Enactment of Maharashtra Tax Laws ( Levy, Amendment, and Validation) Bill 2016

Background
In accordance with the various Budget announcements made in the State Budget for the Financial year 2016-17, Government of Maharashtra has introduced the Maharashtra Tax Laws (Levy, Amendment and Validation) Bill, 2016 (hereinafter referred as ‘the amendment Bill’) for amending, among others, various provisions in the Maharashtra VAT Act and Maharashtra Profession Tax Act.

The brief summary of amendments is mentioned below:

Key Highlights of the amendment

I. Maharashtra Value Added Tax Act, 2002 (herein referred as the ‘MVAT Act’)
   - Amendments applicable from the date of publication of the amendment Act in the Official Gazette

   ➢ Cancellation of registration - A new proviso has been inserted whereby if any person opted for voluntary registration and not commenced the business within six months from the date of registration or has obtained registration by fraud or by misrepresentation of facts, then the Commissioner, after giving the person reasonable opportunity of being heard, can cancel the registration certificate.

   ➢ Revision in returns - Revised return for any omission or incorrect statement can be filed upto the due date for filing audit report i.e. 15 January of the next financial year under the MVAT Act. A dealer may also file such revised return multiples times upto the due date.

   ➢ Returns acceptance order - A new sub-section has been inserted wherein returns of the dealers who has filed returns within the prescribed date may be accepted and assessed on the basis of the returns. The returns shall be accepted after the expiry of a period of four years if assessment order has not been passed.

   ➢ Assessment - A new sub-section has been inserted wherein it is provided that during the course of assessment, the assessing officer may send an intimation regarding proposed tax and interest liability of the dealer. If the observations are accepted by assessee, tax and interest are paid by filing revised returns as per intimation, then an order accepting the revised return shall be issued and proceedings shall be closed.
Introduction of concept of Fair Market Price – (From 1 April 2011)
- New provision has been introduced with retrospective effect whereby, in the case where Commissioner is of the opinion that any transaction entered into by any dealer for sales price, which is below the prescribed fair market price for commodity for a prescribed class of dealers, then the Commissioner may determine the tax liability as per the fair market price of such transaction while passing an order in the said proceedings.

TDS credit – The amendment provides for transfer of WCT TDS credit by the Principal Contractor to the Sub-contractor by which the sub-contractor may claim the credit of WCT TDS transferred by the Principal Contractor.

Disclosure on the invoice issued by specified units – A requirement for incorporating a prescribed declaration on the invoices issued by the Ultra Mega Units, Very Large Units and Mega Units availing incentives by way of deferment under Package Scheme of Incentives, 1993 and purchaser purchasing goods from such units has been introduced.

Amendment applicable with effect from 1 May 2016
- Advance Ruling Authority to be established for speedy disposal of determination of disputed questions and for establishment of Advance Ruling Authority. The Advance Ruling Authority will be sub-ordinate to the Commissioner.
- The provisions of Determination of Disputed Questions (DDQ) are done away with.

Amendment applicable from the future date post issuance of Notification in the Official Gazette
- E-registration was already made it mandatory for all applicants for obtaining registration. A new proviso has been inserted whereby any discrepancy observed in the registration documents, the application can be rejected without a hearing. However, an opportunity to rectify the deficiency within the stipulated period of 30 days will be provided. If compliance is made within the said period, then the registration shall be granted from the date of original application.

Every employer who is not registered under the MVAT Act and is liable to deduct Works Contract TDS (WCT TDS) will have to apply for allotment of sales tax deduction account number. The said number shall be mentioned in documents, statements, and returns.

II. Maharashtra State Tax on Professions, Trades, Callings, and Employments Act, 1975 (hereinafter referred as the ‘Profession Tax Act’) 
- Amendment applicable with effect from 1 April 2016
  - The relief provided to the unregistered persons applying for enrolment under profession tax act during the period 1 April 2016 to 30th September 2016, or registration application pending as on 1 April 2016, whereby past liability will be restricted upto 1 April 2013. All other cases, the liability, shall be extended upto last eight years.
  - Exemption from payment of tax to be provided to the armed members of Central Reserve Police Force and Border Security Force.
Our comments

The government of Maharashtra has widened the scope of assessing taxes at higher values by introducing the concept of Fair Market Price in the case where the value of the sale is less than the actual price.

The provision of application for obtaining fresh WCTTDS registration is applicable only to the person who is not registered under the MVAT Act. The existing registered dealers under the MVAT Act need not make a fresh application.

The government has liberalised the Assessment proceeding by introducing the concept of deemed assessment and intimation of demand before passing of the assessment order.