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PART-IV

Act of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor

The following Act of the Gujarat Legislature, having been
assented to by the Governor on the 5th March, 1997 is hereby
published for general information.

Kum. H. K. Jhaveri,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department

GUJARAT ACT NO. 6 OF 1997

(First published, after having received the assent of the Governor
in the Gujarat Government Gazette, on the 6th March, 1997).

AN ACT

Further to amend the Bombay Land Revenue Code, 1879

It is hereby enacted in the Forty-eight Year of the Republic
of India as follows: -

Short title and commencement

1. (1) This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 1997.

(2) It shall be deemed to have come into force on the 24th December, 1996.

2. In the Bombay Land Revenue Code, 1879 (hereinafter referred to as "the principal Act"), in section 48, after sub-section (2), the following new sub-section shall be inserted, namely: -

New Section 48 (2A) Where any land assessed for any purpose is used for a bonafide industrial purpose under section 65B and a certificate o that effect is issued to the occupant of such land shall, notwithstanding that the term for which such assessment may have been fixed has not expired, be liable to be altered and fixed at a different rate with effect from the commencement of the revenue year in which the use of land for a bonafide industrial purpose is commenced, by such authority and subject to such rules as the State Government may prescribe in this behalf."

Insertion of
new section in
Bombay V. of
1879

3. In the principal Act, after section 65A, the following new section shall be inserted namely: -

Use of certain
lands for
Bonafide
industrial
purpose

"65B (1) Notwithstanding anything contained in section 65 or 65A, where -

(a) any land used or held for the purpose of agriculture or, as the case may be, for any non-agricultural purpose not being an industrial purpose is: -

(i) designated for the use of industrial purpose in the draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976; or

President's
Act No. 27
Of 1976

(ii) situated in the area where no plan or scheme referred to in sub-clause (i) is in force and is designated by the State government, by notification in the Official Gazette, for the use of such industrial purpose as may be specified therein, having regard to such factors as may be prescribed by rules made under this Act in this

behalf: -

Provided that nothing in this sub-clause shall render invalid the use of land for a bonafide industrial purpose in pursuance of the provisions of the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 during the period when the said Ordinance was in force notwithstanding that the said land is not designated for such use under this Act, and

Guj. Ord.
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1996

- (b) the occupant of such land wishes to use such land or part thereof-
- (I) for a bonafide industrial purpose other than the purpose of manufacture or storage of any chemical or petrochemical,

It shall be lawful for him to use such land for such bonafide industrial purpose without the permission of the collector subject to the fulfillment of the following conditions, namely: -

- (a) the occupant has a clear title to such land,
- (b) such land or part thereof -
 - (i) is not shown as reserved for a public purpose in draft or final development plan or draft or final town planning scheme under the Gujarat Town Planning and Urban Development Act, 1976
 - (ii) is not notified for acquisition under the Land Acquisition Act, 1894 or any other law for the time being in force,
 - (iii) does not fall within the alignment of any road plan prepared by the State Government or the command area of any irrigation project,
 - (iv) is not situated within thirty meters from the boundary of any land held for the purpose of railway by the Central Government or the Indian Railway Company Ltd., or
 - (v) is not situated within fifteen meters of the high voltage transmission

President's
Act No. 27
of 1976

line;

- (vi) is no situated within five kilometers of the periphery of the area within the jurisdiction of any Area Development authority or Urban Development Authority constituted under the Gujarat Town Planning and Urban Development Act, 1976;

President's
Act No. 27
of 1976

Provided that nothing in this item shall render invalid the use of land for a bonafide industrial purpose in pursuance of the provisions of the Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 when the said Ordinance was in force notwithstanding that the said land falls within five kilometers of the periphery of the area within the jurisdiction of any Area Development Authority or Urban Development Authority.

Guj. Ord.
20 of
1996

- (II) for the purpose of manufacture of storage of any chemical or petrochemical,

It shall be lawful for him to use such

land for such bonafide industrial purpose without the permission of the Collector subject to the fulfillment of the following conditions, in addition to the conditions mentioned in sub-clause (I), namely: -

Such land or part thereof is not situated within two kilometers from the boundary of -

- (i) an ancient monument declared as 'protected monument' under sub-section (1) of section 3 of the ancient Monuments Preservation Act, 1904. 7 of 1904
- (ii) an ancient and historical monument declared as 'protected monument' under sub-section (3) of section 4 of the Gujarat Ancient Monuments and Archaeological sites and Remains Act, 1965; Guj 25 of 1965
- (iii) a forest land or waste land declared as 'reserved forest land' under section 3 of the Indian Forest Act, 1927; XVI of 1927

- (iv) a forest land or waste land known as 'protected forest' under section 29 of the Indian Forest Act, 1927 XVI
1927 of
 - (v) an area declared as 'sanctuary' under sub-section (I) of section 180 of the wild Life (Protection) Act, 1972; or 53
1972 of
 - (vi) an area declared as 'national park' under section 35 of the wild Life (Protection) Act, 1972 53
1972 of
- (2) (a) The occupant shall comply with the provisions of any law for the time being in force or any order or direction of the Central Government or State Government or any corporation owned or controlled by such Government, Government Company, local authority in relation to use of land for a Bonafide industrial purpose under sub-section (1) before the land is put to use for such purpose.
- (b) When an occupant commences the use of the land for a Bonafide industrial purpose under sub-section (i) he shall within thirty days from

the date of commencement of the use of land for a Bonafide industrial purpose, send a notice of the date of commencement of such use, along with other particulars in such form as may be prescribed by rules made under this Act, to the Collector and endorse a copy thereto to the Mamlatdar.

- (3) Where, on the receipt of such notice along with other particulars sent by the occupant under clause (b) of sub-section (2), the Collector, after making such inquiry as he deems fit-
- (a) is satisfied that the occupant of such land has validly commenced the use of the land for a Bonafide industrial purpose under sub-section (i), he shall issue a certificate to that effect to the occupant in such form and within such period as may be prescribed by rules made under this Act.
 - (b) is not so satisfied, he shall, after giving the occupant an opportunity of being heard, refuse to issue such

certificate: -

Provided that no such certificate shall be issued under clause (a) unless the conversion tax leviable under Section 67A is paid.

- (4) (a) Where the occupant fails to send the notice and other particulars under clause (b) of sub-section (2) within the period specified therein, he shall be liable to pay, in addition to the non-agricultural assessment leviable under this Act, such fine not exceeding ten thousand rupees as the Collector, may, subject to rules made under this Act, direct
- (b) (i) Where the occupant commences the use of such land for industrial purpose despite the non-fulfillment of any of the conditions specified in sub-section (1) or
- (ii) where certificate is refused to the occupant under clause (b) of sub-section (3)

He shall be liable, in addition to the payment of non-agricultural

assessment leviable under this Act, to restore such land to its original use within such period as the Collector may specify in a notice served on such occupant in this behalf.

(c) Where such occupant does not restore the land to its original use within the period specified by the Collector, in the notice served under clause (b) -

(i) he shall be liable to pay such fine not exceeding five thousand rupees and in addition, such daily fine not exceeding one hundred rupees per hectare or part thereof of land not so restored for each day during which such land is not restored to its original use, after the expiry of the period specified in such notice as the Collector may, subject to rules made under this Act, direct and

(ii) The Collector shall take such steps as he thinks fit to get such land restored to its original use and collect the cost incurred in this

behalf from such occupant as an arrear of land revenue.

- (5) (a) The occupant shall commence industrial activity on such land within three years from the date of the notice sent by him to the Collector under clause (b) of subsection (2) and commence production of goods or providing of services on such land within five years from such date:

Provided that the period of three years or, as the case may be, five years may, on an application made by the occupant in that behalf, be extended from time to time by the Collector in such circumstances as may be prescribed by rules made under this Act.

- (b) Where the occupant fails to commence industrial activity or production of goods or providing of services within the period specified in clause (a) or the period extended under the proviso to clause (a), he shall be liable to pay, in addition to

non-agricultural assessment leviable under section 48, non-agricultural assessment at the rate of five rupees per square meter of the land with effect from the date of expiry of the period of three years or five years or, as the case may be, the period extended under the proviso to clause (a) till he commences industrial activity or as the case may be, commences production of goods or providing of services.

*Explanation-1-*For the purposes of this section, section 48 and section 67a, the expression "Bonafide industrial purpose" means an activity of manufacture, preservation or processing of goods (other than the hazardous and toxic chemicals specified in part II of the Schedule I to the Manufacture, Storages and Import of Hazardous Chemicals Rules, 1989 made under the Environment (Protection) Act, 1986 and for the time being in force) or any handicraft, or industrial business or enterprise, carried on by any person and includes construction of

industrial buildings used for the manufacturing process or purpose, or power projects or port projects and ancillary industrial usage like research and development, godown, canteen, office buildings of the industry concerned, or providing housing accommodation to the workers of the industry concerned or establishment of industrial estate including a co-operative estate or service industry or tourism or cottage industry.

Explanation-II - For the purposes of this section, an occupant shall be deemed to have commenced the use of land for a Bonafide industrial purpose from the date on which he ceases to use the land for agricultural or non-agricultural purpose existing immediately before the date of such ceaser."

Amendment of section 67A of Bombay V of 1879

4.

In the principal Act, in section 67A-

(1) in sub-section (1) -

(a) in clause (b) for the words "in that section" the words "in that section,

or" shall be substituted:

- (b) after clause (b) the following clause shall be added, namely: -
 - "(c) is used for a *Bonafide* industrial purpose under section 65B",
- (2) In sub-section (2), in the proviso, for the words, "under this sub-section" the words brackets, figure and letter "under this sub-section or under sub-section (2A)" shall be substituted.
- (3) after sub-section (2) but before the proviso, the following new sub-section shall be inserted namely: -
 - "(2A) Where any land assessed or held for any non-agricultural purpose not being an industrial purpose (hereinafter referred to as "the existing non-agriculture purpose") and situated in a specified area is used for a *bonafide* industrial purpose under section 65B, the occupant of such land shall be liable to pay to the State Government a

tax at such rate as is equivalent to the difference between the rate of tax applicable to the industrial purpose specified in the corresponding entry in column (6) of the Table below and the rate of tax applicable to the existing non-agricultural purpose specified in columns (3), (4) and (5) of the Table below: -

Amendment of section 214 of Bombay V of 1879 5.

In the principal Act, in section 214, in sub-section (2), clause (h) shall be renumbered as clause (gi) and after clause (gi) as so renumbered, the following clause shall be inserted, namely: -

“(h) the form of notice and the particulars to be sent under clause (b) of sub-section (2), the form of and the time within which a certificate is to be issued under sub-section (3) the rules subject to which the Collector may direct payment of fine under clauses (a) and (c) and the form of notice to be served under clause (b) of sub-section (4), and the circumstances in which the period

may be extended under the proviso to clause (a) of sub-section (5), of section 65B”

Repeal
savings

and

6

(1)

The Bombay Land Revenue (Gujarat Amendment) (Second) Ordinance, 1996 is hereby repealed.

Guj. Ord 20
of 1996

(2)

Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.
