

GUJARAT MOTOR SPIRIT CESS RULES, 2001

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GUJARAT MOTOR SPIRIT CESS RULES, 2001

Whereas the Government of Gujarat is satisfied that circumstances exist, which render it necessary to take immediate action to make rules and to dispense with the previous publication thereof, under the proviso to sub-section (4) of section 34 of the Gujarat Motor Spirit Cess Ordinance, 2001 (Guj. of 2001) now Gujarat Motor Spirit Cess Act, 2001 (Guj. 13 of 2001). Now therefore, in exercise of the powers conferred by section 34 of the Gujarat Motor Spirit Cess Ordinance, 2001 (Guj. 7 of 2001) now the Gujarat Motor Spirit Cess Act, 2001 (Guj. 13 of 2001), the Government of Gujarat hereby makes the following rules, namely:-

1. Short title :-

These rules may be called the Gujarat Motor Spirit Cess Rules, 2001.

2. Definitions :-

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

(a) "Cess" means the cess on the turnover of sale of motor spirit levied under section 3;

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

(c) "Motor Spirit" means the motor spirit as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958:

(d) "Ordinance" means the Gujarat Motor Spirit Cess Ordinance, 2001:

(e) "Registering authority" means the Collector or any officer, (being an officer appointed to assist Collector), to whom the Collector has delegated his powers in this behalf under section 28:

(f) "Registered trader" means a trader registered under section 8;

(g) "Section" means a section of the Ordinance.

(h) "Taxation Act" means the Bombay Sale of Motor Spirit Taxation Act, 1958.

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

3. Appointment of officers to assist the Collector :-

The designations of persons appointed to assist the Collector under clause (d) of sub-section (1) of section 10 shall be as follows, namely: (1) Motor Spirit Cess Officer, (2) Assistant Collector of Motor Spirit Cess, (3) Deputy Collector of Motor Spirit Cess.

4. Application for registration certificate :-

A trader for obtaining registration certificate under section 8, shall make an application In Form A to the registering authority of the area in which his place of business is situate. Such an application shall be made within ten days from the date of (a) the publication of these rules, or (b) obtaining licence under the Taxation Act.

5. Form and particulars of registration certificate :-

Every registration certificate issued to the trader shall be in Form B.

6. Amendment of registration certificate :-

(1) Any trader desirous of having his registration certificate altered shall submit the registration certificate to the registering authority along with an application stating the nature of the alterations desired and the reasons therefor.

(2) The registering authority may at any time alter a registration certificate issued under these rules: Provided that no such alteration shall be inconsistent with the provisions of the Ordinance or these rules.

7. Suspension or cancellation of registration certificate :-

Every registering authority making an order of suspension or cancellation of any registration certificate under section 9, 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 registered trader.

8. Loss of registration certificate :-

When any registration certificate issued under these rules is lost or is destroyed or if the holder thereof so desires, a duplicate copy thereof may be furnished to the holder of the registration certificate by the registering authority.

9. Production of registration certificate on demand :-

Every registered trader shall produce the registration certificate issued under rule 5 or a copy thereof whenever called upon to do so by an officer duly empowered in this behalf.

10. Rate of cess :-

The rate of cess levied under sub-section (2) of section 3 shall be as specified in the table below: - Table

11. Levy of cess :-

(1) Subject to the provision of sub-rule (2), every trader shall, within a period of twelve days immediately succeeding the month for which any return is required to be furnished, pay cess at the relevant rate specified in rule 10 on the turnover of sale of motor spirit made by him during each calendar month.

(2) Subject to the conditions specified in this sub-rule, no cess shall be payable on the turnover of sales of motor spirit by any of the

following companies when such sales is made to any other of the following companies (hereinafter referred to as the 'purchasing company') for the purpose of resale with the State of Gujarat by the purchasing company.

(a) Indian Oil Corporation Ltd.

(b) Bharat Petroleum Corporation Ltd.

(c) Hindustan Petroleum Corporation Ltd.

(d) I.B.P. Company Ltd.

(e) Reliance Petroleum Industries Ltd.

CONDITIONS: (a) Motor spirit is sold by one of these companies to the purchasing company, which is mentioned in this sub-rule;

(b) the purchasing company furnishes to the selling trader an undertaking in Form C stating, inter-alia, that the motor spirit so purchased will be resold by it within the State of Gujarat within six months of such purchase and such purchasing company will include such resale in its turnover of sale and pay the cess on such turnover of sales;

(c) Where under sub-rule (2), no cess is levied on turnover of sale of motor spirit and the motor spirit so purchased by the company is not sold within the State of Gujarat, the cess shall be payable by the purchasing company on the turnover of purchases of motor spirit.

12. Manner of arriving at total turnover of sales of motor spirit for the purpose of determining of cess :-

(1) A registered trader shall indicate separately cess charged in his bill or Invoice.

(2) The registered trader shall calculate in the following manner the turnover of sales of motor spirit made by him during a calendar month; Rupees (i) Total turnover of sale of motor spirit (ii) Any sum charged separately by trader (iii) Amount of tax under Taxation Act

(a) Amount of tax under section 5 of the Taxation Act

(b) Amount of additional tax levied under section 5A of the Taxation Act

(c) Amount of turnover tax under section 58 of the Taxation Act

(3) The registered trader shall calculate the amount of cess at the applicable rate specified in rule 10 on the total turnover of sales of motor spirit calculated in the manner specified in sub- rule (2).

13. Furnishing of returns of turnover of sale of motor spirit :-

(1) Every trader who is liable to pay cess, on turnover of sales of motor spirit under rule 11, shall before the end of each calendar month, submit to the registering authority a return in Form D.

(2) Where a trader intends to pay into a Government Treasury an amount of cess, arrears of cess, interest or fine, he shall, alongwith the requisite amount of money, submit to the Treasury Challan in quadruplicate in Form E.

(3) Every trader shall, alongwith the return in Form D, furnish evidence of his having paid the amount of the cess mentioned in such return into the Government treasury.

14. Refund of cess :-

(1) Where the amount already paid as cess in respect of any period exceeds the amount assessed under section 14 or in an appeal under section 16 or as the case may be, in revision, if any, under section 17, the registering authority shall, on an application of the registered trader who has paid such excess amount, allow such trader to adjust the amount so paid in excess towards the amount of cess to be paid in the subsequent month by him. The refund adjustment order shall be in Form F.

(2) A registered trader who makes an application for refund under section 7 shall be granted a refund of the cess paid by him on his purchases by a refund payment order in Form G subject to the following conditions, namely:

(a) The vendor who had sold the motor spirit to the claimant trader has credited in to the Government Treasury the amount of cess charged by him on the sales made to the claimant trader in respect of which the claim of refund has been made.

(b) The claimant trader has sold such motor spirit either in the inter-State trade or in the course of export out of country within six months of the date of purchase.

15. Trader to keep and maintain accounts :-

Every trader shall keep and maintain account of sale of motor spirit under section 11 of the Ordinance.

16. Procedure in case of non-payment of cess :-

(1) Where any trader fails to pay the amount of cess under rule 11 or any amount of cess assessed under section 14 or any amount that may become payable under section 17 or section 20 and found to be due from him, the registering authority shall cause a notice in Form H to be served on such trader requiring him to pay the aforesaid cess within fifteen days from 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 at his ordinary place of business.

(3) Where the trader fails to pay amount of cess within the time limit stated in the notice under sub-rule (1), the registering authority may proceed to recover from him the sum payable, as recoverable under section 32.

17. Investigating officer :-

Every police officer not below the rank of a sub-inspector of police shall have the powers to investigate all offences punishable under the Ordinance, as provided in section 27, thereof.

18. Appellate authorities :-

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

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

(3) An appeal against an order passed by the Deputy Collector of Motor Spirit Cess and Collector shall lie to the Tribunal.

19. Submission of memorandum of appeal :-

(1) Every appeal shall

(i) be in writing;

(ii) specify the name and address of the appellant:

- (iii) specify the date of the order appealed against and the designation of the officer by whom it has been passed;
- (iv) contain a clear statement of facts;
- (v) state precisely the relief prayed for; and
- (vi) be signed and verified by the appellant or an agent authorized in writing, in this behalf, by the appellant.

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

20. Summary rejection of appeal :-

An appellate authority may summarily reject an appeal if the memorandum of appeal does not comply with the requirements of rule 19, or for any other reason to be recorded in writing: Provided that no appeal shall be summarily rejected unless the appellant is given a reasonable opportunity of being heard.

21. Fixing the date of hearing :-

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

22. 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 registering authority that the amount of cess assessed thereunder has been duly paid 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.

23. 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.

24. 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 Ordinance be punished with a fine which may extend to one thousand rupees and in the case of continuing contravention with an additional fine which may extend to fifty rupees for each day during which such contravention continues after conviction for the first such contravention.