

THE GUJARAT TAXATION LAWS (AMENDMENT) BILL, 2023.

GUJARAT BILL NO. 18 OF 2023.

A BILL

further to amend certain taxation laws.

It is hereby enacted in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Taxation Laws (Amendment) Act, 2023.

Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

**Amendment
in the Guj. 1
of 2005.**

**Guj. 1 of
2005.**

2. In the Gujarat Value Added Tax Act, 2003,—

(a) in section 30, in sub-section (5), for the words “the rate of eighteen per cent. per annum”, the words “such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted;

(b) in section 37, in sub-section (4), for the words “the rate of eighteen per cent. per annum”, the words “such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted.

(c) in section 42,—

(i) in sub-section (4), for the words “at the rate of eighteen per cent. per annum”, the words “at such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted;

(ii) in sub-section (6), for the words “at the rate of eighteen per cent. per annum”, the words “at such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted;

(iii) in sub-section (7), for the words “at the rate of eighteen per cent. per annum”, the words “at such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted.

(d) in section 59B, in sub-section (13), for the words “at the rate of eighteen per cent. per annum”, the words “at such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted.

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| Guj. 13 of 2001. | 3. In the Gujarat Motor Spirit Cess Act, 2001, in section 6, for the words “at the rate of eighteen per cent. per annum”, the words “at such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the <i>Official Gazette</i> ” shall be substituted. | Amendment in the Guj. 13 of 2001. |
| President’s Act No. 11 of 1976 | 4. In the Gujarat State tax on Professions, Trades, Callings and Employments Act, 1976, in section 9, in sub-section (1), for the words “at one and a half per cent.”, the words “at such rate, not exceeding one and a half per cent., as may be specified by the State Government by notification in the <i>Official Gazette</i> ” shall be substituted. | Amendment in the President’s Act No. 11 of 1976. |
| Bom. XL of 1958. | 5. In the Gujarat Electricity Duty Act, 1958, in section 8, in sub-section (1), for the figures and words “24 per cent. per annum”, the words “eighteen per cent. per annum” shall be substituted. | Amendment in the Bom. XL of 1958. |
| Bom. LX of 1958. | 6. In the Gujarat Stamp Act, 1958, in section 46, in sub-section (1), for the words “at the rate of fifteen per cent., per annum”, the words “at such rate, not exceeding eighteen per cent. per annum, as may be specified by the State Government by notification in the <i>Official Gazette</i> ” shall be substituted. | Amendment in the Bom. LX of 1958. |

STATEMENT OF OBJECTS AND REASONS

Various taxation laws carry the provisions in respect of levy of interest on delayed payment of taxes and duties. With a view to expediting the recovery of Government dues and minimizing the litigations, such penal interest rates need to be rationalized so as to provide for maximum rate in law with a flexibility of specifying lower rate of interest by notification.

In order to achieve the aforesaid object, certain taxation laws such as the Gujarat Value Added Tax Act, 2003, the Gujarat Motor Spirit Cess Act, 2001, the Gujarat State tax on Professions, Trades, Callings and Employments Act, 1976, the Gujarat Electricity Duty Act, 1958 and the Gujarat Stamp Act, 1958 require to be amended suitably.

This Bill seeks to amend the said Acts to achieve the aforesaid objects.

KANUBHAI DESAI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill provides for delegation of legislative powers in the following respects:-

Clause 1. - Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

Clause 2. - (i) Sub-section (5) of section 30 of the Gujarat Value Added Tax Act, 2003 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of interest on tax not exceeding eighteen per cent. per annum to be paid by the dealer where he does not pay the amount of tax within

the time prescribed for its payment, on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period;

- (ii) sub-section (4) of section 37 of the Gujarat Value Added Tax Act, 2003 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of interest on tax not exceeding eighteen per cent. per annum to be paid by the dealer if, on the assessment, the provisional refund granted is found to be in excess, for the period from the date of grant of provisional refund till the date of assessment;
- (iii) sub-section (4) of section 42 of the Gujarat Value Added Tax Act, 2003 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of interest on tax not exceeding eighteen per cent. per annum to be paid by the dealer for the period as may be extended or the installments as may be granted by the Commissioner under sub-section (2) of the said section 42;
- (iv) sub-section (6) of section 42 of the Gujarat Value Added Tax Act, 2003 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of interest on tax not exceeding eighteen per cent. per annum to be paid by the dealer, on the amount of tax not so paid or any less amount thereof remaining unpaid, during the period commencing from the date of expiry of the time prescribed for payment of tax under sub-section (1), (2) or (3) of section 30 and ending on date of order of assessment, reassessment or revision, where the amount of tax assessed or reassessed;
- (v) sub-section (7) of section 42 of the Gujarat Value Added Tax Act, 2003 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate

of interest on tax not exceeding eighteen per cent. per annum to be paid by the dealer, on the amount of tax not so paid or any less amount thereof remaining unpaid during the period commencing on the specified date and ending on the date of payment, where a dealer does not pay the amount of tax falling under sub-section (1) on or before the prescribed date;

- (vi) sub-section (13) of section 59B of the Gujarat Value Added Tax Act, 2003 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of simple interest on tax not exceeding eighteen per cent. per annum to be paid by the dealer, on the amount of tax not so paid into Government treasury or any less amount thereof remaining unpaid for the period commencing on the date of expiry of the time specified in sub-section (7) of said section 53B and ending on the date of payment of the amount into the Government treasury.

Clause 3. - Section 6 of the Gujarat Motor Spirit Cess Act, 2001 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of simple interest on cess not exceeding eighteen per cent. per annum to be paid by the trader on the amount of cess not so paid or any less amount thereof remaining unpaid for the period commencing on the date of expiry of the aforesaid period and ending on the date of payment of the amount of cess.

Clause 4. - Sub-section (1) of section 9 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 proposed to be amended by this clause empowers the State Government to specify, by notification in the *Official Gazette*, the rate of simple interest on tax not exceeding one and a half per cent. to be paid for the period for which the tax remains unpaid.

Clause 6. - Sub-section (1) of section 46 of the Gujarat Stamp Act, 1958 proposed to be amended by this clause empowers the State Government to specify, by notification in the Official Gazette, the rate of simple interest on stamp duty not exceeding eighteen per cent. per annum to be paid by a person required to pay any amount of duty, penalty or other sums under this Act, for the period for which such amount remains unpaid.

The delegation of legislative powers as aforesaid is necessary and is of normal character.

Dated the 5th September, 2023.

KANUBHAI DESAI.

*ANNEXURE***EXTRACT FROM THE GUJARAT VALUE ADDED TAX ACT, 2003.****(Guj. 1 of 2005)**

**Periodical
payment of tax
and interest on
non-payment
of tax.**

30. (1) to (4) XXX XXX XXX

(5) Where a dealer does not pay the amount of tax within the time prescribed for its payment under this section, then there shall be paid by such dealer for the period commencing on the date of expiry of the aforesaid prescribed time and ending on date of payment of the amount of tax, simple interest at the rate of eighteen per cent, per annum, on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

(6) XXX XXX XXX

**Provisional
refund.**

37. (1) to (3) XXX XXX XXX

(4) If, on assessment, the provisional refund granted under sub-section (2) is found to be in excess, then such excess shall be recovered as if it is a tax due from the dealer under this Act and the interest on such tax shall be charged at the rate of eighteen percent per annum, for the period from the date of grant of provisional refund, till the date of assessment.

**Payment and
recovery of tax
and interest on
delayed
payment.**

42. (1) to (3) XXX XXX XXX

(4) Interest at the rate of eighteen per cent per annum shall be charged for the period as may be extended or the installments as may be granted under sub-section (2).

(5) XXX XXX XXX

(6) Where the amount of tax assessed or reassessed for any period, under section 34 or section 35, subject to revision, if any, under section 75, exceeds the amount of tax already paid by a dealer for that period, there shall be paid by such dealer, for the period commencing from the date of expiry of the time prescribed for payment of tax under sub-section (1), (2) or (3) of Section 30

ANNEXURE

**EXTRACT FROM THE GUJARAT MOTOR SPIRIT CESS ACT,
2001.
(Guj. 13 of 2001)**

**Interest on
delayed
payment of
cess.**

6. Where a trader does not pay the amount of cess within the time prescribed for its payment, there shall be paid by such trader, for the period commencing on the date of expiry of the aforesaid period and ending on the date of payment of the amount of cess, simple interest at the rate of eighteen per cent. per annum on the amount of cess not so paid or any less amount thereof remaining unpaid during such period.

ANNEXURE

**EXTRACT FROM THE GUJARAT STATE TAX ON
PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT,
1976.
(President's Act No. 11 of 1976)**

**Consequences
of failure to
deduct or to
pay tax**

9. (1) If an employer (not being an officer of Government) does not deduct the tax at the time of payment of salary or wage, or after deducting fails to pay the tax as required by or under this Act, he shall, without prejudice to any other consequences and liabilities which he may incur, be liable to pay, in addition to the amount of tax, simple interest at one and a half per cent. of the amount of the tax due for each month or part thereof for the period for which the tax remains unpaid.

(2)

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*ANNEXURE***EXTRACT FROM THE GUJARAT ELECTRICITY DUTY ACT,
1958.****(Bom. XL of 1958)**

8. (1) Any sum due on account of electricity duty, if not paid at the time and in the manner prescribed shall be deemed to be in arrears, and thereupon such interest not exceeding 24 per cent. per annum which the State Government may by general or special order fix shall be payable on such sum; and the sum together with any interest thereon, shall be recoverable either through a civil court or as an arrear of land revenue-

Recoveries.

(a) if the sum was payable under sub-section (1) of section 4, either from the consumer, or, subject to the proviso to the said sub-section, from the licensee, at the option of the State Government;

(b) if the sum was payable under sub-section (2) of section 4, either from the consumer, or, from the person supplying energy free of charge, at the option of the State Government;

(c) if the sum was payable under sub-section (5) of section 4, from the licensee or as the case may be from the person who generates energy for his own use.

(2) to (5)

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*ANNEXURE***EXTRACT FROM THE GUJARAT STAMP ACT, 1958.****(Bom. LX of 1958)**

46. (1) Where any person required to pay any amount of duty, penalty or other sums under this Act does not pay within the time prescribed for its payment he shall be liable to pay simple interest at the rate of fifteen per cent. per annum on such amount or on any less amount thereof for the period for which such amount remains unpaid.

**Recovery of
duties, penalties
and interest.**

(2)

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GUJARAT LEGISLATURE SECRETARIAT

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A BILL

further to amend certain taxation laws.

**[SHRI KANUBHAI DESAI,
MINISTER FOR FINANCE]**

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**D.M.Patel,
Secretary,
Gujarat Legislative Assembly.**

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