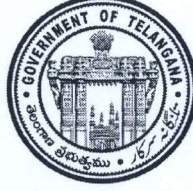


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తెలంగాణ రాజపత్రము
THE TELANGANA GAZETTE
PART IV-A EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 24] HYDERABAD, MONDAY, DECEMBER 26, 2016.

TELANGANA BILLS

TELANGANA LEGISLATIVE ASSEMBLY

The following Bill was introduced in the Telangana Legislative Assembly on 26th December, 2016.

L. A BILL No. 24 OF 2016.

**A BILL FURTHER TO AMEND THE TELANGANA
VALUE ADDED TAX ACT, 2005.**

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

1. (1) This Act may be called the Telangana Value Added Tax (Fourth Amendment) Act, 2016.

Short title
and commen-
cement.

B. 247-1 [P]

[1]

(2) It shall be deemed to have been come into force with effect from 30th July, 2016;

Amend-
ment of
Schedule-IV,
Act No. 5 of
2005.

2. In the Telangana Value Added Tax Act, 2005, in Schedule IV, after Entry 130, the following entry shall be added, namely, -

“131. cell phones / mobile phones”.

STATEMENT OF OBJECTS AND REASONS

The Composite State of Andhra Pradesh notified HSN Code. 8517 vide G.O.Ms No.1615, Revenue (CT-II) Department, Dt.31-08-2005, to the Cell Phones / Mobile Phones to attract 4% / 5% of tax on these goods. The Hon'ble High Court in the case of ESPI Industries and Chemicals Pvt. Ltd., Hyderabad Vs The Commercial Tax Officer, Tarnaka Circle, Hyderabad (45 APSTJ 207 – 2007) and in another case M/s MGRM Medicare Limited Vs Commercial Tax Officer (Int.), Abids Division, Hyderabad and another (45 VST 47 – 2011), held that prescription of HSN Codes for certain commodities under G.O.Ms.No.1615, dt.31-08-2005, is an exercise of the power conferred under Section 76(2) of the Andhra Pradesh Value Added Tax Act to remove difficulties and cannot run contrary to the provisions in the Act. It was further held that the Entries in the Schedule-IV did not classify the commodities on the basis of the coverage by the HSN Codes and no reliance can be placed by the assessing authorities on G.O.Ms.No.1615, dt.31-08-2005 to treat certain commodities, taxable, under Schedule-V of the Act at 12.5% / 14.5%. It was further held that the notification in G.O.Ms.No.1615, dt.31-08-2005 was never introduced in the State Legislature in the form of a Bill would establish that the said G.O. was issued only in exercise of the powers conferred under Section 76(2) and not under Section 79(1) of the Andhra Pradesh Value Added Tax Act. Therefore, the said G.O.Ms.No.1615, dt.31-08-2005, was rescinded by composite State vide G.O.Ms.No.140, Revenue (CT-II) Department, dt.19-03-2013. Further, as there was a request from the Hon'ble Minister for Communication and Information Technology, Government of India, to declare mobile phones / cell phones as goods of special importance under Central Sales Tax Act, the Government of Composite State vide Memo No.10427/CT-II(1)/2013-4, dt.17-05-2014, issued clarification that cell phones / mobile phones are taxable @ 5% under sub-entry (15) of Entry 39 of Schedule-IV of Andhra Pradesh Value Added Tax Act, 2005 (now Telangana Value Added Tax Act, 2005) i.e. as transmission apparatus. Thereby, even now in the State of Andhra Pradesh, these goods are liable to tax at 5%. Whereas, on formation of State of Telangana, the Government of Telangana, keeping in view of the observations of the High Court, withdrawn the clarification Memo dt.17-05-2014 issued by the Composite State, vide Memo No. 10427/CT-II(1)/2013-5, dt.20-09-2014. Due to this the cell phones/mobile phones are made liable to tax @ 14.5%. Whereas, these goods are now taxed @ 5% only in the State of Andhra Pradesh. Due to higher rate in

the State of Telangana, trade diversion has been taking place, which is affecting the revenue of the State. Therefore, keeping in view of the trade diversion, lower rates prevailing in neighbouring States of Andhra Pradesh, Karnataka, keeping in view of the observations of the Hon'ble High Court and to yield more revenue to the State, in consonance with the legislative exercise as per the procedure stipulated in Section 79 of the Telangana Value Added Tax Act, 2005, the Government after careful examination of the matter it is decided to levy VAT @ 5% on cell phones / mobile phones by incorporating a specific Entry "131. cell phones / mobile phones" in the Schedule-IV of Telangana Value Added Tax Act, 2005.

This Bill seeks to give effect to the above decision.

K. CHANDRASHEKAR RAO,
Chief Minister.

FINANCIAL MEMORANDUM

The Composite State of Andhra Pradesh vide Memo. No. 10427/CT-II (1) / 2013-4, dt. 17-05-2014, issued clarification that cell phones / mobile phones are taxable @ 5% under sub-entry (15) of Entry 39 Schedule - IV of Andhra Pradesh Value Added Tax Act, 2005 (now Telangana Value Added Tax Act, 2005). The said clarification issued by the Composite State was withdrawn by the Government of Telangana vide Memo No. 10427/CT-II (1)/2013-5, dt. 20-09-2014. Due to this the Cell Phones / Mobile Phones are made liable to tax at higher rate of 14.5%. On account of this, there is inequity in trade. This amendment helps in enhancing the revenue in our State i.e. consuming State. On account of this amendment, State revenue to the extent of Rs. 5 Crores will be protected.

K. CHANDRASHEKAR RAO,
Chief Minister.

B. 247-2

**MEMORANDUM UNDER RULE 95 OF THE RULES OF
PROCEDURE AND CONDUCT OF BUSINESS IN THE
TELANGANA LEGISLATIVE ASSEMBLY.**

The Telangana Value Added Tax (Fourth Amendment) Bill, 2016 after it is passed by both the Houses of the State Legislature may be submitted to the Governor for his assent under article 200 of the Constitution of India.

K. CHANDRASHEKAR RAO,
Chief Minister.

Dr. S. RAJA SADARAM,
Secretary to State Legislature.