS upon the re-assembly of the State Legislature on the 24th May 2004, the said ordinance was laid before both Houses of the State Legislature and the Maharashtra Tax on Sale of Electricity (Amendment) Bill, 2004 (L. A. Bill No. X of 2004), for replacing the said Ordinance by an Act of the State Legislature was also introduced in the Maharashtra Legislative Assembly on the 28th May 2004, however, the said Bill could not be passed as the said session of the State Legislature was prorogued on the 11th June 2004 ;

AND WHEREAS as provided by article 213(2)(a) of the Constitution of India, the said Ordinance would cease to operate on the expiration of six weeks from the date of re-assembly of the State Legislature, that is, on the 4th July 2004 ;

AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Ordinance ;

AND WHEREAS both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance, for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

- | | | |
|--|--|-------------------|
| Short title and commencement. | 1. (1) This Ordinance may be called the Maharashtra Tax on Sale of Electricity (Amendment and Continuance) Ordinance, 2004. | |
| Substitution of section 2 of Mah. XXI of 1963. | (2) It shall be deemed to have come into force on the 5th April 2004. | |
| Definitions. | 2. For section 2 of Maharashtra Tax on Sale of Electricity Act, 1963 (hereinafter referred to as "the principal Act"), the following section shall be substituted, namely :— | Mah. XXI of 1963. |
| | " 2. In this Act, unless the context otherwise requires,— | |
| | (a) " Board "means the State Electricity Board constituted under sub-section (1) of section 5 of the Electricity (Supply) Act, 1948 and functioning as such at the commencement of the Electricity Act ; | 54 of 1948. |
| | (b) " Electricity Act " means the Electricity Act, 2003 ; | 36 of 2003. |
| | (c) " power utility " shall include the Board, a generating company, a licensee and a person generating electricity primarily for his own use and for the use of his associates ; | |
| | (d) " prescribed " means prescribed by rules made under this Act ; | |
| | (e) " tax " means a tax imposed under this Act ; | |
| | (f) words and expressions used but not defined herein shall have their respective meanings as assigned to them under the Electricity Act. " | |

3. In section 3 of the principal Act,—
 (a) for the words “on every unit of energy sold by a generating licensee” the words “by a power utility, in respect of all its sales of electricity to a consumer” shall be substituted;
 (b) the following proviso shall be added, namely:—
 “Provided that, no tax shall be levied and collected or paid on the electricity sold by one power utility to another power utility.”
- Amendment of section 3 of Mah. XXI of 1963.
4. In section 4 of the principal Act, for the words “generating licensee” the words “power utility” shall be substituted.
- Amendment of section 4 of Mah. XXI of 1963.
5. For section 5A of the principal Act, the following section shall be substituted, namely:—
- Substitution of section 5A of Mah. XXI of 1963.
- “5A. The Fund may be expended for executing schemes for development and improvement of power supply including generation of renewable and non-conventional sources of energy in the State and for operating rural electrification schemes therein, and in furtherance of this purpose, the State Government shall, from and out of the Fund, give subsidies or loans or ways and means advances to the power utility and the Maharashtra Energy Development Agency established under the Societies Registration Act, 1860 and the Board:
- Purposes for which Fund may be expended.
- Provided that, every year, an amount of tax equivalent to four *paise* per unit paid by the power utility to the State Government in respect of sale of electricity to commercial and industrial consumers shall be expended for executing schemes of generation of renewable and non-conventional sources of energy.”
- 21 of 1860.
6. In section 6 of the principal Act, for the words “generating licensee” the words “power utility” shall be substituted.
- Amendment of section 6 of Mah. XXI of 1963.
7. In section 7 of the principal Act, for the words “to any class of licensees or consumers” the words “by any class of power utility or to consumers” shall be substituted.
- Amendment of section 7 of Mah. XXI of 1963.
8. In section 10 of the principal Act, for the words “generating licensee” the words “power utility” shall be substituted.
- Amendment of section 10 of Mah. XXI of 1963.
- Mah. Ord. VI of 2004. 9. (1) The Maharashtra Tax on Sale of Electricity (Amendment) Ordinance, 2004 is hereby withdrawn.
- Repeal by withdrawal of Mah. Ord. VI of 2004 and saving.
- (2) Notwithstanding such withdrawal, anything done or any action taken (including any notification or order issued), under the principal Act, as amended by the said Ordinance, shall be deemed to have been done, or taken or issued, as the case may be, under the principal Act, as amended by this Ordinance.

STATEMENT

The Government of Maharashtra has adopted a new wind power policy and decided to give boost to this programme and the non-conventional energy projects, by providing infrastructure assistance.

2. With a view to create additional funds for such infrastructure assistance, it was decided to levy an additional tax in respect of sale of electricity to industrial and commercial establishments in the State by amending the Maharashtra Tax on Sale of Electricity Act, 1963, immediately.

3. Salient features of the amendments are as under :—

(i) Every power utility engaged in distributing electricity to the consumers has been brought into tax net ;

(ii) Thrust to provide infrastructure assistance to the non-conventional energy projects ;

(iii) Provision for expending the Fund for the development of non-conventional energy projects has been made ;

(iv) A provision for payment of subsidy, loans, etc., through the Maharashtra Energy Development Authority, for non-conventional energy projects has been made.

4. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Maharashtra Tax on Sale of Electricity Act, 1963 (Mah. XXI of 1963), for the purposes aforesaid, the Maharashtra Tax on Sale of Electricity (Amendment) Ordinance, 2004 (Mah. Ord. VI of 2004), was promulgated by the Governor of Maharashtra on the 5th April 2004.

5. Thereafter, the session of the State Legislature was convened by the Hon'ble Governor on the 24th May 2004 and upon the re-assembly of the State Legislature, the said Ordinance was laid before both Houses of the State legislature and a Bill for converting the said Ordinance into an Act of the State Legislature was also introduced in the Maharashtra Legislative Assembly as L. A. Bill No. X of 2004 on the 28th May 2004. However, before passing of the said Bill by the State Legislature, the session of the State Legislature was prorogued on the 11th June 2004. As the State Legislature had re-assembled on the 24th May 2004, as provided by article 213(2)(a) of the Constitution of India, the said Ordinance would cease to operate on the 4th July 2004, and the Government of Maharashtra considers it expedient to continue the operation of the provisions of the said Ordinance.

6. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances still exist which render it necessary for him to take immediate action to continue the provisions of the Maharashtra Tax on Sale of Electricity (Amendment) Ordinance, 2004 (Mah. Ord. VI of 2004), this Ordinance is promulgated.

Mumbai,
Dated the 2nd July 2004.

MOHD. FAZAL,
Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

JAYANT KAWALE,
Secretary to Government.