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## **BOMBAY SALES OF MOTOR SPIRIT TAXATION RULES, 1958**

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## **BOMBAY SALES OF MOTOR SPIRIT TAXATION RULES, 1958**

In exercise of the powers conferred by section 36 of the Bombay Sales of Motor Spirit Taxation Act, 1958 (Bom. LXVI of 1958), the Government of Bombay hereby makes the following rules, namely :

### **1. Title :-**

These rules may be called the Bombay State of Motor Spirit Taxation Rules, 1958.

## **2. Definitions :-**

In these rules, unless the context otherwise requires.

(a) "Act" means the Bombay Sales of Motor Spirit Taxation Act, 1958 (Bom. LXVI of 1958);

(b) "Form" means a Form appended to these rules;

(c) "Licensing authority" means the Collector or any Officer (being an Officer appointed to assist the Collector) to whom the Collector has delegated his powers in this behalf under section 32 ;

(d) "manager or agent" means the person authorised by the trader with the approval of the licensing authority to act as his manager or agent for all or any of the purposes of these rules;

(e) "section" means a section of the Act;

(f) "tax" means the tax on the sale of motor spirit levied under section 5 .

(g) words and expressions used but not defined in these rules shall have the meanings respectively assigned to them under the Act.

## **3. Appointment of officers to assist Collector :-**

The designations of persons appointed to assist the Collector under clause (c) of sub-section (1) of section 3 shall be as follows :

(1) Motor Spirit Sales Tax Officer,

(2) Assistant Collector of Motor Spirit Sales Tax.

## **4. Application for Licence :-**

A trader desirous of obtaining or renewing a licence under section 9 shall make an application in Form A to the licensing authority of area in which his place of business is situated.

## **5. Form and particulars of Licence :-**

Every licence shall be in Form B and shall be subject to the conditions and restrictions therein specified and to the provision of these rules.

## **6. Fee for grant or renewal of licence :-**

(1) The fee for the grant or renewal of every licence shall be rupees two. Such fee shall be paid by every applicant into a Government

Treasury or a Sub-Treasury or into the Reserve Bank of India on Government account or sent by money-order to the licensing authority.

(2) No application for the grant or renewal of a licence shall be entertained unless the amount of the licence fee has been so paid or sent.

#### **7. Amendment of licence :-**

(1) Any licence granted under these rules may at any time be amended by the licensing authority, provided that no such amendment shall be inconsistent with the provisions of the Act or of these rules.

(2) Any trader desirous of having his licence amended shall submit the licence to the licensing authority alongwith an application stating the nature of the amendments desired and the reasons therefor.

#### **8. Renewal of licence :-**

(1) A licence may be renewed by the licensing authority by whom the original licence was granted.

(2) Every application for the renewal of a license shall be made not less than thirty days before the day on which the licence expires.

(3) If an application for renewal of a licence is made within the time specified in sub-rule (2) the licence shall be deemed to be renewed until the licence is actually renewed or in case it is rejected until such rejection is duly communicated to the trader.

#### **9. Suspension or cancellation of licence :-**

Every licensing authority ordering the suspension or cancellation of any licence under section 12 shall record his reasons for making such order and shall, if so requested, furnish a copy of such order together with the reasons for it to the holder of the licence.

#### **10. Transfer of licence and partnership :-**

(1) During the currency of a licence.

(a) the licence shall not be transferred or otherwise assigned to any person or

(b) the holder of the licence shall not enter into a partnership in respect of the business carried under the licence without the

written permission of the licensing authority. The permission so granted shall be endorsed on the licence.

(2) When any assigned licence is transferred or under assigned sub- rule (1) every such transferee or assignee shall be bound by all the conditions of the licence, and when any partnership is entered into under that sub-rule, the holder of the licence referred to in clause (b) of sub-rule (1) shall also continue to be personally liable for the payment of the tax.

### **11. Procedure on death or disability of trader, etc :-**

(1) When any trader holding a licence dies or becomes insolvent or mentally incapable or is otherwise disabled, the person carrying on the business of such trader shall not be liable to any penalty under the Act or these rules for doing any act which such trader was authorised to do under the licence during such time as may reasonably be required by such person to make an application for the transfer of the licence in his own name for the unexpired period of the licence.

(2) Where a partnership is dissolved, every partner thereof shall give an intimation in writing of such dissolution to the licensing authority within thirty days of such dissolution.

### **12. Loss of licence :-**

When any licence granted under these rules is lost or is destroyed or if a holder thereof so desires, a duplicate copy thereof may be furnished to the holder of the licence by the licensing authority on payment of a fee of one rupee,

### **13. Production of licence on demand :-**

Every holder of a licence shall produce the licence or a copy thereof furnished to him under rule 12 whenever called upon to do so by an officer duly empowered in this behalf.

### **14. Rate of Tax :-**

In respect of each of the kinds of motor spirit specified in column 1 of the following Table, the rate of tax under sub-section (2) of section 5 shall be as specified against it in column 2 of that TABLE.

<sup>1</sup> Table.

1. In rule 14 the table was substituted vide G.N., F.D. No. (GHN-14) MSA-1076/(25) TH, dt. 13th Feb., 1976.

### **15. Section :-**

(1) Subject to the provisions of sub-rules (2) and (3) every trader shall, within a period of twenty one days immediately succeeding the month for which any such return is required to be furnished, pay tax at the relevant rate specified in rule 14 on the sales of Motor Spirit affected by him during each calendar month.

(2)

(a) No tax shall be payable by a trader not being a company mentioned in clause (b) on sales made by him of motor spirit,

(i) Which was purchased by him after the commencement of the Act from a trader holding or deemed to be holding a licence under the Act or before such commencement from a trader who was liable to pay tax in respect of the sale of such motor spirit to the first mentioned trader under the Bombay Sales of Motor Spirit Taxation Act, 1946, or the Bombay Sales of Motor Spirit Taxation Act 1946, as extended to the Kutch area of the State of Bombay, and

(ii) which has not been processed or altered by him in any manner whether by admixture or otherwise after such purchase.

<sup>1</sup>[(b) No tax shall be payable on the sales of Motor Spirit Manufactured by the <sup>2</sup>[Bharat Petroleum Corporation Limited] or <sup>3</sup>[the Hindustan Petroleum Corporation Limited] or the Indian Oil Corporation Limited or the Cochin Refineries Ltd. <sup>4</sup>[or the Caltex Oil Refining (India) Limited] by any one of the Companies specified hereunder to any other of those Companies, where the purchasing Company requires such Motor spirit for use in the manufacture of motor spirit for sale or for the purpose of resale:

<sup>5</sup>[1. The Bharat Petroleum Corporation Limited].

2. <sup>6</sup>[The Hindustan Petroleum Corporation Limited.]

3. <sup>7</sup>[Deleted].

4. <sup>8</sup>[deleted]

5. The Caltex (India), Limited.

6. The Indo-Burmah Petroleum Company Limited.

7. The Indian Oil Corporation Limited.

<sup>9</sup>[8. The Cochin Refineries Ltd.,]

**10**[9. The Caltex Oil Refining (Indiu Limited;)]

**11**["(bb) No tax shall be payable on the sales of motor spirit imported from across the customs frontiers by the Indian Oil Corporation Limited, by the said Corporation or by any of the under mentioned companies to any of the other undermentioned companies

**12**[(i) The Bharat Petroleum Corporation Limited ]

(ii) **13**[The Hindustan Petroleum Corporation Limited.]

(iii) **14**[deleted;]

(iv) **15**[deleted.]

(v) The Caltex (India), Limited;

(vi) The Indo-Burmah Petroleum Company Limited:

(vii) The Cochin Refineries Limited.]

**16** [(viii) The Caltex Oil Refining (India) Limited.]

(c) No tax shall be payable by a trader on the sales made by him of motor spirit to a manufacturer appointed in this behalf by the Collector, if the motor spirit so sold his intended by such manufacturer for the preparation for sale of any kind of motor spirit by admixture or by any other processes.

(3) Where any motor spirit purchased by any trader has been stored in the storage installation belonging to a trader who sells it, the quantity of motor spirit lost on account of leakage or evaporation shall be deducted from the total sales on which the tax is payable, if a refund in respect of such quantity Is allowed by the trader who has sold such Motor spirit.

1. In rule 15, in sub-rule (2), clause (b) was substituted vide G.N. No. (GHN-342) MST-1566/(12).TH, dated 3rd February, 1967.

2. These words were substituted for the Words "The Bharat Refineries Limited" vide G.N. No. (GHN-70) MSA-1077/(27)-TH, dated 8th December, 1977.

3. These words were substituted for the words "the Esso Standard Refining Company of India Limited" vide G.N.F.D. No. (GHN-76)-MSA- 1075/(23), TH, dated 1st December, 1975.

4. These words were inserted vide G.N.,F.D. (GHN-77)-MSA-1076/(26)- TH, dated 6th October, 1976.

5. These words were substituted for the words "the Bharat

Refineries Limited" vide G.N..F.D. No. (GHN-70)-MSA-1077-(27) TH, dated 8th December, 1977.

6. These words were substituted for the words "the Esso" Standard Refining Company of India Limited" vide G.N.F.D. No. (GHN-76)-MSA- 1075/(23) - TH, dated 1st December, 1975.

7. This item 3 was deleted vide G.N.F.D. (GHN-77)-MSA-1076/(26)-TH, dated 6th October, 1976.

8. This item 4 was deleted vide G.N.,F.D. (GHN.76)-MSA-1075/(23)-TH, dated 1st December, 1975.

9. This item 8 was inserted vide G.N.F.D. (GHN-459)-MSA-1568/(15)-TH, dated 8th January, 1965.

10. This item 9 was inserted vide G.N.F.D. (GHN-77)-MSA-1976/(26).TH, dated 6th October, 1976.

11. This clause 'bb 'was inserted vide G.N.F.D. (GHN-81).MSA-1074/(20)- - TH, dated 22nd January, 1974.

12. These words were substituted for the words "the Bharat Refineries Limited" vide G.N.F.D., (GHN-70)-MSA-1077/(27)-TH, dated 8th December, 1977.

13. These words were substituted for the words "The Esso standasd Refining Company of India Limited" vide G.N.F.D. No. (GHN-76)-MSA- 1075/(23)-TH, dated ) st December, 1975.

14. This item (iii) was deleted vide G.N.,F.D. No. (GHN-77).MSA-1076/(26) TH, dated 6th October, 1976,

15. This item (iv) was deleted vide G.N.F.D. No. (GHN-76)-MSA-1075/(23) TH, dt. 1st December, 1975.

16. This item (viii) was inserted vide G.N.F.D. No. (GHN-77)-MSA-1076- (26)-TH, dated 6th October, 1976.

**15A. Manner of arriving at total sale proceeds fur the purpose of determination of tax on sales of motor spirit :-**

When a trader holding a licence under section 9 indicates in his return in Form C total sale proceeds of sales of motor spirit including the amount of tax on such sales, he may :

(a) in the case where the amount of tax is separately collected, exclude such amount from such sale proceeds, and

(b) in any other case, deduct from such sale proceeds a sum calculated in accordance with the following formula, namely :  
FORMULA Sale price multiplied by  $R \div 100 + R$  (Where 'R' means the rate of tax applicable to the sale of motor spirit)"]

**16. Every trader to furnish returns of sales of motor spirit :-**

(1)Every trader who is liable to pay tax on sales of motor spirit under the rule 15 and who also imports, exports or manufactures motor spirit or sells motor spirit to a manufacturer, shall before the end of each calendar month, submit the licensing authority a return

of all motor spirit sold during the preceding month. Such return shall be in Form C.

(2) Every trader who is liable to pay the tax under rule 15, not being a trader to whom the provisions of sub-rule (1) apply, shall, before the end of each calendar month, submit to the licensing authority a return of all motor spirit sold by him during the proceeding month. Such return shall be in Form D.

(3) Notwithstanding anything contained in sub-rules (1) and (2), where any trader falling under sub-rule (1) or (2) declares that he does not sell any motor spirit to another trader and does not purchase any motor spirit from a trader who does not hold a licence, and that he does not import or manufacture motor spirit, he shall not be required to submit to the licensing authority the returns in Form C or D as the case may be.

(4) Every trader shall along with the return in Form C or Form D as the case may be, furnish evidence, of his having paid the amount of the tax mentioned in such return into the Government Treasury or Sub-treasury of the District or into the Reserve Bank of India on Government account.

**16A. Application for permission to submit consolidated statement :-**

A trader desirous of submitting a consolidated statement under the proviso to sub-section (1) of section 13 shall make an application to the Collector for permission to do so in Form 'DD'.]

**16B. Section :-**

Where a person intends to pay into a Government Treasury or Sub-Treasury of a district an amount of tax, arrears of tax or any sum of money by way of composition of an offence, he shall, along with the requisite amount of money, submit to the Treasury a quadruplicate copy of Chalan in Form 'DDD'.]

**17. Refund of tax :-**

(1) Where the amount already paid as tax in respect of any period exceeds the amount assessed under section 6 or in an appeal under section 16 or as the case may be in revision, if any, under section 17 the licensing authority shall, on application of the trader who has paid such excess amount, issue a favour of the trader an order <sup>1</sup>[to the Treasury Officer, or to the appropriate branch of the State Bank of India or of the State Bank of Saurashtra in Form E] for



refund of the excess amount to the trader and simultaneously forward a copy of this order to the Treasury Officer, concerned <sup>2</sup>[or the appropriate branch of the State Bank of India or of the State Bank of Saurashtra].

(2) Where any trader has collected from any wholesale trader tax on the sale to him of motor spirit and such motor spirit is shown to the satisfaction of the licensing authority to have been exported out of the <sup>3</sup> [State of Gujarat] the wholesale trader shall upon application made in this behalf be granted a refund of the tax paid on his purchase to the vendor, on his producing a certificate in Form "F" from his vendor, to the effect that the said tax on the motor spirit exported by him has been collected and paid into Government Treasury by the vendor.

1. These words were substituted for the words and letter to the Treasury "Officer in Form E" by GNFD No.MST-1161-34568-K, dated 11th May, 1961.

2. These words were added G.N.F.D. No. MST-1161-34568-K, dt. 11th May, 1961.

3. The words "State of Gujarat" are substituted for "State of Bombay" vide clause (1) of paragraph 4 of the Gujarat Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

#### **18. Every trader to keep and maintain accounts :-**

(1) Every trader to whom the provision of sub-rule (1) of rule 16 apply shall keep and maintain separately for aviation motor spirit and high speed diesel oil and any other kind of motor spirit daily accounts in Form G of the quantity of motor spirit purchased or sold or consumed by him and shall submit a monthly statement in the said Form to the licensing authority by the seventh day of the following month.

(2) Every trader to whom the provisions of sub-rule (2) of rule 16 apply shall keep and maintain daily accounts in Form "H" of the quantity of motor spirit purchased, sold or consumed by him and shall submit a monthly statement in the said Form to the licensing authority by the seventh day of the following month.

#### **19. Procedure in case of non-payment of tax :-**

(1) Where any trader fails to pay the amount of tax under rule 15 or any further amount of tax assessed under section 6 and found to be due from him, the licensing authority shall cause a notice in Form "K" to be served on the trader requiring him to pay the

aforesaid tax within fifteen days of the date of service of the said notice.

(2) Every notice under sub-rule (1) may be served on such trader by delivering it to him personally at his ordinary place of business or if the trader is not found at such premises, by delivering it to any person in the employ of the trader who may be found at such premises or if no such person is found there, by leaving it at such premises or by affixing it in a conspicuous position upon some building or erection in the occupation of the trader at such premises.

(3) If such tax is not paid within the time stated in the notice referred to in sub-rule (1) the licensing authority may proceed to recover from him the sum leviable under the provisions of sub-section (3) of section 5 .

## **20. Investigating Officer :-**

Every police officer not below the rank of a Sub-Inspector of Police shall have the powers referred to in section 26 of the Act and also the power to investigate all offences punishable under the Act.

## **21. Appellate authorities :-**

(1) An appeal against an order passed by a Motor Spirit Sales Tax Officer shall lie to the Assistant Collector of Motor Spirit Sales Tax to whom he is subordinate.

(2) An appeal against an order passed by an Assistant Collector of Motor Spirit Sales Tax shall lie to the Collector.

(3) An appeal against an order passed by the Collector shall lie to the Tribunal.

## **22. Submission of memorandum of appeal :-**

(1) Every appeal shall

(a) be in writing;

(b) specify the name and address of the appellant;

(c) specify the date of the order appealed against and the designation of the officer by whom it has been passed;

(d) contain a clear statement of facts;

(e) State precisely the relief prayed for; and

(f) be signed and verified by the appellant or an agent duly authorised in writing in this behalf by the appellant in the following form, namely : "I .....the appellant named in the above memorandum of appeal do hereby declare that what is stated there is true to the best of my knowledge and belief. Signature"

(2) The memorandum of appeal shall be accompanied by the order appealed against in original or by a certified copy thereof, and in case of an appeal against an order of assessment, also by a certificate from the licensing authority that the amount of tax assessed has been duly paid up, unless the omission to produce such order or copy of certificate is explained at the time of presentation of the satisfaction of the appellate authority.

(3) The memorandum of appeal shall either be presented to the appellate authority by the appellant or his agent or sent to it by registered post.

### **23. Summary rejection of appeal :-**

(1) If the memorandum of appeal does not comply with all the requirements of rule 22, the appeal may be summarily rejected:

Provided that no appeal shall be summarily rejected under the sub-rule unless the appellant is given such opportunity as the appellate authority thinks fit to amend such memorandum, so as to comply with the requirements of rule 22.

(2) An appeal may also be summarily rejected on other grounds which shall be recorded in writing by the appellate authority :

Provided that before an order summarily rejecting an appeal under this sub-rule is passed the appellant shall be given a reasonable opportunity of being heard.

### **24. Fixing the date of hearing :-**

If the appellate authority does not reject the appeal summarily, it shall fix a date for hearing the appellant or his agent.

### **25. Application for revision :-**

An application for revision of any. order of assessment or an order passed in appeal against such order shall be accompanied by a certificate from the licensing authority that the amount of tax assessed thereunder has been duly paid up unless the omission to produce such certificate is explained at the time of presentation of

such application to the satisfaction of the authority to whom it is made.

**26. Fees for appeal and revision :-**

(1) The following fees shall be payable;

Explanation.--In this rule "the amount in dispute" means the difference between the amount of tax or penalty, if any, or both demanded and the amount admitted by the dealer to be payable.

(2) All fees payable under clauses (i) to (iii) of sub-rule (1) shall be paid in court-fee stamps,]

**27. Transmission of copy of order to Officer whose order forms subject matter of appeal or revision :-**

A copy of the order passed in appeal or revision shall be sent to the officer whose order forms the subject matter of the appeal or revision proceedings.

**28. Fine for contravention of these rules :-**

Any person contravening any of the provisions of these rules, shall on conviction, if such offence is not otherwise punishable under the Act, be liable to a fine which may extend to fifty rupees.