

Central Sales Tax (Amendment) Act, 2001

41 of 2001

[11 September 2001]

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Central Sales Tax (Amendment) Act, 2001

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An Act further to amend the Central Sales Tax Act, 1956. BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows: --

1. Short Title And Commencement :-

(1) This Act may be called the Central Sales Tax (Amendment) Act, 2001.

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

2. Amendment Of Section 13 :-

In the Central Sales Tax Act, 1956 (74 of 1956) (hereinafter referred to as the principal Act,) in section 13, in sub-section (l), after clause (g), the following clauses shall be inserted, namely: --

"(h) The proper functioning of the Authority constituted under section 19;

(i) The salaries and allowances payable to, and the terms and conditions of service of, the Chairman and Members under sub-section (3) of section 19;

(j) Any other matter as may be prescribed."

3. Insertion Of New Chapter After Chapter V :-

Insertion of new Chapter after Chapter V

After Chapter V of the principal Act, the following Chapter shall be inserted, namely: --

CHAPTER VI

AUTHORITY TO SETTLE DISPUTES IN COURSE OF INTER-STATE TRADE OR COMMERCE

19. Central Sales Tax Appellate Authority

(1) The Central Government constitute, by notification in the Official Gazette, an Authority to settle inter-State disputes falling under section 6A or section 9 of this Act, to be known as "the Central Sales Tax Appellate Authority (hereinafter referred to as the Authority)".

(2) The Authority shall consist of the following Members appointed by the Central Government, namely:--

(a) A Chairman, who is a retired Judge of the Supreme Court, or a retired Chief Justice of a High Court;

(b) An officer of the Indian Legal Service who is, or is qualified to be, an Additional Secretary to the Government of India; and

(c) An officer of a State Government not below the rank of Secretary or an officer of the Central Government not below the rank of Additional Secretary, who is an expert in sales tax matters.

(3) The salaries and allowances payable to, and the terms and conditions of service of, the Chairman and Members shall be such as may be prescribed.

(4) The Central Government shall provide the Authority with such officers and staff as may be necessary for the efficient exercise of the powers of the Authority under this Act.

20. Appeals

(1) The provisions of this Chapter shall apply to appeals filed by the aggrieved dealer against any order of the assessing authority made under section 6A or section 9 of this Act.

(2) Notwithstanding anything contained in the general sales tax laws, the Authority shall adjudicate an appeal filed by a dealer aggrieved against any order of the assessing authority rejecting his claim under section 6A or section 9 of this Act.

(3) An appeal against the order of the assessing authority rejecting the claim of the dealer under section 6A or section 9 of this Act may be filed by the aggrieved dealer within forty-five days from the date on which the order is served on him:

Provided that the Authority may entertain any appeal after the expiry of the said period of forty-five days, but not later than sixty days, from the date aforesaid if it is satisfied that the appellant was

prevented by sufficient cause from filing the appeal in time.

(4) The application shall be made in quadruplicate and be accompanied by a fee of five thousand rupees.

21. Procedure on receipt of application -

(1) On receipt of an appeal, the Authority shall cause a copy thereof to be forwarded to the assessing authority concerned and to call upon it to furnish the relevant records:

Provided that such records shall, as soon as possible, be returned to the assessing authority.

(2) The Authority shall adjudicate and decide upon the appeal filed against an order of the assessing authority.

(3) The Authority, after examining the appeal and the records called for, by order, either allow or reject the appeal:

Provided that no appeal shall be rejected unless an opportunity has been given to the appellant of being heard in person or through a duly authorized representative:

Provided further that whether an appeal is rejected or accepted, reasons for such rejection or acceptance shall be given in the order.

(4) The Authority shall make an endeavor to pronounce its order in writing within six months of the receipt of the appeal.

(5) A copy of every order made under sub-section (3) shall be sent to the appellant and to the assessing authority.

22. Powers of the Authority -

(1) The Authority shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908, (5 of 1908) while trying a suit in respect of the following matters, namely: --

(a) Enforcing the attendance of any person, examining him on oath or affirmation;

(b) Compelling the production of accounts and documents;

(c) Issuing commission for the examination of witnesses;

(d) The reception of evidence on affidavits;

(e) Any other matter which may be prescribed.

(2) Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 (45 of 1860) of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, (1973 2 of 1974).

23. Procedure of Authority -

The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of powers under this Act.

24. Authority for Advance Rulings to function as Authority under

this Act -

(1) Notwithstanding anything contained in any other law for the time being in force and in section 19 of this Act, the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961(43 of 1961 shall be notified by the Central Government in the Official Gazette, with such modifications as many be necessary, to make its composition in conformity with section 19 of this Act, as the Authority under this Act till such time an Authority is constituted under that section.

(2) On and from the date of the constitution of the Authority in accordance with the provisions of section 19 of this Act, the proceedings pending with the Authority for Advance Rulings shall stand transferred to the Authority constituted under that section from the stage at which such proceedings stood before the date of constitution of the said Authority.

25. Transfer of pending proceedings -

On and from the date when the Authority is constituted under section 19, every appeal arising out of the provisions contained in this Chapter-

(i) Which is pending immediately before the constitution of such Authority before the appellate authority constituted under the general sales tax law of a State or of the Union territory, as the case may be; or

(ii) Which would have been required to be taken before such appellate Authority, shall stand transferred to such Authority on the date on which it is established.

26. Applicability of order passed -

An order passed by the Authority under this Chapter shall be binding on the assessing authorities and other authorities created by or under any law relating to general sales tax, in force for the time being in any State or Union territory.

needed for the project.

(6)The estimates for land acquisition shall not be considered under the Fund.

(7)The standards, design and specification of the works to be proposed shall follow the relevant guidelines, codes, Indian Road Congress specifications as directed by the Central Government and the period of completion of projects shall not exceed twenty four months including period for tendering of projects.

(8)The Central Government shall accord administrative approval for the proposals as mentioned in sub-rule(4) and sub-rule (5) above

and the technical approval and financial sanction of the proposals shall be accorded by the executive agency.

(9) No excess cost beyond ten per cent, of the amount administratively approved for the proposal shall be permissible and the excess, if any, over and above ten per cent, shall be arranged by the executive agency from their own resources.

(10) No revised estimate will be considered by the Central Government.

(11) The estimate for each work shall include provisions for contingencies at the rate of 3%, quality control at the rate of 1% and workcharged establishment at the rate of 1.5% subject to the condition that out of these provisions, funds to the extent of 3% of the cost of the work shall be placed at the disposal of the regional officer appointed by the Central Government or any other officer authorised for the State or Union territory for incurring expenditure on hiring manpower and execution of quality control of the works.

(12) No agency charges shall be payable for the execution of works under the scheme.

(13) Maintenance and upkeep of the projects after completion shall be the responsibility of the executive agency.

(14) The executive agency shall ensure that an individual project is technically approved, financially sanctioned and awarded within a period of four months from the date of administrative approval of work, failing which the work shall be deemed to have been desanctioned.

(15) The sanctioned works shall be completed within the time schedule as submitted along with the particulars referred to in sub-rule (5).

(16) The accounts of the Fund shall be audited by the Comptroller and Auditor General of India, in such manner and at such intervals, as may be specified by him.

(17) The executive agency shall furnish the utilisation certificate in Form-I duly verified by the regional officer appointed by the Central Government for the State or the Union territory along with the quarterly progress report based on which further installment of Funds shall be released to the extent of expenditure incurred and the physical progress of the work:

Provided that, the total amount so released during any financial year shall not exceed the amount accrued to the State or Union territory during that financial year and the amount which has not been released from accruals of the previous years.

(18) The total cost of the schemes to be approved shall be limited to the bank of sanctions which shall not normally exceed, at any

point of time, two times the annual accrual for the year in which the schemes are sanctioned in respect of any State or Union territory.

6. Release of funds for State roads :-

(1) One third of the accrual for the current year for each State or Union territory shall be placed at the disposal of the concerned State or Union territory for utilization against the sanctioned works and the said amount shall be maintained as a reserve by replenishing the expenditure from subsequent releases:

Provided that the subsequent instalments shall be released on the basis of the progress of works and actual expenditure subject to the condition that the total amount released for any State or Union territory during the year shall not exceed the total accrual for that year in respect of that State or Union territory and the amount which has not been released from accruals of previous years.

(2) The executive agency shall submit the utilization certificate for the amount released and shall also submit quarterly progress report and monthly expenditure report annexed to these rules.

7. Manner of sanctioning schemes for construction and development of State roads including roads of inter-State connectivity and economic importance :-

(1) The inter-State roads or bridges at the border on State highway and major district roads necessary for ensuring thorough communication between two adjacent States shall be considered as the project of inter-State connectivity and shall be considered on the basis of the following guidelines, namely :

(i) the proposed road should facilitate inter-State connectivity between States;

(ii) a bridge project on the border roads may be given priority;

(iii) no improvement work should have been done in last three years on such road;

(iv) the estimated cost of the proposed project shall not normally exceed rupees twenty-five crores unless permitted by the Central Government,

(2) The following projects on State highways and major district roads shall be considered as the projects of economic importance and shall be considered on the basis of the following guidelines, namely:

(i) the proposed road should be either directly connecting to or leading to an important market centre, economic zone, industrial zone, agricultural region, tourist centre, religious centre and the like where significant economic activity is being undertaken;

(ii) roads benefiting vulnerable sections of the society, such as, scheduled castes, scheduled tribes, ghat roads and roads connecting ecologically sensitive areas;

(iii) roads leading to center of economic activities, schools and education institutions;

(iv) roads leading to socially important infrastructure, such as, cremation grounds, bathing ghats, orphanages, old age homes and public utilities;

(v) roads connecting the State highways, the national highways and link roads connecting the tourist destinations.

(3) The estimate for each work shall include provisions for contingencies at the rate of 3%, quality control at the rate of 1% and workcharged establishment at the rate of 1.5% subject to the condition that out of these provisions, funds to the extent of 3% of the cost of the work shall be placed at the disposal of the regional officer appointed by the Central Government or any other officer authorised for the State or Union territory for incurring expenditure on hiring manpower and execution of quality control of the works.

(4) Where the improvement work has been done in last three years in respect of any roads referred in sub-rule (2), such roads are not eligible to be considered for sanctioning of funds under these rules.

(5) The cost of the proposed project shall not normally exceed rupees twenty crores unless permitted by the Central Government.

(6) The schemes under State roads of Inter-State connectivity and State roads of economic importance shall be covered to the extent of

(a) ten percent, of the allocation for State roads;

(b) roads or bridge projects of inter-State connectivity shall be fully funded from the Fund;

(c) projects of economic importance shall be funded by the Fund to the extent of fifty percent, of the approved project cost.

(7) The executive agency shall, by 30th April of each year, furnish separate lists containing limited number of road and bridge projects of inter-State connectivity and economic importance which it would like to sponsor for sanction along with relevant details and justification.

(8) The executive agency shall not sponsor any proposal involving land acquisition and shifting of utilities.

8. Approval and financing of schemes :-

(1) Particulars regarding the projects referred to in rule 6 shall be examined by the Central Government and the executive agency

shall be informed of the projects identified for sanction under the scheme of State roads of inter-State connectivity and economic importance.

(2) After selection of the scheme, the executive agency concerned shall submit the detailed estimates for all the road and bridge projects of either inter-State connectivity (fully financed) or economic importance (fifty per cent, financed) and thereafter the Central Government shall accord technical, financial sanction and administrative approval subject to the condition that the existing procedure and guidelines applicable for the national highways projects with regard to framing and processing of the estimates shall be applicable to the projects sanctioned under this scheme.

(3) The executive agency shall render a certificate to the effect that land is available for road development and is in its possession and removing of utilities, if any, has been completed.

(4) Permissible limit of excess expenditure beyond sanctioned cost on projects fully financed under this scheme of inter-State connectivity shall be the same as applicable to national highway projects.

(5) For the projects sanctioned under economic importance, any excess amount over and above the sanctioned amount shall be borne by the executive agency from their own resources.

(6) No expenditure beyond permissible limits for fully financed projects shall be committed without obtaining the previous approval of the Central Government.

(7) Revision of estimate shall not be permissible under projects of economic importance category for partially financed works.

(8) The revised estimate for inter-State connectivity projects may be submitted to the Central Government for consideration, if the cost is likely to exceed beyond the permissible limits on the sanctioned cost.

(9) The existing instructions or guidelines in respect of tenders (pre-qualification and acceptance) and revised estimates as applicable to national highway projects shall be applicable to fully financed projects of roads of inter-State connectivity.

(10) Future upkeep and maintenance of the roads or bridges after completion shall be the responsibility of the concerned executive agency.

9. Release of funds for inter-State connectivity or economic importance works :-

(1) The funds would be released in every financial year in installments.

(2)

(i) the first instalment shall be released on the basis of requirement communicated by the executive agency and the quantum of that instalment shall be regulated in accordance with the phasing of expenditure for the first year of the project indicated in the Government sanction.

(ii) the subsequent instalment shall be released on the basis of the progress of the work and the actual expenditure and for that purpose, the executive agency shall submit the physical and financial progress reports to the Central Government in Form-I and Form-II, annexed to these rules, duly verified by the regional officer appointed by the Central Government for the State or Union territory.

(3) The release of funds for fifty percent, financed works shall be commensurate with the expenditure proposed to be incurred from the resources of the States or the Union territories, as the case may be.

(4) In all these cases, the overall availability of budget provision shall be the determining factor for allocations and the payments would be regulated accordingly. The expenditure by the concerned executive agency shall be confined to the allocation made for the work.

10. Execution of works :-

(1) The executive agency shall, for the implementation of all the projects sanctioned under the Fund including inter-State connectivity and economic importance works, observe that

(a) the design of the road or bridge projects shall be carried out as per the relevant Central Government codes and guidelines;

(b) for quality control of the works, authorised procedures prescribed by the Central Government shall be followed;

(c) project monitoring shall be done at regular interval in a methodical manner to avoid time and cost over run.

(2) The executive agency shall install signs at both ends of the projects displaying the name of work and other details as per instructions issued by the Central Government from time to time.

(3) The Central Government or any officer appointed by it as regional officer for the State or Union territory or any other officer or agency authorised by it shall periodically inspect the work during the execution and exercise such checks as may be necessary to ensure observance of the time schedule and proper implementation:

Provided that no person, other than a civil engineer having a

minimum qualification of Diploma in Civil Engineering and possessing a minimum of ten years experience in the construction and maintenance of roads, bridges or related infrastructure shall be authorised to inspect the works.

(4) The officer so authorized shall also measures the work to an extent not less than 30% of the value of the work to ensure execution of the work as per standards and specifications.

(5) The periodicity, intervals or the procedure for such inspection and exercising of checks shall be decided by the Central Government.

11. Progress reports and review :-

(1) In the case of State roads other than inter-State connectivity and economic importance, the executive agency shall submit quarterly progress report of all the works sanctioned from the Fund for the quarters ending June, September, December and March every year and such report shall reach the Central Government within one month from the date of ending of each quarter, and the executive agency shall send completion report or certificate duly verified by the audit as soon as the works are completed.

(2) In the case of State roads of inter-State connectivity and economic importance, the quarterly progress report and the monthly expenditure report shall be submitted to the Central Government in Form-II and Form-III with copies endorsed to such other officer as directed by it by the concerned chief engineer of the executive agency.

(3) The physical progress as well as expenditure shall be reviewed and discussed with executive agency on quarterly basis by the Central Government.