



The Uttar Pradesh Motor Vehicles Taxation and Other Laws (Amendment)
Act, 1976
Act 15 of 1976

Keyword(s):
Taxation Officer, Route, Tax

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(राजकीय प्रकाशन)
उत्तर प्रदेश, काशी

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THE UTTAR PRADESH MOTOR VEHICLES TAXATION AND OTHER LAWS (AMENDMENT) ACT, 1976

[U. P. Act No. 15 of 1976]

[Authoritative English Text of the Uttar Pradesh Motor Gadi Karadhan Aur Anya Vidhi (Sanshodhan) Adhiniyam, 1976]

AN
ACT

further to amend the United Provinces Motor Vehicles Taxation Act, 1935, the Uttar Pradesh Motor Gadi (Yatri Kar) Adhiniyam, 1962 and the Uttar Pradesh Motor Gadi (Mal Kar) Adhiniyam, 1964 and also further to amend the Motor Vehicles Act, 1939, in its application to Uttar Pradesh.

IT IS HEREBY enacted in the Twenty-seventh Year of the Republic of India, as follows :—

CHAPTER I

PRELIMINARY

1. This Act may be called the Uttar Pradesh Motor Vehicles Taxation and Other Laws (Amendment) Act, 1976.

Short title.

CHAPTER II

AMENDMENT OF THE UNITED PROVINCES MOTOR VEHICLES TAXATION ACT, 1935

2. Chapter V as well as so much of section 39 as pertains to item (2) mentioned in sub-section (1) and item (2) mentioned in sub-section (2) of the said section of the Uttar Pradesh Taxation and Land Revenue Laws Act, 1975 are hereby, with effect from March 24, 1975 repealed and re-enacted and the amendments made by the said Chapter (which by virtue of the said section 39 are to be deemed to have come into force with effect from September 30, 1974) in the United Provinces Motor Vehicles Taxation Act, 1935, hereinafter in this Chapter referred to as the principal Act, shall be subject to the further amendments contained in sections 3, 4, 5, 6, 7, 8, 9, 10 and 11.

Repeal and re-enactment of a part of U. P. Act 8 of 1975.

3. For section 2 of the principal Act, the following section shall be substituted, namely :—

Substitution of section 2.

"2. In this Act, unless the context otherwise requires—

(a) 'Appellate Authority' means the Transport Commissioner, Uttar Pradesh or any other officer appointed by the State Government as 'Appellate Authority';

(b) 'Taxation Officer' means an officer appointed by the State Government to perform the duties and exercise the powers imposed or conferred upon a Taxation Officer by this Act;

(c) 'prescribed' means prescribed by rules made under this Act or by notification;

(d) 'route' means a road or roads or part or parts of a road or roads over which a transport vehicle may be authorised to travel under a permit issued under the Motor Vehicles Act, 1939;

(e) 'tax' means a tax imposed under this Act;

(f) other words and expressions have the meanings respectively assigned to them in the Motor Vehicles Act, 1939 ;".

Act IV of 1939.

Act IV of 1939.

[For Statement of Objects and Reasons, please see Uttar Pradesh Gazette (Extraordinary), dated April 8, 1976.]

(Passed in Hindi by the Uttar Pradesh Legislative Assembly on April 6, 1976 and by the Uttar Pradesh Legislative Council on April 7, 1976).

(Received the Assent of the President on April 30, 1976 under article 201 of the Constitution of India and was published in the Uttar Pradesh Gazette, Extraordinary, dated May 1, 1976).

Page 4

P. Finance 12 of 1976.

U.P. Act V of 1935.

Amendment of section 3. 4. In section 3 of the principal Act, the following Explanation thereto shall be *inserted*, namely—

“Explanation—Any rule or notification prescribing an exemption or prescribing a condition of exemption under this section may be made retrospectively to a date not earlier than the commencement of the current financial year, provided that an exemption shall not be withdrawn retrospectively.”

Amendment of section 4. 5. In section 4 of the principal Act, for the figures “1974”, the figures “1975” shall be *substituted*, and be deemed always to have been *substituted*.

Amendment of section 5. 6. In section 5 of the principal Act, for the figures “1974”, the figures “1975” shall be *substituted*, and be deemed always to have been *substituted*.

Amendment of section 7. 7. In section 7 of the principal Act—

(i) for the words “three months”, the words “one month” shall be *substituted*;

(ii) the following proviso thereto, shall be *inserted* at the end, namely—

“Provided that no such refund shall be admissible unless such person had deposited the registration certificate, the token issued in respect of the vehicle and the permit, if any, with the Taxation Officer during the period for which such refund is claimed.”

Amendment of section 13. 8. In section 13 of the principal Act, for the words “fifty rupees” and “one hundred rupees”, the words “three hundred rupees” and “five hundred rupees” shall respectively be *substituted*.

Substitution of section 15. 9. For section 15 of the principal Act, the following section shall be *substituted*, namely—

“15. (1) Any person aggrieved by an order of the Taxation Officer made under section 7 may within thirty days from the date of such order prefer an appeal to the Appellate Authority.

(2) Every order made in appeal by the Appellate Authority under sub-section (1) shall be final and conclusive.”

Amendment of section 20. 10. In section 20 of the principal Act—

(i) for sub-section (1), the following sub-section shall be *substituted*, namely—

“(1) The State Government may, by notification, make rules for carrying out the purposes of this Act.”;

(ii) in sub-section (2), in clause (e), the word “assessment” shall be *omitted*.

Amendment of the first Schedule. 11. In the first Schedule to the principal Act, in Part B, after Article IV the following Explanation shall be *inserted*, namely—

“Explanation—For the purposes of this article, fifty per cent of the sanctioned standing capacity, if any, shall be reckoned as additional seating capacity.”

Transitory provisions.

12. Every appeal under section 15 of the principal Act purporting to be an appeal against an order relating to recovery of tax under that Act, pending immediately before the third day of October, 1975 shall be deemed to have abated on the said date.

CHAPTER III

AMENDMENT OF THE UTTAR PRADESH MOTOR GADI (YATRI KAR) ADHINIYAM, 1962

Amendment of section 7 of U. P. Act 8 of 1962. 13. In section 7 of the Uttar Pradesh Motor Gadi (Yatri Kar) Adhiniyam, 1962, hereinafter in this Chapter referred to as the principal Act, the following proviso thereto shall be *inserted*, namely—

“Provided that the payment or deposit of the tax may be made in such other manner, if any, as may be prescribed.”

14. In section 8 of the principal Act, in sub-section (2), the following proviso thereto shall be *inserted*, namely— Amendment of section 8.

“Provided that the payment or deposit of the tax may be made in such other manner, if any, as may be prescribed.”

15. In section 13 of the principal Act, in sub-section (2), for the provisos thereto, the following proviso shall be *substituted*, namely— Amendment of section 13.

“Provided that no appeal under clause (b) or clause (c) shall be entertained by the Appellate Authority, unless fifty per cent of the sum determined or assessed as payable by way of tax has been deposited.”

16. Section 15 of the principal Act shall be *re-numbered* as sub-section (1) thereof, and *after* sub-section (1) as so *re-numbered* the following sub-sections shall be *inserted*, namely:— Amendment of section 15.

“(2) A stage carriage shall not be plied in any public place in the State in case any tax or penalty payable in respect thereof remains unpaid for more than fifteen days after it has become payable under this Act or the rules or orders made thereunder:

Provided that where an appeal against assessment of tax or levy of penalty is pending, the Appellate Authority may, for reasons to be recorded, exempt a stage carriage from the operation of this sub-section for such period as may be specified by it.

(3) Any stage carriage plied in contravention of the provisions of sub-section (1) or sub-section (2) may be seized and detained by any officer of the Transport Department not below the rank of the Tax Officer for so long as the registration certificate under section 14 or the receipt referred to in this section is not obtained or, as the case may be, the whole of the amount of such tax or penalty or both has not been duly paid.”

CHAPTER IV

AMENDMENT OF THE UTTAR PRADESH MOTOR GADI (MAL KAR) ADHINIYAM, 1964

17. In section 2 of the Uttar Pradesh Motor Gadi (Mal Kar) Adhiniyam, 1964, hereinafter in this Chapter referred to as the principal Act, in clause (k), between the expressions “motor vehicle”, and “trailer”, the expression “route” shall be *inserted*. Amendment of section 2 of U. P. Act XV of 1964.

18. In section 3 of the principal Act, for Explanation I, the following Explanation shall be *substituted*, and be deemed always to have been *substituted*, namely— Amendment of section 3.

“Explanation I—Where goods are carried by a public goods vehicles—

(a) from any place outside the State, to any place outside the State; or

(b) from any place within the State, to any place outside the State; or

(c) from any place outside the State to any place within the State; an amount bearing the same proportion to the total freight payable as the distance within the State bears to the total distance to which goods are carried by such vehicle shall be deemed to be the freight payable for the carriage of goods in the State.”

19. In section 18 of the principal Act, in sub-section (2), for the provisos thereto, the following proviso shall be *substituted*, namely— Amendment of section 18.

“Provided that no appeal under clause (b) shall be entertained by the Appellate Authority unless fifty per cent of the amount assessed as payable by way of tax has been deposited.”

20. Notwithstanding any judgment, decree or order of any court, anything done or any action taken (including the levy of tax on goods carried by any public goods vehicle passing through Uttar Pradesh) or anything purporting to have been done or any action purporting to have been taken under or by virtue Validation.

of section 3 of the principal Act, shall be deemed to be as valid and effective as if the amendments made therein by section 18 of this Act, where in force at all material times, and accordingly—

(a) no suit or other proceeding shall be entertained or continued in any court or before any authority for the refund of any amount referred to in section 3 of the principal Act ;

(b) no court shall enforce any decree or order directing the refund of any such amount ; and

(c) any tax the realisation of which was stayed or restrained by any court before the third day of October, 1975, shall be recoverable in accordance with the provisions of section 3 of the principal Act as amended by section 18 of this Act.

CHAPTER V

AMENDMENT OF THE MOTOR VEHICLES ACT, 1939

Amendment of section 43-A of Act IV of 1939 as inserted by U. P. Act no. 25 of 1972.

21. In section 43-A of the Motor Vehicles Act, 1939, (hereinafter referred to as the principal Act), for sub-section (2), the following sub-sections shall be substituted and be deemed always to have been substituted, namely :—

“(2) Without prejudice to the generality of the provisions of sub-section (1), such directions may be given in respect of any of the following matters, namely—

(a) the number of stage carriage or contract carriage permits that may be granted in respect of any route or area ;

(b) the preference or the order of preference to be given to or the quota to be fixed for, specially deserving categories such as ex-army personnel, educated unemployed persons, such persons holding driving licences as are members of co-operative societies formed for passenger transport business, persons belonging to the Scheduled Castes and Scheduled Tribes ;

(c) the procedure for grant of permits, and for selection from among the applicants, including selection by drawing of lots from among persons belonging to the same category ;

(3) Any direction under sub-section (1) may be issued with retrospective effect.

(4) Where any direction is issued under sub-section (1) to any Transport Authority, then any appeal or revision pending before the State Transport Appellate Tribunal shall also be decided in such manner as to give effect to such direction.

(5) Where any direction is issued under sub-section (1) with retrospective effect then—

(a) any Transport Authority or the State Transport Appellate Tribunal may review any order passed earlier by it with a view to making it conform to such direction, and may for that purpose cancel any permit already issued ;

(b) any Transport Authority may apply to the High Court for review of any order passed by such Court earlier with a view to enabling such Authority to comply with such direction.

(6) The provisions of this section shall have effect notwithstanding anything contained in sections 47, 50 and 57.”

Amendment of section 123 of Act IV of 1939.

22. In section 123 of the principal Act—

(1) for sub-section (1), the following sub-section shall be substituted, namely :—

“(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used in contravention of the provisions of section 22 or without the permit required by sub-section (1) of section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle

may be used or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle shall be punishable for a first offence with fine which may extend to one thousand rupees and except as provided in sub-section (1-A) for any second or subsequent offence with imprisonment which may extend to six months or with fine which may extend to two thousand rupees, or with both :

Provided that no Court shall, except for reasons to be stated in writing, impose a fine of less than five hundred rupees for second or subsequent offence." ;

(2) after sub-section (1), the following sub-section shall be *inserted*, namely :-

"(1-A) Whoever drives or uses, or causes or allows to be driven or used, a motor vehicle which is a contract carriage (other than a motor cab) or a stage carriage without the permit required by sub-section (1) of section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, shall for any second or subsequent offence, be punishable with imprisonment which shall not be less than two months or more than six months and shall also be liable to fine which may extend to two thousand rupees :

Provided that the court may, for reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine, which shall not be less than one thousand rupees, in lieu of imprisonment for any such second or subsequent offence." ;

(3) for sub-section (3), the following sub-section shall be *substituted*, namely :-

"(3) Where a person is convicted of an offence under this section, the court by which such person is convicted may in addition to any sentence which may be passed under sub-section (1) or sub-section (1-A) by order—

(a) if the vehicle used in the commission of the offence is a motor car, suspend its certificate of registration for a period not exceeding four months ;

(b) if the vehicle used in the commission of the offence is a transport vehicle, suspend its permit for a period not exceeding six months or cancel it." ;

(4) after sub-section (3), the following sub-section shall be *inserted*, namely :-

"(3-A) Where a person is convicted for any second or subsequent offence under sub-section (1-A), the court by which such person is convicted may, in addition to any sentence which may be passed under sub-section (1-A) or any order which may be made under sub-section (3), order confiscation of the vehicle used in the commission of the offence.

(3-B) Notwithstanding anything contained in section 129-A, the vehicle used in the commission of the offence under sub-section (1-A) shall be seized and detained in custody till the case is finally disposed of by the trial court :

Provided that where the case is not disposed of by such court within two months from the date of seizure of the vehicle, the accused may apply for the release of the vehicle from custody, and the court shall order release of the vehicle on such terms and conditions as to its production before the court, including the appellate court, as it may consider necessary.

(3-C) No suit or other legal proceeding shall lie against the State Government, and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of sub-section (3-B)." ;

(5) for sub-section (4), the following sub-section shall be substituted, namely :—

“(4) The court to which an appeal lies from any conviction in respect of an offence of the nature specified in sub-section (1) or sub-section (1-A) may set aside or vary any order of suspension or cancellation made under sub-section (3) or any order of confiscation made under sub-section (3-A) by the court below and the court, to which appeals ordinarily lie from the court below, may set aside or vary any such order of suspension, cancellation or confiscation made by the court below, notwithstanding that no appeal lies against the conviction in connection with which such order was made.”

CHAPTER VI
MISCELLANEOUS

Repeal and savings.

23. (1) The Uttar Pradesh Motor Vehicles Taxation and Other Laws (Amendment) Ordinance, 1976 is hereby repealed.

U. P. Ordinance
No. 9 of 1976.

(2) Notwithstanding such repeal, anything done or any action taken under the enactments referred to in Chapters II, III, IV and V, as principal Acts, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the respective principal Acts as amended by this Act as if the provisions of this Act were in force at all material times.