



FINANCE (AMENDMENT) LAW, No. 3 OF 1978

OF

THE NATIONAL STATE ASSEMBLY

[Certified on 31st January, 1978]

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L. D.—O. 41/77.

A LAW TO AMEND THE FINANCE ACT, NO. 11 OF 1963.

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows:—

1. This Law may be cited as the Finance (Amendment) Law, No. 3 of 1978.

Short title.

2. (1) Section 120 of the Finance Act, No. 11 of 1963 (hereinafter referred to as the “principal enactment”), as amended by Act No. 50 of 1968, Act No. 35 of 1969 and Act No. 55 of 1971, is hereby further amended in subsection (3) of that section, in paragraph (c) of that subsection as follows:—

Amendment of section 120 of Act No. 11 of 1963.

(a) by the substitution, for sub-paragraph (iii) of that paragraph, of the following new sub-paragraph:—

“ (iii) any undertaking for the manufacture of copra, desiccated coconut, fibre from coconut husks, crepe rubber, sheet rubber, block rubber, scrap rubber or tea (other than an undertaking for the blending of tea);”;

(b) by the substitution, for sub-paragraph (iv) of that paragraph, of the following new sub-paragraph:—

“ (iv) any undertaking for the export of any manufactured or processed article other than gems within the meaning of the State Gem Corporation Act, No. 13 of 1971;” ; and

(c) by the omission of sub-paragraphs (viii) and (x) of that paragraph.

(2) (a) The provisions of paragraph (b) and (c) of subsection (1) of this section shall be deemed for all purposes to have come into effect on the first day of January, 1976, and

(b) any Order made under section 121 of the principal enactment declaring an article manufactured in Sri Lanka and exported by the manufacturer to be an excepted article

shall be deemed, with effect from the aforesaid day, not to apply to gems manufactured in Sri Lanka and exported by the manufacturer,

and accordingly, business turnover tax shall, with effect from the aforesaid day, be payable in respect of any sum realized from the sale of gems (within the meaning of the State Gem Corporation Act, No. 13 of 1971), to any person other than the State Gem Corporation, at such rates as are applicable to the turnover made by any person who carries on the business of selling gems and as are—

(i) specified in the Order made under section 119 of the principal enactment and published in *Gazette* No. 196/11A of December 31, 1975, where the turnover relates to the period commencing on January 1, 1976, and ending on the midnight of 15/16 November, 1977 ;

(ii) specified in the Order made under the aforesaid section 119 and published in *Gazette* No. 291/9 of November 15, 1977, where the turnover relates to the period commencing on the midnight of 15/16 November 1977, and ending on the date of the coming into operation of this Law ;

(iii) specified in an Order made under the aforesaid section 119 and for the time being in force, where the turnover relates to a period commencing on or after the date of the coming into operation of this Law.

(3) Any person chargeable with business turnover tax by virtue of the provisions of subsections (1) and (2) of this section in respect of the business of selling gems (within the meaning of the State Gem Corporation Act, No. 13 of 1971) for the period commencing on the first day of January, 1976, and ending on the date of the coming into operation of this Law shall—

(a) be deemed to have complied with the provisions of section 123 of the principal enactment if he furnishes a return setting out the turnover of that business for that period within thirty days of the coming into operation of this Law; and

(b) be deemed not to be in default in the payment of business turnover tax under section 122 of the principal enactment in respect of such

business for such period if he pays the total amount of such tax within the aforesaid thirty days, and where he fails to pay the total amount of such tax within the aforesaid thirty days, such amount shall be deemed to be in default and the provisions of the principal enactment relating to the recovery of business turnover tax in default shall apply to the recovery of such amount.

3. Section 122 of the principal enactment is hereby amended by the repeal of subsection (3) of that section and the substitution therefor of the following new subsection—

Amendment of
section 122
of the
principal
enactment.

“(3) Where any business turnover tax is in default, the defaulter shall become liable to pay, in addition to such tax—

(a) a penalty of a sum equivalent to five *per centum* of such tax, and

(b) where such tax is not paid before the lapse of thirty days after such tax has begun to be in default, a penalty of a sum equivalent to one *per centum* of such tax in respect of each further period of thirty days or part thereof during which such tax is in default:

Provided however that—

(a) where the default is in respect of any business turnover tax payable for any year of assessment commencing prior to October 1, 1975, the total amount payable as penalty under this subsection shall in no case exceed—

(i) the sum which the defaulter was liable to pay on October 1, 1975, as penalty in respect of the tax in default, or

(ii) twenty-five *per centum* of the tax in default,

whichever is higher ; and

(b) where the tax in default is in respect of any business turnover tax payable for any year of assessment commencing on or after October 1, 1975, the total amount payable as penalty under this

subsection shall in no case exceed twenty-five *per centum* of the tax in default, and any such amount may be waived or reduced if the Commissioner-General is satisfied that by reason of any special circumstances in which the default occurred, a waiver or reduction of such amount would be just and equitable.”.

Insertion
of new
section 125A
in the
principal
enactment.

4. The following new section is hereby inserted immediately after section 125, and shall have effect as section 125A, of the principal enactment:—

“ Power of
Assessor to
estimate
sale
price.

125A. Where any person who carries on the business of a manufacturer of any article sells such article for the purposes of distribution at a price which, in the opinion of the Assessor, reduces or would reduce the business turnover tax payable by him, then, for the purposes of this Part of this Act, such article shall be deemed to have been sold at a price which, in the opinion of the Assessor, it would have fetched in an open market on the date of such sale, and the turnover of such person from such business shall be computed accordingly.”.

Amendment of
section 159
of the
principal
enactment.

5. Section 159 of the principal enactment, as last amended by Law No. 7 of 1973, is hereby further amended in subsection (1) of that section by the substitution, for the definition of “manufacturer”, of the following definition:—

“ “manufacturer” means any person who—

- (a) makes an article,
- (b) assembles or joins any article whether by chemical process or otherwise,
- (c) adapts for sale any article,
- (d) packages, bottles, puts up in boxes, cuts into pieces, cleans, polishes, wraps, labels or in any other way whatsoever prepares for sale any article, otherwise than in a retail store for the purpose of sale in such store exclusively and directly to the consumer;”.