

KARNATAKA ACT NO 23 OF 2016

(First Published in the Karnataka Gazette Extra-ordinary on the
Twenty Seventh day of July, 2016)

THE KARNATAKA FOREST (AMENDMENT) ACT, 2016

(Received the assent of the Governor on the Twenty Sixth day of July, 2016)

An Act further to amend the Karnataka Forest Act, 1963.

Whereas it is expedient further to amend the Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the sixty- seventh year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Forest (Amendment) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 2.- In the Karnataka Forest Act, 1963 (Karnataka Act 5 of 1964) (hereinafter referred to as the principal Act) in section 2, after clause (1), the following clause shall be deemed to have been inserted with effect from the 16th day of August, 2008, namely:-

"(1-A) "Consideration" means the price received or receivable on the sale of forest produce and computed in such manner and shall also include such other amount as may be prescribed by the State Government."

3. Amendment of Chapter XIA.- In the principal Act, in Chapter XIA,-

(1) including the headings and in section 98A and 98B for the word "tax" wherever it occurs, the word "fee" shall be deemed to have been substituted with effect from the 16th day of August, 2008;

(2) in section 98A,-

(i) in sub section (1),-

(a) for the words "or controlled by" the words "or controlled by the State Government" shall be deemed to have been substituted with effect from 16th day of August, 2008;

(b) The second proviso shall be omitted with the effect from the date of commencement of the Karnataka Forest (Amendment) Act, 2015 (Karnataka Act 41 of 2015); and

(c) after the second proviso to sub-section (1) the following proviso shall be deemed to have been inserted with effect from the 16th day of August, 2008; namely:-

"Provided also that, in respect of minerals which is a forest produce the rate of Forest Development fee shall be twelve percent."

(ii) after sub-section (1), the following explanations shall be deemed to have been inserted with effect from the 16th day of August, 2008, namely:-

"Explanation: (1) For the removal of doubts, it is hereby declared that for the purposes of this sub-section, the words "a body notified by the State Government" shall mean and include all entities directly or indirectly engaged in disposing of forest produce found in, or brought from, a forest,

as individuals or other entities including Hindu Undivided Family, Company or foreign Company, partnership firms, societies, cooperative societies, other bodies corporate, trusts, lease holders of mines and quarries situated in forest area or any other association or committee or person, whether or not such individuals or entities constituted themselves into a juristic entity and whether or not such individuals or entities collectively come together and act as a group or body.

Explanation: (2) For the removal of doubts, it is hereby declared that for the purpose of this sub-section, the words, "or otherwise" includes disposal through captive consumption.

Explanation: (3) For the removal of doubts, it is hereby declared that Forest Development Fee shall be levied on the disposal of the forest produce irrespective of whether such forest produce is intended for sale inside or outside the State of Karnataka or for the purpose of export or for captive consumption."

(iii) after the sub section (1-A); the following shall be inserted, namely:-

"(1-B) Notwithstanding anything contained in subsection(1), no fee shall be levied on the forest produce which is not found in or not brought from the forest except when it is disposed of by the State Government;

(1-C) Notwithstanding anything contained in subsection(1), no Forest Development Fee on forest produce shall be payable to the State Government, for which no demand was raised during the period from 16th August of 2008 till the commencement of the Karnataka Forest (Amendment) Act, 2015 (Karnataka Act 41 Of 2015); and

(1-D) The State Government may make rules regarding manner of Levy, computation and collection of Forest Development fee from a retrospective date."

(3) after section 98B, the following new section shall be inserted, namely:-

"98C. Power of State Government to exempt or reduce Forest Development fee:- (1) The State Government may, if in its opinion it is necessary in public interest so to do, by notification and subject to such restrictions and conditions and for such period as may be specified in the notification, exempt or reduce either prospectively or retrospectively the forest Development fee payable under this Act, by any specified class of persons or in respect of any specified forest produce;

(2) The State Government may, by notification cancel or vary any notification issued under sub-section (1).

(3) Where any restriction or condition specified under sub-section (1) is contravened or is not observed by a person or a declaration furnished under the said sub-section is found to be wrong, then such person shall be liable to pay by way of penalty an amount equal to twice the difference between the fee payable at the rates specified by or under the Act and the fee paid at the rates specified under the notification on the consideration of such forest produce in respect of which such contravention or non-observance has taken place or a wrong declaration is furnished.

Provided that before taking action under the sub-section the person shall be given a reasonable opportunity of being heard."

4. For the removal of doubts it is hereby declared that, the levy assessment and collection of Forest Development tax under the principal Act as amended by this Act or any rules, notification, order letter or guidelines shall be deemed to have always been levied and collected as Forest Development Fee.

5. No penal proceedings shall be commenced against any person for any contravention of the provisions of chapter XIA of the Principal Act that may arise as a consequence of the retrospective amendments made by this Act.

6. Validation of Levy and collection of any amount as Forest Development Tax or Fee. Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority to the contrary levy, assessment or collection of any amount as tax or fee on Forest produce as Forest development Tax or fee made or purporting to have been made and any action or thing taken or done (including any notices or orders issued or assessment made) and all proceedings held and any levy and collection of tax, fee or amount purported to have been collected by way of tax or fee in relation to such levy assessment or collection under the provisions of the Principal Act or any rules, notification, order, guidelines or letters before the commencement of this Act shall be and shall be deemed to be valid and effective for all purposes as if such levy, assessment or collection or action or thing had been made, taken or done under the Principal Act as amended by this Act and accordingly:-

- (a) all acts, proceedings or things done or any action taken by the Government or as the case may be the Forest Department officers in connection with the levy, assessment or collection of any amount as forest Development tax or Forest Development fee for all purposes be deemed to be, and to have always been made done or taken in accordance with law;
- (b) no suit or other proceedings shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such tax or fee; and
- (c) no Court shall enforce any decree or order directing the refund of any such tax or fee.

By Order and in the name of
the Governor of Karnataka

K. Dwarakanath Babu
Secretary to Government
(K. DWARAKANATH BABU)

Secretary to Government
Department of Parliamentary Affairs