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PUNJAB GOVT. GAZ. (EXTRA), APRIL 6,2011
(CHTR 16, 1933 SAKA)

PART – I

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS,PUNJAB

Notification

The 6th April, 2011

No. 13- Leg./ 2011- The following Act of the Legislature of the State of Punjab received the assent of the Governor of Punjab on the 2nd April, 2011 and is hereby published for general information:-

THE PUNJAB (INSTITUTIONS AND OTHER BUILDINGS)

TAX ACT, 2011

(Punjab Act No. 9 of 2011)

AN

ACT

To provide for levy and collection of tax on certain institutions and buildings situated outside the municipal areas in the State of Punjab and for the matters connected therewith or incidental thereto.

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

(1) This Act may be called the Punjab (Institutions and Other Buildings) Tax Act, 2011. — Short title and commencement.

(2) It shall come into force at once.

2. In this Act, unless the context otherwise requires:- — Definitions.

(a) " appellate authority" means an officer appointed as such by the State Government under this Act;

(b) " assessing authority" means any person or authority, authorized by the State Government to make and assessment an to collect tax under this Act;

(c) " building" means any construction or part of a construction or any other structure, whether of masonry, bricks, wood, mud, metal or other material, the covered area of which is more than five hundered square feet, which is being used or intended to be used for commercial, industrial, fun and frolic, amusement park, water park, entertainment, club, recreation, hotel, dhaba or other such like purposes, including any garage, godown, shopping mall, multiplex, marriage palace, showroom, and which is situated outside the municipal area, but does not include any building, being used exclusively for school upto Senior Secondary Level, or residential purpose, cattle shed or poultry shed or for godowns for storing wheat or paddy or rice of the State Government;

(d) " Collector" means the Collector the district concerned;

(e) " competent authority" means any person or authority, authorized to act as such by the State Government for the purposes of this Act;

(f) " institution" means an institution, other than the school upto Senior Secondary Level, which is imparting education of any kind, and includes nursing homes, hospitals, universities and colleges (including technical, vocational, professional and medical), situated outside the municipal area;

(g) " municipal area" means the territorial area of a municipality, specified or notified by the State Government under the Punjab Municipal Act, 1911 or the Punjab Municipal Corporation Act, 1976, as the case may be;

(h) " occupier" includes:-

(i) a tenant;

(ii) an owner in occupation of, or otherwise using his institution or building or part thereof;

(iii) a rent free occupant of any institution or building or para thereof;

(iv) a licensee in occupation of any institution or building or part thereof and
(v) any person, who is liable to pay to the owner damages for the use and occupation of any institution or building or part thereof;

(i) "owner" includes a mortgagee in possession, a person, who for the time being is receiving or is entitled to receive the rent or premium of any institution or building, whether on his own account or on account of others or as as agent, trustee, guardian or receiver for any other person or who should so receive the rent or premium or be entitled to receive the same, if the institution or building was let to a tenant;

(j) "section" means section of this Act; and

(k) " State Government" means the Government of the State of Punjab.

Power to levy tax.

3. (1) Subject the provisions of this Act, there shall be levied a tax on the institutions and buildings at such rate, no exceeding rupees ten per square foot of the covered area of the institution or building, as the case may be, as may be specified by the State Government by notification in the Official Gazette from time to time.

(2) The tax levied under sub-section (1) shall be paid on or before the 30 the day of June of the financial year by the owner or the occupier, as the case may be.

Self assessment

4. (1) On and after the commencement of this Act, every owner or occupier, as the case may be, liable to pay tax under the Act, shall make self assessment of tax in such manner and shall file a return for the period for which tax is to be paid, in such form as may be specified by the State Government by notification.

(2) Every owner or occupier, as the case may be, liable to pay tax under this Act, shall pay to the assessing authority, the full amount of tax, as assessed by him according to the provisions of this Act.

(3) If any owner or occupier, as the case may be, who has made self-assessment under sub-section (1), later on discovers any bonafide error or omission in the self –assessment he may rectify such error or omission. If such rectification results in a higher amount of tax due than the original tax, he shall make payment of the additional amount of tax within a period of thirty days from the date of rectification. Incase, the tax paid is more than the tax due, the excess payment of tax shall be refundable on filing an application to the assessing authority by the owner or the occupier as the case may be.

Correctness of Returns

5. With a view of ascertain the correctness of returns, the assessing authority may check the returns, documents or information submitted by the owner or the occupier, as the case may be, liable to pay tax under Act.

Assessment of tax

6. (1) Where after filing a return under sub-section (l) of section 4, it is found that even after adjustment of any tax paid on the basis of such return, an additional tax is still due, an intimation in this regard shall be sent to the owner or the occupier, as the case may be, by the assessing authority, specifying therein, the amount of tax so payable and such intimation shall be deemed to be a demand notice.

(2) Notwithstanding anything contained in sub-section (l), the assessing authority on his own motion or on the basis of the information received by him, may, make an assessment to the best of his judgement, of the tax, payable by the owner or the occupier, as the case may be, where,-

(a) The owner or the occupier fails to file a return under sub-section (1) of section 4 ; or

(b) There is definite reason to believe that a return, filed under subsection (1) of section 4 by the owner or the occupied is not correct or complete.

(3) If, after making assessment under sub-section (2); the assessing authority comes to the conclusion that a tax becomes due from the owner or the occupier, as the case may be , it shall send and intimation to the owner or the occupier by specifying therein the amount of due tax, which shall be deemed to be a demand notice.

(4) The amount of tax found under sub-section (1) or sub-section (3), shall be paid by the owner or the occupier within a period of thirty days from the date of issue of demand notice.

Provided that before directing the owner or the occupier to pay the amount of tax under sub section (1) or sub-section(3) he shall be given an opportunity of being heard by the assessing authority.

Service of notice and demand notice.

7. The notice, demand notice or any order, passed under this Act, shall be deemed to be duly served, if the same is sent on the address of the Institution or building, as the case may be:-

(a) by registered post; or
(b) delivered by any person deputed by the assessing authority; or
(c) delivered at the concerned institution or building through courier or
(d) by e-mail.

8. If the owner or occupier, as the case may be, fails to pay the tax in accordance with the provisions of this Act, he shall be liable to pay in addition of tax so payable, a penalty thereon at the rate of two percent per month. — Penalty for failure to pay tax when due.

9. If the tax and penalty payable under this Act, are not paid by the owner or the occupier, as the case may be , within a period of sixty days from the date of issue of demand notice, the assessing authority shall make an application to the competent authority for sealing the building or the institution, as the case may be. The competent authority shall seal the institution or building, as the case may be, after giving a notice of thirty days to the owner or the occupier to pay the tax and penalty. The sealing shall remain effective, till the tax and penalty, are recovered. — Power to seal

10. The assessing authority shall be competent to impose penalty under this Act. No penalty shall however be imposed, unless the person concerned is afforded an opportunity of being heard. — Authority competent to impose penalty.

11. If any amount of tax leviable under this Act on the owner, is recovered from the occupier, such occupier shall, in the absence of any contract to the country, be entitled to recover the same from the owner, and he may deduct the same from the rent payable to the owner. — Recovery of tax payable by the owner.

12. No assessment or charge or demand of any tax made under this Act shall be impeached or affected by reason of any mistake in the name, residence, place of business or occupation of the owner or the occupier, liable to pay tax, or in the description of any institution or building, liable to levy of tax, or of any mistake in the amount of assessment of tax, or by reason of any clerical error or other defect. — Tax not invalid for defect of form.

13. Any amount of tax, payable under Act, shall be recoverable as arrear of land revenue on an application made in writing by the Assessing Authority to the Collector. — Recovery of arrears of tax.

Provided that it shall not be necessary for the assessing authority to present the application in person.

14. (1) Whenever the title of the owner or the occupier, liable to pay tax under this Act in respect of any institution or building, as the case may be, is transferred to any person, such owner or occupier and the person to whom such title is transferred, shall, within a period of three months from the date of execution of the instrument of transfer or deed of registration or otherwise, as the case may be, given notice in writing of such transfer to the assessing authority. — Notice of transfer of title.

(2) In the event of death of the owner or the occupier, mentioned in sub section (1) the person on whom the estate of the deceased devolves, shall inform in writing of such devolution to the assessing authority within a period of six months from the date of the death of the owner or the occupier.

(3) In case, the owner or the occupier, who transfers the title under sub section (1), fails to inform the assessing authority in writing, he shall, in addition to any other liability continue to be liable for the payment of tax, payable under this Act in respect of the institution or building, as the case may be, unless he informs in writing or until the transfer is recorded by the assessing authority.

(4) If any delay occurs in the transfer of title due to any reason, the liability of the transferee to pay tax under this Act shall not cease or diminish due to such delay.

(5) The information shall be furnished by the Registrar or sub Registrar to the assessing authority, having jurisdiction under the Registration Act, 1908 as soon as may be, after the registration of an instrument of transfer is effected, or if the assessing authority so requests, by periodical returns at such intervals as the assessing authority may fix.

(6) Notwithstanding anything contained in sub section (5) the assessing authority may, ask the said Registrar or the sub registrar to furnish such particulars regarding the registration of instrument of transfer of the concerned institution or building, as the assessing authority may from time to time require.

Notice of construction or reconstruction of enlargement or reoccupation of an institution or building.

15. When any new institution or building is constructed or reconstructed or enlarged or reoccupied after its vacation, the person liable for payment of tax under this Act, shall give notice thereof in writing to the assessing authority within a period of thirty day from the date of completion of such construction, reconstruction, enlargement or reoccupation as the case may be.

Power to enter for assessment

16. The assessing authority, after giving forty eight hours notice to the owner or the occupier, as the case may be, available at the relevant time, may authorize any person to enter, inspect and measure any institution or building between the sun rise and sun set, for the purpose of assessment of the tax payable under this Act.

Power of assessing authority to call for information

17 (1) To determine the amount of tax of any institution or building, the assessing authority, may require the owner or the occupier of such institution or building, or of any portion thereof to furnish it within such reasonable period, as the assessing authority may specify in this behalf, the written information signed by such owner or occupier—

(a) as to the name and place of residence of the owner or the occupier or of both of such institution or building; or

(b) as to the measurements or dimensions of such institution or building or of any portion thereof.

(2) Every owner or occupier to whom such requisition is made, shall be bound to comply with the same and to give true information. Penalty for failure to pay tax when due.

(3) If any owner or occupier, as the case may be does not comply with such requisition of fails to give true information, he shall be precluded from objecting to any assessment made by the assessing authority in respect of such institution or building.

18**.** (1) An appeal against every order passed by the assessing authority with regard to the assessment or levy of tax or any other order passed under this Act or against the refusal to refund any tax, shall lie to the appellate authority within a period of thirty days from the date of communication of the order. Appeal

(2) No appeal shall be entertained, unless the appellant has paid to the **asse**ssing authority, the whole of the amount of tax due from him up to the date of filing an appeal.

(3) The appellate authority may, after giving an opportunity of being heard to the appellant and to the assessing authority, pass such order, as it may deem appropriate by recording reasons in writing and the order of the appellate authority so passed, shall be final, unless revised by the State (Government under Section 20.

(4) In discharging its functions, the appellate authority shall have all the powers of a Civil Court conferred under the Code of Civil Procedure, 1908.

19. Notwithstanding anything contained in sub-section (1) of section 18, the appellate authority may for the reasons to be recorded in writing, condone delay in the interest of justice where appeal is not filed within the stipulated period and entertain the appeal after the expiry of the stipulated period. Condonation of delay

20. Where a person is aggrieved by an order of the appellate authority, he may within a period of thirty days from the date of communication to him of such order, make an application in writing to the State Government or to an officer authorized by it for revision against the said order, and the State government or the officer so authorized, may confirm, alter or rescind the order of the appellate authority. Revision

Provided that no order affecting any person adversely, shall be passed without giving him an opportunity of being heard.

21. No objection shall be entertained to any assessment, nor shall the liability of any person, to be assessed or taxed, be questioned in any manner by any authority other than that, provided in this Act Tax, not to be questioned except under this Act.

Applicability of other enactment

22. Where any owner or occupier, as the case may be, constructs or reconstructs an institution or a building in violation of any of the provisions of the Punjab New Capital (Periphery) Control Act, 1952, the Punjab Regional and Town Planning and Development Act, 1995 and the Punjab Apartment and Property Regulation Act, 1995 or any other enactment, and pays tax under this Act, he shall not be protected from any action for such violation under the aforesaid enactments.

Explanation- It is clarified that by merely making payment of tax under this Act, no institution or building shall be deemed to have been regularised, if it otherwise contravenes any of the provisions of the aforesaid Acts.

Bar to proceedings

23. No suit, prosecution or other legal proceedings shall lie against any person authorized to act or for anything done or purporting to have been done in good faith under this Act.

Bar on jurisdiction

24. No civil court shall have any jurisdiction in any matter, in respect of which, the State Government or any other person or authority is empowered by this Act to take cognizance, and dispose it of and the manner in which the State Government or such person or authority, may exercise any power, vested limit or him by or under this Act.

Power to remove difficulties

25. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, buy an order in writing, published in the Official Gazette, make such provision, not inconsistent with the provisions of this Act, as may appear to it, to be necessary for removing the difficulty.

Provided that no such order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section, shall be laid before the State Legislature, as soon as may be, after it is made.

Overriding effect of this Act.

26. Save as otherwise provided in this Act, the provisions of this Act shall take effect, notwithstanding anything to the contrary continued in any other law for the time being in force or in any contract.

Repeal and saving

27. (1) The Punjab (Institutions and Other Buildings) Tax Ordinance, 2010 (Punjab Ordinance No. 1 of 2011), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under this Act.

GOBINDER SINGH
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.