

ANDHRA PRADESH TAX ON ENTRY OF MOTOR VEHICLES INTO LOCAL AREAS RULES, 1996

CONTENTS

1. Title and Commencement
2. Definitions
3. Returns
4. Assessment
5. .
6. .
7. .
8. .
9. .
10. .
11. .
12. .
13. .
14. .
15. .
16. .
17. .
18. .
19. .
20. .
21. .
22. .
23. .

ANDHRA PRADESH TAX ON ENTRY OF MOTOR VEHICLES INTO LOCAL AREAS RULES, 1996

In exercise of the powers conferred by Section 30 of the Andhra Pradesh Tax on Entry of Motor Vehicles into Local Areas Act, 1996 (A.P. Act No. 26 of 1996), the Governor of Andhra Pradesh hereby makes the following Rules

1. Title and Commencement :-

- (i) These rules may be called the Andhra Pradesh Tax on Entry of Motor Vehicles into Local Areas Rules, 1996.
- (ii) They shall come into force with effect on and from the 1st August, 1996.

2. Definitions :-

(1) In these Rules, unless the context otherwise requires:-

(a) "Act" means the Andhra Pradesh Tax on Entry of Motor Vehicles into Local Areas Act, 1996.

(b) "Form" means a form appended to these rules.

(c) "Government Treasury" means a Treasury or sub-treasury of the Government.

(d) "Month" means a calendar month.

(e) "Section" means a Section of the Act.

(2) Words and expressions used but not defined in these rules shall have the same meaning respectively assigned to them in the Act.

3. Returns :-

(1) Every Importer other than those falling under sub-rule (6), liable to pay tax under Section 3 of the Act, shall submit, so as to reach the assessing authority on or before the 20th of every month, a return in Form M1 in duplicate showing the total and net purchase price of all or any of the motor vehicles on which tax is payable for the preceeding month and along with the return he shall submit a receipt from the Government Treasury or a crossed demand draft in favour of the assessing authority for the full payment of tax payable for the month to which the return is related.

(2) In the case of an importer having more than one place of business in the local area, all returns prescribed by these rules shall be submitted by the principal place of business in the local area in the State and shall include the total purchase value of all or any of the motor vehicles of all the places of his business. Each place of business in any local area shall also-

(a) submit to the assessing authority of the local area in which it is situated a return of the total and net purchase value of the motor vehicles of the place of business in Form M1; and

(b) intimate to such authority the fact that the return of the total and net purchase value of all motor vehicles is included in the return submitted by its principal place of business in the local area and specify the name and address of such principal place of

business in the local area.

(3) The returns so filed shall subject to the provisions of sub- rules (4) and (5) be provisionally accepted.

(4) Where any importer fails to submit the return in respect of any month before the date prescribed in that behalf or if the return submitted appears to be incorrect or incomplete the assessing authority shall after following the procedure prescribed in Rule 4 determine the purchase value to the best of the judgment and provisionally assess the tax or taxes payable for the month and shall serve upon the dealer a notice in Form D-1 and the importer shall pay the sum demanded within the time and in the manner prescribed in the notice.

(5) Where any importer submits a return without a Government Treasury receipt or crossed demand draft for the full amount of the tax payable the assessing authority shall provisionally assess the taxes payable for the month and shall serve upon the dealer a notice in Form D-1 for the tax due and the importer shall pay the sum demanded within the time specified in the notice.

(6)

(a) An importer other than a dealer shall file a return in Form M2 along with the proof of payment of tax due thereon before such authority, as may be notified by the Commissioner, within fifteen days from the date of Entry of such vehicle into a local area or before an application is made for registration of the said vehicle or assignment of a new registration mark to such vehicle under the Motor Vehicles Act, 1988, whichever is earlier.

(b) Tax due thereon shall be paid by tendering a challan or a demand draft or payment order issued in favour of such authority.

(c) If such authority is satisfied that return is true, correct and complete he shall pass an order in Form M-3 and a copy shall be marked to the importer.

(d) If the return filed in Form M2 does not appear to be correct and complete the designated authority shall determine the purchase value of motor vehicle and tax to be paid thereon and serve on the importer a notice in Form M-4 and the importer shall pay the sum demanded within the time and in the manner specified in the notice.

4. Assessment :-

(1) After the close of the year for which returns have been submitted under Rule 3 or in the course of the year, where an importer has discontinued business, the assessing authority shall if he is satisfied after such scrutiny of the accounts and making such enquiry as he considers necessary that the returns filed are correct and complete, finally assess in a single order on the basis of the return(s), the tax payable for the year to which the return(s) relate.

(2) Where any importer fails to submit return or returns before the date prescribed in that behalf or if any return or returns submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall after giving the dealer an opportunity as mentioned in sub-section (3) of Section 8 determine the purchase value of motor vehicles to the best of his judgment and finally assess in a single order the tax or taxes payable.

(3) If on final assessment under sub-rule (1) or sub-rule (2), any tax is found to be due from the importer after deducting the tax or taxes paid by him towards the provisional assessment made under Rule 3, the assessing authority shall serve on the importer a notice in Form D-2, and the dealer shall pay the sum demanded in the notice therein. If, however, any refund of tax, is found to be due to the dealer, the assessing authority shall serve on him a notice in Form R.

5. . :-

(1) Where any business carried on by a firm, a Hindu undivided family or an association has been discontinued or dissolved, the assessing authority shall make an assessment under Section 8 of the Act on the firm, the Hindu undivided family or association as if no such discontinuance or dissolution had taken place, and all the provisions of the Act including the provisions relating to the levy of penalty or any other sum chargeable under the provisions of the Act shall apply, so far as may be to such assessment.

(2) Every person who was at the time of such discontinuance or dissolution, a partner of such firm or a member of such Hindu undivided family or association and legal representative of any such persons who is deceased shall be jointly and severally liable for the amount of the tax, penalty or other sum payable, and all the provisions of the Act, so far as may be, shall apply to any such

assessment or levy of penalty or other sum.

6. . :-

(1) Subject to provisions of Section 13 any person aggrieved by an order passed or proceedings recorded under the provisions of the Act may appeal to the Appellate Deputy Commissioner of Commercial Taxes having jurisdiction over the area:

Provided that the Commissioner may, either suo motu or on an application, for the reasons to be recorded in writing, transfer an appeal pending before an Appellate Deputy Commissioner of Commercial Taxes to another Appellate Deputy Commissioner of Commercial Taxes;

Provided further that the order of transfer shall be communicated to the appellant or petitioner, to every person affected by the order, the authority against whose order the appeal or petition was preferred and to the Appellate Deputy Commissioner of Commercial Taxes.

(i) Every such appeal shall be in Form-I and verified in the manner specified therein.

(ii) It shall be in duplicate.

(iii) It shall be accompanied by the following documents namely:

(a) Where it is an appeal against an order of assessment, by a Government Treasury receipt in support of having paid the fee calculated at the rate of two per cent of the disputed tax or penalty subject to a minimum of fifty rupees and a maximum of rupees one thousand.

(b) Where it is an appeal against an order not being an order of assessment or penalty by Court fee stamps of the value of three rupees affixed to one of the copies.

(3) The appeal may be sent to the appellate authority by registered post or be presented to that authority or to such officer as the appellate authority may appoint in this behalf by the appellant or by his authorised agent or a legal practitioner.

(4) The appellate authority after giving the appellant reasonable opportunity of being heard pass such orders as laid down in sub-section (3) of Section 13 of the Act.

7. . :-

For the purpose of the exercise of the powers of the nature referred to in sub-section (1) of Section 14, the authorities specified in Column (1) of the Table below shall be deemed to be subordinate to the authority specified in the corresponding entry in Column (2) thereof.

8. . :-

Every order of an Appellate or Revising Authority under Section 13 or Section 14 respectively, as the case may be, shall be communicated to the Appellant or the party affected by the order, to the assessing Authority against whose order the appeal was filed or to any authority concerned.

9. . :-

(1)

(i) Every appeal preferred under Section 15 to the Appellate Tribunal shall be in Form-II and shall be verified in the manner specified therein.

(2)

(i) Every such appeal shall clearly set forth the grounds of appeal and the relief prayed for; and shall be accompanied by the following; namely:-

(a) four spare copies thereof;

(b) five copies of the order appealed against (one of which shall be the original or the authenticated copy); and

(c) four copies of the order of the assessing authority.

(ii) it shall be accompanied by a Treasury receipt in support of having paid--

(a) in cases where the levy of tax or penalty is disputed; a fee calculated at the rate of two per cent of the disputed tax subject to a minimum of rupees one hundred and a maximum of rupees two thousand; and

(b) a fee of rupees one hundred in all other cases. (2) If the Appellate Tribunal allows any appeal preferred by an assessee under Section 15, it may in its discretion, by order refund either wholly or partly the fees paid by the assessee under sub-section (3)

of Section 15.

(3) Every order passed by the Appellate Tribunal under Section 15 shall be communicated to the Appellate Deputy Commissioner and to the State Representative before the Appellate Tribunal, in addition to those specified in the sub-section (8) of Section 15.

10. . :-

(1) Within ninety days from the date on which the order of the Appellate Tribunal, under sub-section (4) of Section 15 was communicated to the importer, he or the State Representative may prefer a petition to the High Court of Andhra Pradesh under Section 16 against the order on the ground that the Appellate Tribunal has decided either erroneously or has failed to decide any question of law.

(2) Every petition under sub-section (1) of Section 16 of the Act to High Court shall be in Form-III and shall be verified in the manner specified therein.

(3) Such petition shall be accompanied by a certified copy of the order of the Appellate Tribunal and where it is preferred by the proprietor be accompanied by a fee of rupees five hundred.

11. . :-

Every appeal under sub-section (1) of Section 17 to the High Court shall be in Form-IV and shall be verified in the manner specified therein. It shall be preferred within sixty days from the date on which the order was communicated and shall be accompanied by a certified copy of the order of the Commissioner appealed against and a fee calculated at the rate of two percent of tax or penalty under dispute subject to a minimum of one hundred rupees and a maximum of two thousand rupees.

12. . :-

(1) Every application for review under Section 16 or Section 17 to the High Court shall be in either Form-V or in Form-VI respectively and shall be verified in the manner specified therein.

(2) It shall be preferred within one year from the date of communication to the petitioner of the order sought to be reviewed, and where it is preferred by the importer be accompanied by a fee of Rupees five hundred.

13. . :-

1. Every importer who is a dealer in motor vehicle and who is liable to pay tax under the Act shall keep and maintain a true and correct account promptly in any of the languages specified in the Eighth Schedule to the Constitution of India, or in English language showing---

(i) the value of motor vehicle bought by him:

(ii) names and addresses of each of the person from whom motor vehicles were purchased and supported by a bill or delivery note issued by the seller; and

(iii) the descriptive and quantitative particulars of motor vehicles. In case they are not bought but received into or a godown of the importer with the names and addresses of the owners supported by necessary vouchers and the circumstances under which they are received or kept.

2. An importer not being a dealer shall keep minimum accounts to indicate the details such as purchase value etc., in respect of the entry of motor vehicle into local area effected by him.

14. . :-

(1) Any Assessing, Appellate or Revising Authority may, at any time within four years from the date of any order passed by him, rectify any clerical or arithmetical mistake apparent from the record:

Provided that no such rectification which has the affect of enhancing an assessment or any penalty shall be made unless the assessing or appellate authority has given notice to the dealer of his intention to do so, and has allowed him a reasonable opportunity of being heard.

15. . :-

If an importer enters into a partnership in regard to his business, he shall report the fact to the assessing authority within thirty days of his entering into such partnership. The importer and the partner shall jointly and severally be responsible for the payment of the tax or renewal of penalty leviable under the Act.

16. . :-

In case of default of payment of the tax or penalty leviable under the Act, the properties of the firm may be proceeded against, in the

first instance for the recovery of the amount due from the firm.

17. . :-

If a partnership is dissolved, every person who as a partner shall send a report of the dissolution to the assessing authority within thirty days of such dissolution.

18. . :-

If at any time a dealer --

(a) discontinues or sells or otherwise disposes of the whole or any part of any business carried on by him; or

(b) changes his place of business or any of his places of business; or

(c) opens a new place of business; or

(d) changes the name of any business carried on by him, the dealer or if he is dead, the legal representative of the deceased, shall notify the fact to the assessing authority concerned within thirty days thereafter.

19. . :-

Any assessing, or revising authority may issue summons in Form IX for the production of any document or for the appearance of any person.

20. . :-

The service on a dealer of any notice, summon, order or proceedings under the Act or under these rules, may be effected in any of the following ways, namely:-

(a) by delivering or tendering it to such importer or to his manager or to his agent who is concerned with the business; or

(b) if such importer or his manager or agent is not found, by leaving it at his last known place of business or residence or by delivering or tendering to some adult member of his family; or

(c) if the address of such importer is known to the assessing authority, by sending it to him by registered post with acknowledgment due; or

(d) if any or all of the modes aforesaid is not practicable, by affixing it in some conspicuous place at his last known place of business or residence. Designated Officer to ascertain payment of

amount of tax.

21. . :-

The Designated Officer, who is notified under sub-section (2) of Section 4 of the Act, shall ascertain whether the importer not being a dealer has paid the amount of tax due in full within the period of fifteen days from the date of entry of the motor vehicle into a local area or before an application is made for registration under the Motor Vehicles Act, 1988 whichever is earlier, by obtaining from the Assessing Authority a copy of the order in Form M-3 issued by the Assessing Authority to the importer. If the Importer has not paid the tax, then the Designated Officer shall impound the vehicle forthwith."

22. . :-

Reduction of tax paid by an importer under the General Sales Tax Law in force in any other State or Union Territory

(1) In assessing the amount of tax payable in respect of any period by an importer, who is not a dealer in motor vehicles the Assessing Authority shall, in respect of his purchase of motor vehicle, the entry of which into the local area of the State is liable to tax, as the case may be, reduce the following amounts; namely:-

(a) the sum collected separately by way of sales tax from the importer by the manufacturer/authorised dealer, situated in any other State or Union Territory in respect of the motor vehicle so purchased under the law relating to General Sales Tax as may be in force in that State or Union Territory, or,

(b) in case not covered in Clause (a) above, the sum assessed by a competent authority and in fact paid into the Government Treasury of any other State or Union Territory in respect of a motor vehicle which is subsequently purchased by the importer:

Provided that, no reduction under Clause (b) shall be granted unless the importer proves that the said tax has in fact been assessed by a competent authority and has in fact been paid into the Government Treasury of the concerned State or Union Territory.

23. . :-

Notice for payment of penalty as specified in Section 18, shall be issued in Form-VII.

