

GUJ. CARRIAGE OF GOODS TAXATION ACT, 1962

33 of 1962

[18th September, 1962]

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GUJ. CARRIAGE OF GOODS TAXATION ACT, 1962

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An Act to provide for the levy and collection of a tax on goods carried by road in motor vehicles in the State of Gujarat. It is hereby enacted in the Thirteenth Year of the Republic of India as follows:-

1. Short title, extent and commencement :-

(1) This Act may be called the Gujarat Carriage of Goods Taxation Act, 1962.

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

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

2. Definitions :-

In this Act, unless the context otherwise requires-

(a) "fleet owner" means an operator holding a permit for goods vehicles exceeding twenty five or such number as may be prescribed;

(b) "goods vehicle" means a public or private goods vehicle;

(c) "operator" means any person whose name is entered in a permit as the permit holder thereof (being a permit granted or countersigned under the Motor Vehicles Act, 1939, (IV of 1939) authorising the use of a motor vehicle as a goods vehicle); and where a goods vehicle is used or caused or allowed to be used without a permit, includes a person in whose name that vehicle is registered under the Motor Vehicle Act, 1939 (IV of 1939) or any person having the possession or control of such vehicle; and "to operate" shall be construed accordingly; vehicle is registered or any person having the possession or control of the vehicle. The second clause of this definition is inclusive. The expression 'to operate' shall also be construed accordingly.

(d) "pay load" in respect of a goods vehicle means the registered laden weight less the unladen weight of the vehicle;

(e) "prescribed" means prescribed by rules under this Act;

(f) "private goods vehicle" means any motor vehicle (not being a public goods vehicle) constructed or adapted for use for the carriage of goods, or any motor vehicle not so constructed or

adapted when used for the carriage of goods solely or in addition to passengers (such goods being the property of the owner of such vehicle and the carriage of which is necessary for the purpose of the business of such owner, not being a business of providing transport), or a vehicle used for any of the purposes specified in sub-section (2) of section 42 of the Motor Vehicle Act, 1939 (IV of 1939) but shall not include any vehicle owned and used by the State Government, a Municipality, District Local Board or Panchayat ;

(g) "public goods vehicle" means any motor vehicle constructed or adapted for use for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods whether solely or in addition to passengers, for hire or reward;

(h) "rules" means the rules made under section 32;

(i) "tax" means a tax levied under section 3 and includes a lump sum payable under section 12;

(j) "Taxation Officer" means such officer as the State Government may by notification in the Official Gazette appoint to be the Taxation Officer for the whole State or for any area or areas for the purposes of this Act, and the State Government may appoint more officers than one as Taxation Officers for the whole of/the State or for any area;

(k) words and expressions used but not defined in this Act, shall have the meanings assigned to them in the Motor Vehicles Act, 1939, and the rules made thereunder.

3. Levy of tax :-

Subject to the provisions of this Act, with effect from such date as the State Government may by notification in the Official Gazette appoint, a tax shall be levied and collected on all goods carried by road in the State-

(a) when carried in a public goods vehicle, at a rate of three per cent of the freight charged or chargeable for their carriage; and

(b) when carried in a private goods vehicle at the rate of four-tenths of a naya paisa per metric tonne per kilometer: Provided that no such tax shall be leviable on goods that are the property of the Central Government, including the Indian Railways, or are transported in departmental vehicles (not being public goods

vehicles) owned by either.

4. Collection of tax :-

(1) The tax shall be collected by the operator and shall be paid to the State Government in accordance with the provisions of this Act and the rules, if any:

Provided that the State Government may enter into an agreement, whether by way of a reciprocal agreement or otherwise, with the Government of any other State in respect of or for the collection tax.

(2) In computing the tax any fraction of a rupee being less than five naye paise or not a multiple of five naye paise shall be rounded off to five naye paise, or as the case may be, the next higher multiple of five naye paise.

5. Tax payable In certain cases :-

(1) Where goods are carried from or to any place outside the state through the State, the tax payable only in respect of their carriage over the distance lying within the limits of the State.

(2) Where no separate freight is charged or chargeable in respect of carriage over such distance, the portion of the freight allocable in respect thereof shall be the proportionate freight calculated on the basis of the distance for which the freight is charged or chargeable.

6. Submission of returns :-

(1) In respect of every goods vehicle, its operator shall deliver or cause to be delivered to the Taxation Officer or such prescribed officer as the Taxation Officer may specify a return in the prescribed form and manner either daily or at such intervals or at such times as may be prescribed.

(2) Different times or intervals or both may be prescribed in respect of different classes of goods vehicles, and special rules may be made for the purpose of sub-section (1) for fleet owners.

(3) The prescribed officer shall on receipt of a return forward it to the Taxation Officer within the prescribed time and in the prescribed manner.

7. Return after due date and amendment of return :-

If any operator having furnished a return under section 6 discovers

any omission or incorrect statement therein, he may furnish at any time before the amount of tax is assessed a revised return.

8. Payment of tax :-

The tax payable in respect of any month in accordance with the returns submitted under section 6 and the revised returns, If any, submitted under section 7 shall be paid Into a Govern- ment treasury ¹ [or In such other manner as may be prescribed by the operator and the receipt, If any] evidencing such payment forwarded by him to the Taxation Officer, on or before such date or dates of the month Immediately succeeding as may be prescribed and applicable to him.

1. These words were substituted for the words by the operator and the receipt" by Guj. VIIof 1963, a. 2.

9. Assessment of tax :-

(1) The Taxation Officer when satisfied on the material before him, that the returns including a revised return, if any, made under the foregoing provisions for a month are correct and complete, shall proceed to assess the amount of tax payable by the operator to the State Government in respect of the period for which the return is made.

(2) If the Taxation Officer be not so satisfied, he shall serve a notice on the operator either to attend in person at his office on a date to be specified in the notice, or to produce or cause to be produced on that day any evidence on which the operator relies in support of his return.

(3) For the purpose of assessing the amount of tax payable by an operator under this Act, the Taxation Officer may serve on the operator a notice requiring him to produce on a date specified in the notice such accounts, records and other documents as the Officer may require.

(4) The Taxation Officer after considering such evidence as the operator may produce, and such other evidence as the Officer may require shall, by order in writing assess the amount of tax payable by the operator.

10. Taxation officer to assess tax when return not made :-

Where any operator fail to submit a return under section 6 in respect of any month or falls to comply with the terms of any notice issued under sub-section (2) or sub-section (3) of section 9, the

Taxation Officer shall assess the amount of the tax payable by the operator for the month to the best of his judgment.

11. Tax escaping assessment :-

When the Taxation Officer has reason to believe that any tax leviable under this Act for any period has remained unassessed, he may, at any time within one year of the end of that period, serve on the operator a notice requiring him to furnish such Information (including any return in accordance with the provisions of section (6) as may be specified in the notice, and may after making such enquiry as he may consider necessary, proceed to assess the amount; of such tax; and the other provisions of this Act. shall so far as may be, apply as if the operator had furnished the return in accordance with section 6, or as the case may be, section 7.

12. Lump sum payment of tax :-

¹[(1) Notwithstanding anything elsewhere contained in this Act, where the total payload of the goods vehicles of an operator does not exceed 35 metric tonnes and the total number of goods vehicles operated by the operator does not exceed four, such operator shall have an option of lump sum payment of tax to be exercised as provided in sub-section (2) within two months from the date of commencement of this Act; and any person who becomes such an operator on a day after the said date may exercise such option within two months of such day:

Provided that a person, who on the date of the commencement of the Gujarat Carriage of Goods Taxation (Amendment) Act, 1962 (Guj. VII of 1962) is an operator may exercise an option under this sub-section within thirty days from the date of commencement thereof.]

²[(1 A) Notwithstanding anything contained in sub-section (1) every operator of a goods vehicle shall have an option of lump sum payment of tax to be exercised as provided in sub-section (2) within ninety days from the date of the commencement of the Gujarat Carriage of Goods Taxation (Amendment) Act. 1964 (Guj. 10 of 1965) and any person who becomes such an operator on a day after that date may exercise such option within two months of such day.)

³[(1B) Notwithstanding anything contained In sub-section (1A),-

(i) every operator of goods vehicle who has not exercised the

option of lump sum payment of tax under that sub-section immediately before the date of commencement of the Gujarat Carriage of Goods Taxation (Amendment) Act. 1977, and

(ii) any person who becomes such an operator on a day after that date, shall have an option of lump sum payment of tax to be exercised as provided in sub-section (2) at any time after that date.]

⁴[(2) An operator desiring to exercise the option of lump sum payment of tax shall make an application to the Taxation Officer in such form as may be prescribed to permit him to make in lieu of the amount of tax payable by him under the foregoing provisions of this Act, a lump sum payment of such amount as may be fixed by the State Government by notification in the Official Gazette, regard being had to the carrying capacity of the vehicle but so, however, that, in no case shall the amount exceed the product obtained by multiplying the payload in metric tonnes by rupees ⁵[30] per month per public goods vehicle and rupees 15 per month per private goods vehicle respectively. On such application being made, the Taxation Officer may grant such permission and thereupon subject to the provisions of sub-section (3) the payment shall be made accordingly on the prescribed date and in the prescribed manner.]

(3) An operator who has opted for the lump sum payment of tax (hereinafter referred to as "the arrangement") may at any time but not before the expiry of a period of six month by a notice, in such form as may be prescribed, addressed to the Taxation Officer terminate the arrangement from the commencement of any month following that in which the notice is given.

⁶ [x x x]

(5) Where an operator has opted for a lump sum payment under this section in respect of a vehicle and the vehicle ceases to be liable to tax under the provisions of the Bombay Motor Vehicles Tax Act, 1958 (Bom. LXV of 1958), for a period consisting of one or more complete .calendar months, the operator shall subject to such condi- tions and in such manner as may be prescribed be exempted from making any lump sum payment in respect of the vehicle for the above said period; and if any payment is made by him for such period it shall be refunded to nun subject to such conditions and in such manner as may be prescribed.

1. Sub-section (1) was substituted and shall be deemed always to have been substituted for the Original by Guj. 7 of 1963, s. 3 (1).
2. Sub-section (1A) was Inserted by Guj. 10 of 1965, s. 2 (1).
3. Ins. by Guj. 5 of 1977.
4. Sub-section (2) was substituted for original, Ibid, s. 2 (11).
5. Subs, by GuJ. 23 of 1981 for "22", w.e.f. 1-8-1981.
6. Sub-section (4) was deleted by GuJ. 10 of 1965 s. 2 (ill).

13. Payment of tax assessed :-

The amount of tax assessed and remaining unpaid under the provisions of this Act shall be paid by the operator to the Taxation Officer on or before such date, and in such manner as may be prescribed.

13A. Liability of operator to pay interest :-

Where an operator does not pay the tax on or before the date prescribed under section 8 or as the case may be, the date prescribed under sub-section (2) of section 12, there shall be paid by such operator for the period commencing immediately after the prescribed date and ending on the date of payment of the tax, simple interest at the rate of twenty-four per cent per annum on the amount of tax not so paid or any less amount thereof, remaining unpaid during such period.]

14. Recovery of tax, etc :-

(1) Where any [tax, penalty or interest is due] under the provisions of this Act, the Taxation Officer shall serve upon the operator a notice of demand in the prescribed form specifying the sum so payable to the State Government.

(2) Where any sum specified as payable in the notice of demand is not paid within fifteen days from the date on which the notice was served on the operator the Taxation Officer may forward to the Collector of the district in which the operator has his residence or permanent place of business, a certificate under his signature specifying the amount of arrears due from the operator, and the Collector, on receipt of such certificate, shall proceed to recover from the operator the amount specified therein as if it were an arrear of land revenue: Provided that, no distraint shall be made in pursuance of this sub-section except at the instance, or with the consent of the State Government or such officer as may be authorised by the State Government in this behalf.

(3) Distraints under sub-section (2) may also be made by such officer or class of officers as the State Government may, by general

or special order, direct; and the officer making any such distraint shall forward the proceedings thereof together with the distrained articles to the Collector for further action under sub-section (2).

15. Restrictions on the use of goods vehicles in certain cases :-

No goods vehicle shall be used on any public road in the State-

(a) in case any tax or penalty payable in respect thereof remains unpaid for more than fifteen days after the notice of demand referred to in section 14 has been served on the operator, until such tax or penalty is paid, or

(b) in case daily returns if required to be submitted under section 6 have not been submitted for more than seven days, or other returns prescribed have not been submitted for

16. Appeal :-

(1) Any operator objecting to a notice of demand served on him under section 14 may, within thirty days of the service thereof, appeal to the prescribed authority: Provided that, no appeal shall be entertained unless it is accompanied by proof of the payment of the tax admitted by the appellant to be due¹ [and the memorandum of appeal bears a court-fee stamp of the value of five rupees.

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(2) Subject to such rules of procedure as may be prescribed, the prescribed authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as such authority thinks just and proper.

1. These words were Inserted by Guj. 10 of 1965. s. 3.

17. Revision :-

(1) The State Government or such officer not below the rank of a Deputy Secretary to Government designated by the Government in this behalf may, suo motu or on an application submitted within four months of the date of the passing of any order by any officer or authority under this Act call for and examine the record thereof and pass such order thereon as it or he thinks just and proper: Provided that, before rejecting any such application the State Government or the officer designated shall record the reasons for so doing.

(2) No order which adversely affects any person shall be passed under this section unless such person has been given reasonable opportunity of being heard.

(3) Irrespective of whether the period of appeal has expired or not, no application in revision shall be entertained in any case in which an appeal lies or lay under the provisions of this Act.

18. Refund of excess payment :-

The taxation Officer shall refund to an operator, in such manner as may be prescribed, ¹[the amount of tax, penalty and interest (if any)] paid by such operator in excess of the amount due from him from time to time. The refund may at the option of the operator be by deduction of such excess from ² [the amount of tax, penalty and interest (if any)] due from him in respect of any other period:

Provided that the taxation officer shall before making any such refund first apply such excess towards the recovery of any amount due in respect of which a notice under section 14 has been served on the operator.

1. Subs, by GuJ. 1 of 1986 (28.10.85) for "the amount of tax and penalty (if any)".

2. Subs, by GuJ.l of 1986 (28.10.85) for "the amount of tax and penalty (if any)".

19. Maintenance of accounts and registers :-

Every operator shall keep and maintain such registers and accounts and in such form as may be prescribed in respect of the goods carried and freights charged by him or on his account.

20. Power to order production of accounts, etc :-

The Taxation Officer or any other officer empowered in this behalf by the State Government may, for the purpose of assessing tax or for any of the purposes of this Act by order require any operator or other person owning or having control or possession of a motor vehicle to produce before him such accounts, registers and documents, and to furnish such information relating to the operation of the vehicle, the goods carried in it or the tax collected in respect of such goods as may be specified in the order.

21. Power of entry and inspection :-

(1) For the purpose of examining or verifying whether the provisions of this Act or any rules are being complied with, any

officer authorised by the State Govern- ment in this behalf may at all reasonable times enter into, inspect and search any motor vehicle and any place ordinarily used for garaging such vehicle or any place so used by an operator of any goods vehicle or used by him for storing goods or for keeping accounts of his business, and may take or cause to be taken such copies or extract from any accounts or documents as appear to him necessary for the purpose of this Act.

(2) All searches under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898).

22. Penalty for non-payment of tax :-

Any operator failing, without reasonable cause, to pay tax within time under the provisions of this Act shall be liable to pay in addition to the amount of the tax a sum not exceeding 25 per cent, thereof as penalty.

23. Offence and penalties and competent court :-

(1) Any person who-

(a) being an operator.

(i) submits or allows or causes to be submitted an incorrect or incomplete return or fails to submit a return as re- quired by or under any provisions of this Act; or

(ii) fraudulently evades or allows to be evaded, the payment of any tax due from him; or

(iii) fraudulently makes or causes or allows to be made any wrong entry in, or fraudulently omits or causes or allows to be omitted any entry from, any statements submitted, or any accounts or registers; or

(b) wilfully acts in contravention of any of the provisions of this Act or the rules or any lawful orders passed in accordance there with, - shall, on conviction, be punished with fine which may extend to one thousand rupees, and if the Magistrate so directs in his order shall be liable to pay in addition as if it were a fine, such specified amount as the Magistrate may determine to be the amount the payment of which he had evaded.

(2) No offence punishable under this Act shall be inquired into or

tried by any court inferior to that of a Magistrate of the first class and except on a complaint made by the Taxation Officer or by any other officer, authorised in that behalf by State Government by a general or special order.

24. Offences by companies :-

(1) Where an offence under this Act has been committed by a company every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and be punished accordingly: Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.-for the purposes of this section,-

(a) "company" means a body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

25. Compounding of offences :-

(1) The Taxation Officer may, either before or after the institution of proceedings for any offence punishable under section 23, accept from any person charged with such offence by way of composition of the offence, where the offence charged consists of the evasion of payment of tax, a sum of money not exceeding double the amount of the tax recoverable, in addition to the amount of tax so recoverable; and in any other case, a sum of money not exceeding two hundred and fifty rupees.

(2) On the payment of such sum as may be determined by the

Taxation Officer under sub-section (1), if any criminal proceedings have been instituted against such person in respect of the offence, the composition shall be deemed to amount to an acquittal, and no further proceedings shall be taken against such person in respect of the same offence.

26. Delegation :-

The State Government may delegate to any officer all or any of the powers conferred on the Taxation Officer by or under this Act.

27. 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).

28. Bar of certain proceedings :-

(1) No Prosecution or other proceeding shall be instituted in a criminal court without the previous sanction of the State Government, against any officer or servant of the Government, for any act done or purporting to be done under this Act.

(2) No officer or servant of the Government shall be liable in respect of any such action in any civil or criminal proceeding, if the action was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

29. Limitation for suits and prosecutions :-

No suit or other proceedings shall be instituted against the State and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within one year from the date of the act complained of.

30. Refunds :-

(1) Where any tax has been paid under the provisions of this Act on goods proved to the satisfaction of the Taxation Officer to have been exported out of India, the amount thereof shall be refunded to such person and in such manner and subject to such conditions as may be prescribed.

(2) Where a lump sum payment of tax in respect of any vehicle has been made for any month by an operator under the provisions of section 12, and the vehicle has for a period of not less than seven

continuous days in such month been rendered incapable of use due to a breakdown, accident or other cause beyond the operator's control, provided he has notified the Taxation Officer as soon as may be after the vehicle was so incapacitated and subject to his showing to the satisfaction of the Taxation Officer that it was so incapacitated, the operator shall be granted a refund of the proportionate amount of the said lump sum.

31. Power to exempt certain goods from payment of tax :-

(1) The State Government may, ^subject to the provisions of any rules made in that behalf, by notification in the official Gazette exempt] totally or partially from payment of tax- (a) any goods required to be so exempted in pursuance of any international arrangement or obligation; (b) goods carried by or on behalf of any institution, recognised association or a public body in furtherance of any educa- tional, medical, philanthropic or similar object; (c) tractor-cum-trailers owned by an agriculturist when used by him for or in connection with agricultural operations or the carriage of his agricultural produce to a market; (d) goods carried in such special or exceptional circumstances for such period and on such terms and conditions as may be specified in the notification; or ¹ [(e) goods carried in any class of private goods vehicles or public goods vehicles, other than those falling under clause (c), or goods carried in any goods vehicles belonging to any class of persons.] (2) Every notification issued under sub-section (1) shall be laid before the State Legislature as soon as may be after it is issued, and shall be subject to rescission by the Legislature or to such modification as the Legislature may make during the session in which it is so laid. (3) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

1. Added by Guj. 1 of 1986 [28.10.85]

32. Rules :-

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made- to provide for all matters expressly required or allowed by this Act to be prescribed by rules, and to provide that a contravention of any rule shall be punish- able with fine which may extend to two hundred and fifty

rupees for each such contravention.

¹ [(2A) Such rules may provide for the inspection or search of documents and supply of copies or extracts thereof and the fees to be levied therefor.]

(3) 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.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the Legislature, or to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.

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

1. Subs, by Guj. 1 of 1986 [28.10.85].