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MAHARASHTRA PROFESSIONAL TAX AMENDMENT 2023: KEY TAKEAWAYS

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Background

The Government of Maharashtra notified the Maharashtra State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2023 (New Amendment) in the Official Gazette on 6 April 2023, pursuant to the Governor's assent to the same. This New Amendment amends the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Maharashtra Professional Tax Act), and the same has been made effective from 1 April 2023. In this update, we discuss the key changes brought about by the New Amendment from an employment law perspective.

Exemption to certain female employees from professional tax payment

The New Amendment ushers in changes under Schedule I of the Maharashtra Professional Tax Act, thereby substituting a part of the old schedule which details the rates of tax on salary and wage earners. The substituting provision primarily envisages the following features:

- The provision has categorised employees / wage earners based on their gender and accordingly has provided differential rates for male and female employees. While the professional tax slab rates applicable hitherto have been retained as is for the male employees / wage earners, the female employees earning salary or wages up to INR 25,000 have been exempted from depositing professional tax.
- The substituting provision has further provided that female employees / wage earners earning salary or wages more than INR 25,000 per month are covered in the class of eligible persons for payment of professional tax with the same rate of tax as the rate for male employees who earn salary or wages more than INR 10,000 per month (i.e., INR 200 per month for all months except for February, for which the rate would be INR 300).

Alignment with legislative developments for persons with disabilities

In addition to the above amendments to the Maharashtra Professional Tax Act, the New Amendment has streamlined provisions for persons with disabilities. Earlier, the Maharashtra Professional Tax Act provided that an employee suffering from a permanent physical disability (including blindness) would be exempted from payment

of professional tax. The expression 'permanent physical disability' was envisaged to be understood in consonance with the relevant rules of the state government.

The New Amendment has substituted this provision to reflect that any person with a 'benchmark disability' as defined in the Rights of Persons with Disabilities Act, 2016 (Disabilities Act) shall be exempted from the provisions of the Maharashtra Professional Tax Act. The term 'person with benchmark disability' refers to a person which suffers from at least 40% of any of the disabilities notified under the Schedule to the Disabilities Act (unless a notified disability is already separately expressed in measurable terms). Also, because intellectual disability is already a notified disability, the New Amendment removes the additional exemption under the Maharashtra Professional Tax Act that is specifically carved out for persons suffering from intellectual and development disabilities.

Comment

The New Amendment can be seen as an attempt by the Government of Maharashtra to incentivise the employment of female workforce and, at the same time, ensure financial sustainability of low-wage-earning female workforce. Similarly, the New Amendment has attempted to align the provisions of the Maharashtra Professional Tax Act with those of the special law for persons with disabilities (namely, the Disabilities Act). Notwithstanding the overall inclusive approach of the New Amendment, it is interesting to note that the amended law does not seem to be expressly envisaging provisions for employees who may identify themselves as part of the LGBTQIA+ community.

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