

BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1958

66 of 1958

[September 3, 1958]

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BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1958

66 of 1958

[September 3, 1958]

An Act to provide for a uniform law for the levy and collection of tax on the sales of motor spirit in the State of Bombay WHEREAS it is expedient to provide for a uniform law for the levy and collection of a tax on the sale of motor spirit in the State of Bombay. It is hereby enacted in the Ninth Year of the Republic of India as follows:

CHAPTER 1

1. Short title, extent and commencement :-

(1) This Act may be called the Bombay Sales of Motor Spirit Taxation Act, 1958 .

(2) It extends to the whole of the ¹ [State of Gujarat.]

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

1. These words were substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2. Definitions :-

In this Act unless the context otherwise requires

(a) "Collector" means the Collector appointed under section 3, and includes an Additional Collector appointed under that section;

(b) "consumer" means any person who purchases motor spirit for the purpose of consumption, and not for the purpose of resale;

(c) "importer" means a person who carries on the trade of importing motor spirit into the [State of Gujarat];

(d) "licence" means a licence granted or renewed under this Act;

(e) "manufacturer" includes a trader preparing any kind of motor spirit by admixture of one or more kinds of motor spirits with or without other petroleum products or alcohol;

(f) "motor spirit" means

(i) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle or vessel or any kind of aircraft; and

(ii) power alcohol, that is, ethyl alcohol of any grade (including such alcohol-when denatured or otherwise treated), which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid. but does not include such form of inflammable hydro-carbon materials as the State Government may by notification in the Official Gazette, specify in this behalf;

(g) "prescribed" means prescribed by rules made under this Act.

(h) "retail sale" means a sale of motor spirit for the purpose of consumption by the persons by whom, or on whose behalf it is purchased;

(i) "retail trader" means a trader who sells motor spirit for the purpose of consumption by the person by whom or on whose behalf it is purchased.

(j) "sale" means a sale of motor spirit made within the ¹[State of Gujarat] for cash or deferred payment or other valuable consideration, and includes any supply by a society or club or an association to its members on payment of a price or of fees or subscription, but does not include a mortgage, hypothecation, charge or pledge and the words "sell", "buy" and "purchase" with all their grammatical, variations and cognate expressions shall be construed accordingly.

Explanation, for the purposes of this clause a sale within the ¹[State of Gujarat] includes a sale determined to be within the ¹[State of Gujarat] in accordance with the principles specified in sub-section (2) of Section 4 of the Central Sales Tax Act, 1956 . (LXX VI of 1956).

(k) "trader" means a person who carries on the trade or business of bying or selling motor spirit and includes

(i) a manufacturer,

(ii) an importer, and

(iii) a broker or commission agent working in connection with such business; and the words "trade" or "trading" shall be construed accordingly;

(l) "Tribunal" means the Tribunal constituted under section 4;

(m) "wholesale trader" means a trader whose sales of motor spirit include any sales other than retail sales.

1. These words were substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

CHAPTER 2

Taxing Authorities and Tribunal

3. Taxing authority :-

(1) For carrying out the purposes of this Act, the State Government may appoint

(a) a person to be the Collector of Motor Spirit Sales Tax for the whole of the ¹ [State of Gujarat];

(b) one or more persons to be Additional Collectors of Motor Spirit Sales;

(c) such other persons to assist the Collector as the State Government thinks fit.

(2) A person appointed under clause (b) or clause (c) of sub-section (1) shall, within the limits of such area as the State Government may specify to be within his jurisdiction, exercise such powers and perform such duties as may be conferred or imposed on him by or under this Act.

1. These words were substituted for the words "State of Bombay" by the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

4. Tribunal :-

(1) The State Government shall constitute a Tribunal to exercise the functions conferred on it by or under this Act.

(2) The Tribunal shall consist of more than three persons possessing such qualifications as may be prescribed.

(3) Where the Tribunal consists of three members, any two members of the Tribunal shall form a quorum for the disposal of its business.

(4) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(5) Subject to the previous sanction of the State Government, the Tribunal shall frame Regulations, consistent with the provisions of this Act and the rules, for regulating its procedure and the disposal of its business.

(6) The Regulations made under sub-section (5) shall be published in the Official Gazette.

CHAPTER 3

Levy of Tax and Utilisation of the Proceeds of Tax

5. Levy and collection of tax :-

(1) There shall be levied and collected a tax on the sale of motor spirit at such stage, as may be prescribed:

Provided that such tax shall not be levied on any sale at more than one stage.

(2) Subject to the provisions of section 6, the tax under sub-section (1) shall be levied for the prescribed period, in the prescribed manner, and at such rate or rates ¹ [not exceeding 30 percent, of the value of the sales of such motor spirit] as may be prescribed, and different rates may be prescribed for different kinds of motor spirit.

(3) If any tax payable under sub-section (1) is not paid within the prescribed period, the Collector may in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid which the Collector may think it reasonable to recover.

1. Subs. by Guj. 11 of 1984, w.e.f. 1-4-1984, in place of 20 percent.

5A. Levy and collection of additional tax :-

(1) There shall be levied and collected from every person liable to pay tax on the sale of motor spirit under this Act, an additional tax ¹ [at the rate of twenty

(2) Except as provided in sub section (1), the provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the additional tax leviable under sub section (1), as they apply in relation to the tax leviable under section 5.]

1. Subs. by Guj. 15 of 1987, w.e.f. 1-4-1987. But from 6-8-1988, till 31st of July, 1989, the rate was twenty five paise in the rupee by virtue of Guj. Act 9 of 1988.

5B. Levy and collection of turnover tax :-

(1) Where the turnover of all sales of motor spirit by any trader liable to pay tax under this Act has exceeded Rs. 99,99,999 in any year, there shall be levied and collected turnover tax on the total turnover of sales effected by such trader at the rates specified in the Table below at a stage prescribed under sub-section (1) of section 5 for the purpose of levy and collection of tax under this Act.

TABLE

	Limit of turnover	Rate of tax
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	Limit of turnover	Rate of tax
1.	Where the total turnover is one crore of rupees or more but less than three crores of rupees.	One per cent of the total turnover.
2.	Where the total turnover is three crores of rupees or more but less than five crores of rupees.	One and one fourth percent of the total turnover.
3.	Where the total turnover is five crores of rupees or more.	One and one-half percent, of the total turnover:

Provided that such tax shall not be levied on any sale of motor spirit wholly exempt from payment of tax under section 35,

(2) The turnover tax shall be paid by the trader referred to in sub-section (1) before furnishing the return for the period in which his turnover of all sales of motor spirit as computed from the commencement of the financial year first exceeds Rs. 99,99,999. The tax so payable shall be for the period from the commencement of the financial year to the end of the period covered by such return and the trader shall continue to be liable to pay the turnover tax for that year for all subsequent periods till the end of that year.

(3) Except as provided in sub-section (1), the provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the turnover tax leviable under sub-section (i) as they apply in relation to the tax leviable under section 5.

(4) Notwithstanding anything contained in this Act, no trader liable to pay tax under this section shall collect any amount by way of turnover tax payable by him under this section,]

6. Assessment of tax :-

(1) Where accounts are kept and maintained, and statements submitted in the manner, and for the period, prescribed by section 13, the tax leviable under section 5 shall be assessed by the Collector on the sales as disclosed in such accounts and statements.

(2) Where no such accounts are kept and maintained, or where no

7. Government may grant refund of tax in certain cases :-

¹[Where tax under section 5 and additional tax under section 5A are levied and collected] on the sale of motor spirit to a wholesale trader, and such motor spirit is then exported outside the ² [State

of Gujarat], the wholesale trader, shall, upon an application made in this behalf and subject to such conditions as may be prescribed, be entitled to a refund of the tax in respect of the sale to him of the motor spirit.

1. Subs. by Guj. 9 of 1988, w.e.f. 6-8-1988

2. Subs. by Guj. A.O. 1960.

8. Utilisation of proceeds of tax :-

]; Deleted by Guj. 13 of 1960, S.4.

CHAPTER 4

Licensing of Traders

9. Trader to take out licence :-

(1) Every trader shall obtain a licence from the Collector for carrying on his trade.

(2) Where a trader has more than one place of business, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such place of business:

Provided that a trader who is a hawker may obtain only one licence, whatever may be the area of his operation.

(3) Every trader shall get his licence renewed before the date on which it expires.

10. Expiry and renewal of licence :-

(1) Every licence shall be in such form, and subject to such conditions, as may be prescribed and shall expire on the last day of the year for which it was granted, and may be renewed from year to year :

Provided that in the case of any licence given to a manufacturer or importer, the conditions of such licence may provide that the holder of the licence shall not sell motor spirit except to a wholesale trader or a consumer.

(2) The Collector may impose for the grant or renewal of every licence such fees not exceeding Rs. 2, as may be prescribed.

Explanation. In this section "year" means a financial year.

11. No trader to carry on business without licence :-

No trader shall carry on business in the sale or purchase of motor spirit without, or otherwise than in accordance with the conditions

of, a licence.

12. Suspension or cancellation of licence :-

(1) Subject to such conditions as may be prescribed, the Collector may suspend or cancel a licence

(a) if any tax payable ¹ [under sections 5, 5A and 5B] is not duly paid by the holder of such licence; or

(b) if there is any breach of any of the conditions subject to which the licence is granted; or

(c) if the holder of such licence contravenes any of the provisions of this Act or the rules made thereunder.

(2) If the licence is suspended or cancelled for any reason, the licensee shall not be entitled to any compensation for such suspension or cancellation, or to the refund of any fee paid in respect thereof.

1. Ins. by Guj. 9 of 1988, w.e.f. 6-8-1988.

CHAPTER 5

Liability to keep Accounts, to submit statements and Powers of Inspection and search

13. Traders to keep accounts and submit statement :-

(1) Every trader shall keep and maintain accounts, in the form prescribed, of motor spirit manufactured or imported, sold or purchased, by him, and shall submit to the officer authorised in this behalf by the Collector statements in such form, and for such periods, as may be prescribed :

¹ [Provided that where a trader has more than one place of business, the Collector may subject to such terms and conditions as may be prescribed, permit such trader to submit a consolidated statement relating to all or any of his places of business to such officer as the Collector may direct.]

(2) Every trader required to furnish any statement under sub-section (1) shall, before the date by which such statement is submitted, pay into a Government Treasury or the Reserve Bank of India on Government account the full amount of the tax stated in such statement to be due from him under this Act, and shall furnish along with such statement a receipt from the treasury or Bank as the case may be, showing the payment of such amount of the tax.

1. Proviso to sub-section (1) of s. 13 was added by Guj. 8 of 1967, S. 2.

14. Production and inspection of accounts and documents and search of premises :-

(1) The Collector may, for the purposes of this Act, at all reasonable times

(a) require any person, to whom section 9 applies, to produce before him accounts, registers or other documents or to furnish any other information; or

(b) inspect the accounts, registers and other documents and the stocks of any motor spirit manufactured, stored or kept in any shop, warehouse or place of business of any such person, or

(c) enter and search any building, vessel, vehicle, or place in which he has reason to believe that any motor spirit is stored or kept for the purpose of sale or manufacture.

(2) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such person as may be necessary and shall grant a receipt for the same and retain the same only for so long as may be necessary for examination thereof, or for a prosecution.

CHAPTER 6

Appeals and Revision

15. Bar to certain proceedings :-

Save as is provided by section 21, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 3 to assist him shall be called in question in any Civil Court, and save as is provided by sections 16 and 17 no appeal or application for revision shall lie against any such assessment or order.

16. Appeal :-

(1) Within sixty days from the making of an order of assessment either with or without penalty, or the passing of any other order, under this Act, any person may, in the prescribed manner, appeal to the prescribed authority against such order.

(2) No appeal against an order of assessment, with or without

penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred :

Provided that the said authority may, if it thinks fit for reasons to be recorded in writing, entertain an appeal against such order

(a) without payment of the tax or penalty, if any, but on furnishing in the prescribed manner security for such amount of the tax and penalty as it may direct; or

(b) on proof of payment of such smaller sum, with or without security in the like manner for such amount of the tax and penalty which remains unpaid as it may direct.

(3) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders on the appeal as such authority may think just and proper.

(4) Every order passed in appeal under this section shall, subject to the provisions of sections 17, 21 and 22 be final.

17. Revision :-

(1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules made thereunder, by a person appointed under section 3 to assist him and, subject thereto the Tribunal may, upon application, revise any order passed by the Collector :

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order the Collector or the Tribunal, as the case may be, shall record reasons for such rejection.

(2) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(3) Where a person could have appealed under section 16, and no appeal has been filed by him, no proceedings in revision under this section shall be entertained upon the application of such person.

18. Court fee on appeal and application :-

Notwithstanding anything contained in the Court Fees Act, 1870 (VII of 1870) or in any other law relating to the levy of Courtfees in any part of the State an appeal preferred under section 16, and an application for revision made under section 17 shall bear a Court-fee stamp of such value as may be prescribed.

19. Application of sections 4 and 12 of Limitation Act IX of 1908 :-

In computing the period laid down under sections 16 and 17 the provisions of sections 4 and S.12 of the Indian Limitation Act, 1908, (IX of 1908) shall so far as may be, apply.

20. Extension of period of limitation in certain cases :-

The prescribed authority may admit any appeal under section 16 and the Collector and the Tribunal may admit an application under section 17 after the period of limitation laid down in the said sections if the appellant or the applicant as the case may be, satisfies the prescribed authority, the Collector or, as the case may be, the Tribunal, that he had sufficient cause for not preferring the appeal, or making the application, within such period.

21. Statement of case to High Court :-

(1) Within ninety days from the passing by the Tribunal of any order under sub-section (3) of section 16 or sub-section (1) of section 17 affecting any liability of any person to pay tax, such person or the Collector, may by application in writing accompanied, where the application is made by any person (other than the Collector), by a fee of one hundred rupees, required the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court.

(2) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal, either

(a) withdraw his application, or

(b) apply to the High Court against such refusal, and in the case of withdrawal under clause (a), the fee, if any, paid under sub-section (1) shall be refunded to him.

(3) If upon the receipt of an application under clause (b) of sub-

section (2) the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer to the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs including the disposal of the fee referred to in sub-section (1), shall be in the discretion of the Court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded.

22. Rectification of mistakes :-

(1) The Collector may at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order :

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund, unless the Collector has given notice in writing to such person of his intention so to do and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or the prescribed authority under

section 16 as they apply to the rectification of a mistake be the Collector.

(3) Where any such rectification has the effect of reducing the amount of the tax the Collector shall in the prescribed manner refund any due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund the Collector shall recover the amount due from such person in the manner provided in section 37

CHAPTER 7

Offences, Penalties and Procedure

23AA. Penalty for contravention of sub-section (4) of section 5B :-

If any trader collects any amount by way of turnover tax in contravention of the provisions of sub-section (4) of section 5B, he shall be liable to pay, in addition to any turnover tax for which he may be liable

(i) a penalty equal to such amount as shall not be less than the amount so collected or more than double such amount, in a case where the Collector has reason to believe that such person has wilfully contravened the provisions of sub-section (4) of section 5B, and

(ii) a penalty equal to the amount so collected, in any other case.

23. Penalty for contravention of section 11 :-

Whoever contravenes the provisions of section 11 shall, on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

24. Penalty for failure to keep accounts or submit returns :-

If any trader liable under section 13 to keep accounts or to submit statements fails without sufficient cause, to keep or submit the same in the manner and at the period prescribed or keeps false accounts or submits false statements, he shall, on conviction, be punished with fine which may extend to thousand rupees and in the case of a continuing failure with an additional fine which may extend to fifty rupees for every day during which such failure

continues, after conviction for the first such failure.

25. Penalty for failure to comply with requirements of section 14 or obstructing officer in discharge of duties :-

Whoever

(a) fails to comply with any requirement, made of him under sub-section (1) of section 14, or

(b) produces false accounts, registers or documents, or knowingly furnishes false information, or

(c) obstructs any officer making an inspection, search or seizure under the said section, or

(d) aids or abets any person in the commission of any act specified in clause (a), (b) or (c) of this section. shall on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

26. Power of entry and search :-

Any officer specially empowered by the State Government in this behalf may enter and search, at any time by day, or by night any building, vessel, vehicle or place in which he has reason to believe that motor spirit is kept for the purpose of sale contrary to the provisions of this Act or any rules made thereunder.

27. Searches how made :-

All searches made under section 26 shall be made in accordance with the provisions of the [Code of Criminal Procedure, 1973].

28. Power of investigation :-

(1) Every officer not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, (V of 1898.) upon an officer in charge of police station for the investigation of a cognizable offence.

29. Offences to be bailable :-

All offences punishable under this Act shall be bailable.

30. Power to compound offence :-

(1) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made there under by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed

(i) a sum equal to double the amount of the tax payable ¹ [under section 5, 5A or, as the case may be, 5Bj in respect of any sales conducted by such person: or

(ii) two thousand rupees whichever is greater.

(2) On the payment of such sum of money to the Collector the section person shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

31. Jurisdiction to try offences :-

No Magistrate, below the rank of ¹[****] a Magistrate of the Second Class ² [*] shall try an offence under this Act.

1. The words "a Presidency Magistrate in Greater Bombay or" were deleted by the Guj. Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2. The Word "elsewhere" was deleted, ibid.

CHAPTER 8

Miscellaneous

32. Delegation of power by Collector :-

Subject to the general or special orders of the State Government, the Collector may delegate any of the powers conferred upon him by or under this Act to any person appointed to assist him under section 3.

32A. Powers to transfer proceedings :-

The Collector may, after due notice to the parties, by order in writing, transfer any proceedings or class of proceedings under any provisions of this Act or the rules made thereunder, from himself to any other officer and he may likewise transfer any such proceedings (including a proceeding already transferred under this section) from one such officer to another officer or to himself.

33. Officers to be public servants :-

All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, (XLV of 1860).

34. Protection of persons acting in good faith and limitation of suits and prosecutions :-

(1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit shall be instituted against the ¹ [State of Gujarat] and no prosecution or suit shall be instituted against any officer of the Government in respect of anything, done or intended to be done, under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

1. These words were subs. for the words "State of Bombay" by the Guj. Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

35. Exemption :-

(1) Subject to such conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the Official Gazette, exempt

(a) any class of traders from all or any of the provisions of this Act;

(b) any specified class of sales from payment of the whole or any part of any tax payable under the provisions of this Act.

(2)

(a) If under sub-section (1) any class of traders is exempted from all or any of the provisions of this Act subject to any condition then, in the event of a breach of such condition the trader responsible for such breach shall cease to be exempt from such provisions.

(b) If under sub-section (1) any specified class of sales is exempted from the whole or any part of any tax payable under this Act subject to any condition, then, in the event of a breach of such condition in respect of any goods so sold the seller or purchaser responsible for such breach shall notwithstanding anything contained in ¹ [in section 5, [5A and 5B] be liable to pay tax to the extent to which the sales were exempted under sub-section (1) from the payment of tax,

(3) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as

possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which it is so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette, and shall thereupon take effect.

1. These words were inserted by Guj. 8 of 1967, s. 4.

36. Power to make rules :-

(1) The State Government may, for the purposes of carrying out the provisions of this Act, make rules.

(2) In particular and without prejudice to the generality of the foregoing provision, the State Government may make rules for the following matters:

(a) the qualifications to be possessed by a member of the Tribunal;

(b) the stage at which, the rate or rates and the period for which and the manner in which, the tax shall be levied and collected under section 5.

(c) the conditions subject to which a wholesale trader shall be entitled to refund under section 7;

(d) the form and conditions of the licence under section 10 and the fee for the grant or renewal thereof.

(e) the conditions subject to which a licence may be suspended or cancelled under section 12;

(f) the form of accounts to be maintained and of statements to be submitted and the period at which such statements are to be submitted ¹[and the terms and conditions subject to which a consolidated statement, may be submitted] under section)3;

(g) the manner in which, and the authority to which, appeals against any order under this Act may be preferred; the procedure for and other matters (including fees) incidental to the disposal of appeals and applications for revision, under sections 16 and 17;

(h) the value of the court-fee stamp which an appeal or application for revision shall bear under section 18;

(i) the rank of officer empowered to investigate offences under section 28;

(j) the conditions subject to which any class of traders may be exempted from all or any of the provisions of the Act under section 35;

(3) Any rule made under this section may provide that any person contravening any such rule shall be liable, on conviction, to be punished with a fine which may extend to one thousand rupees and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section and the rule so made shall be laid on the table of ¹ [* * * *] the State Legislature.

1. These words were inserted by Guj. 8 of 1967, s. 4.

37. Taxes, licence fees and penalties to be recoverable as arrears of land revenue :-

All sums payable as taxes, fees or penalties other than fines, under this Act shall if not paid within the prescribed period or as the case may be, before such date as the Collector may direct, be recoverable as an arrear of land revenue.

38. Certain sales not to be liable to tax :-

Nothing in this Act or the rules made thereunder, shall be deemed to impose or authorise the imposition of a tax on any sale or purchase of motor spirit where such sale or purchase takes place

(a) outside the [State of Gujarat], or

(b) in the course of the import of such motor spirit into the territory of India or the export of the goods out of such territory, or

(c) in the course of inter-State trade or commerce, and the provisions of this Act and the said rules shall be read and construed

accordingly.

Explanation for the purpose of this section whether a sale or purchase takes place,

(i) outside the [State of Gujarat], or

(ii) in the course of import of the goods into the territory of India or the export of the goods out of such territory, or

(iii) in the course of inter-State trade or commerce, shall be determined in accordance with the principles specified in sections 3 , 4 and Section 5 of the Central Sales Tax Act, 1956 (LXX IV of 1956).

39. Repeals, amendments and savings :-

The following laws, that is to say

(a) the Bombay Sales of Motor Spirit Taxation Act, 1946, (Bom. VI of. 1946)

(b) the Hyderabad Motor Spirit Taxation Regulation, 1358 Fasli, (Hyd. Reg. No. XXIV of 1358. F.)

(c) the Saurashtra Sales of Motor Spirit Taxation Ordinance, 1948 (Sau Ord. LXIV of 1948,)

(d) The Bombay Sales of Motor Spirit Taxation Act, 1946 (Bom. VI of 1946) as applied to the Kutch area of the State of Bombay, are hereby repealed, and the enactments specified in column 1 of the Schedule shall be amended to the extent and in the manner, specified in column 2 thereof:

Provided that the repeal of the Acts, Regulation and Ordinance aforesaid and the amendments to the enactments in the Schedule, shall not be deemed to affect

(i) any right, title, obligation or liability already acquired, accrued or incurred or anything done or suffered before the commencement of this Act,

(ii) any legal proceeding or remedy in respect of such right, title, obligation or liability, or

(iii) the levy, assessment, collection, or refund, of any tax, or the imposition or recovery of any penalty, which may have become payable before the commencement of this Act, under any Act, Regulation or Ordinance repealed or enactments amended; and any

such proceeding may be instituted, continued or disposed of, and any such remedy may be enforced, and any such tax may be levied, assessed or collected, or refund thereof made, and any such penalty may be imposed or recovered, as if this Act had not been passed; and any licence or registration certificate issued or renewed under any of the laws repealed or enactments amended, and in force immediately before the commencement of this Act, or in respect of which an application for renewal thereof is made within the time (if any) required by or under any of the laws repealed or enactments amended, shall be deemed to be a licence issued or renewed under this Act, and shall as such continue in force for a period of six months or until a new licence is duly obtained under this Act, whichever is earlier :

Provided further that a registration certificate or other similar document issued under any enactments amended (other than the Central Provinces and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1928) (XIV of 1938.) to a trader dealing in any motor spirit the sale of which was not liable to tax under any Act, Regulation or Ordinance repealed but which is liable to tax under this Act, shall be deemed to be a licence for the purposes of this Act, and shall as such continue in force for a period of six months or until a new licence is duly obtained under this Act, whichever is earlier.

SCHEDULE 1

SCHEDULE

SCHEDULE 2

Enactments amended

SCHEDULE			
Enactments amended			
(See section 39)			
	Enactments.		Extent of amendments
	1		2
1	The Central Provinces and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938 (Act No. XIV of 1938).	(1)	In the long title and the preamble words "motor spirit and" shall be deleted.
		(2)	In sub-section (1) of section I, the words "Motor Spirit and" shall be deleted.
		(3)	In section 2,

		(i)	in clause (b), the words and figures
			"but does not include motor spirit
			as defined in the Bombay Sales
			of Motor Spirit Taxation Act,
			1958", (Bom. LXVI of 1958) shall
			be added at the end;
		(ii)	clause (c) shall be deleted;
		(iii)	in clauses (e) and (f), the words
			"motor spirit or" shall be deleted.
		(4)	In section 3, in sub-section (1), the
			words "motor spirit and" shall be
			deleted.
		(5)	In section 10, in clause (b) of sub-
			section (1), the words "motor spirit
			or" shall be deleted.
		(6)	In section 11, the words "motor
			spirit or" where they occur at two
			places, shall be deleted.
		(7)	In section 20, the words "motor
			spirit or" shall be deleted.
		(8)	In section 26, in clause (e) of sub-
			section (2), the words "motor spirit,
			and" shall be deleted.
2.	The Bombay Sales Tax Act, 1953 (Bom. III of 1953).		In Schedule A, for entry 35 relating
			to motor spirit, the following shall
			be substituted namely:
			"35. Motor spirit as defined in
			the Bombay Sales of Motor Spirit
			Taxation Act, 1958." (Bom. LXVI
			of 1958).
3.	The Hyderabad General Sales Tax Act, 1950 (XIV of 1950).		In Schedule I, for entry 16, the
			following entry shall be
			substituted, namely:
			"16. Motor spirit as defined in
			the Bombay Sales of Motor Spirit
			Taxation Act, 1958". (Bom. LXVI
			of 1958.)
4.	The Central Provinces and Berar Sales Tax Act, 1947 (No. XXI of 1947).		In Schedule II,
		(1)	in entry 30, the words "Motor
			Spirit and" shall be deleted;
		(2)	after entry 30, the following entry
			shall be inserted, namely:
			12 3 4

		"30A	. Motor Spirit as defined
			in the Bombay Sales of
			Motor Spirit Taxation
			Act, 1958". (Bom. LXVI
			of 1958).
5.	The Saurashtra Sales Tax		
	Ordinance, 1950 (No.		In Schedule II,
	XVIII of 1950)	(1)	in entry 36A the words "including
			Motor Spirit" shall be deleted;
		(2)	after entry 36A, the following entry
			shall be inserted, namely:
			1 2 3
		"36B.	Motor Spirit as defined in
			the Bombay Sales of
			Motor Spirit Taxation Act,
			1958'. (Bom. LXVI of 1958)
6.	The Central Provinces and		In the schedule for entry 34 the following
	Berar Sales Tax Act, 1947		shall be substituted, namely:
	(No.XXI of 1947) as		
	applied to the Kutch area of		
	the		
	State of Bombay.		
		"34.	Motor Spirit as defined in the
			Bombay Sales of Motor Spirit
			Taxation Act, 1958". (Bom. LXVI
			of 1958.)