Gujarat Panchayat (Payment of Lump-sum Contribution by Factories in lieu of Taxes) Rules, 1998.

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In exercise of the powers conferred by sub-sec. (1) of Sec. 274 read with Sec. 201 of the Gujarat Panchayats Act, 1993 (Gujarat 18 of 1993), the Government of Gujarat hereby makes the following rules, namely:

1. Rule :-
Short title. These rules may be called the Gujarat Panchayat (Payment of Lump-sum Contribution by Factories in lieu of Taxes) Rules, 1998.

2. Definitions. :-
In these rules, unless the context otherwise requires

(a) "the Act" means the Gujarat Panchayats Act, 1993;

(b) "agreement" means an agreement which a Panchayat may arrive at with any factory with the sanction of the State Government to receive lump-sum contribution in lieu of all or any of the taxes levied by it under the Act;

(c) "financial year" means the year commencing on the 1st day of April;

(d) "Government" means the Government of Gujarat;

(e) "occupier" in relation to a factory means the person who has ultimate control over the affairs of the factory and where the said affairs are entrusted to a managing agent such agent shall be deemed to be the occupier of the factory;

(f) "panchayat" means village panchayat.

3. Application by occupier. :-

(1) Where the occupier of a factory situate within the limits of a village desires to arrive at an agreement he shall make an application in writing to the panchayat not later than sixty days from the commencement of the financial year:

Provided that, where the factory is newly established during the financial year, the occupier may make such application not later than six days from the date on which the factory started functioning.

(2) Where any local area in which a factory situate: (a) is declared to be a village under-sub-sec. (1) of Sec. 7 of the Act; or (b) is included in a village under sub-sec. (2) of Sec. 7, the occupier may make an application under sub-rule (1) within six days from the date of such declaration or inclusion and where such declaration or inclusion has been made before the commencement of these rules from the date of such commencement.

(3) An application under sub-rule (1) shall state

(a) (i) the amounts paid to the panchayat in respect of each of the taxes levied by the Panchayat during the three financial years immediately proceeding the financial year or, as the case may be, during the period of less than three, years the factory has been functioning immediately proceeding the financial year in which the application is made; (ii) the amount payable by the occupier to the panchayat in respect of all or any of the taxes levied by the panchayat during the financial year in which the application is made (the amount payable in respect of each tax being indicated separately);

(b) the details of the amenities provided by the occupier in the factory and of these which the panchayat provides within the limits of its jurisdicti

(c) the expenditure incurred by the factory on each of the amenities provided by it during the period referred to in sub-clause (i) of clause (a) upto the date of the application;

(d) whether the occupier desires that the panchayat shall not recover any tax from him pending decision on the application.

4. Consideration of the application by panchayat. :-

(1) Receipt of the application under Rule 3, the panchayat shall stay recovery of its taxes from the occupier, if the occupier has so desired and than consider the application and, subject to the provisions of Rule 8, pass, not later than sixty days from the date of receipt thereof, a resolution fixing the lump-sum in lieu of all or any of the taxes.

(2) The amount of lump-sum contribution may not be disproporationately less than the amount receivable by the panchayat in respect of taxes levied by it at the normal rates during any financial year, after deducting cost of amenities, if any, provided by the occupier.

(3) Where the occupier agrees to accept the lump-sum fixed by the panchayat, the panchayat shall submit, through the District Development Officer, to the Government proposal for sanction. Such proposal shall be accompanied by:

(a) the application made by the occupier under Rule 3 with due comments on information furnished in the application;

(b) the resolution passed by the panchayat; and

(c) a draft of the agreement in Form 'A';

(d) details of amenities (i) provided by the panchayat within the limits of its jurisdiction as a whole; (ii) provided by the panchayat within the limits of the factory; and (iii) likely to be further provided within the limits of the factory on the agreement being effective, indicating the approximate cost thereof in the year immediately preceeding the financial year or likely to be involved in the financial year, in which the application is made.

5. Consideration of application by the Government. :-
(1) On receipt of the proposal the District Development Officer shall within one month of its receipt forward the same with his remarks to the Government. (2) On receipt of the proposal under sub-rule (1) the Government may pass such orders under sub-sec. (1) of Sec. 201 of the Act on the proposal as it deems fit and just and communicate the same to the panchayat.

6. Execution of agreement between panchayat and occupier. :-

(1) Where the Government sanction the proposal, an agreement in Form 'A' appended to these rules shall be executed between the occupier and the panchayat. (2) The Government shall also while sanctioning the proposal direct that if any amount has been recovered by the panchayat on account of taxes payable by the occupier in the financial year before the date of agreement the said amount shall be adjusted against the lump-sum contribution payable by the occupier.

7. Duration of validity of agreement. :-

(1) The agreement shall be effective from the financial year in which it has been entered into and shall be valid so long as there is no variation in the rate of any tax levied by the panchayat and specified in the agreement or for a period of three years which ever is earlier and may, with the sanction of the Government be renewed for a further period not exceeding three years at a time on a fresh application being made under Rule 3.

(2) The provisions of these rules shall mutatis mutandis apply to an application for the renewal of the agreement.

8. Manner of referring dispute to the Government and implementation of decision of the Government. :-

(1) In the event of failure on the part of the panchayat or the occupier in arriving at an agreement the matter Khali be referred either by the panchayat or the occupier to the Government through the District Development Officer, with all necessary documents. Such reference shall be in writing and may include a prayer for stay of recovery of taxes by the panchayat.

(2) On receipt of the reference referred to in sub-rule (1) the Government may (i) stay the recovery of taxes by the panchayat pending its decision in the matter; (ii) ascertain the views of the panchayat or the occupier, as the case may be call for the papers of the case and obtain the views of the District Development Officer in the matter; and (iii) fix a date for hearing after giving ten days notice to the parties, hear them and subject to the provisions of sub-rule (2) of Rule 4 decide the amount of contribution.

(3) If the occupier has paid any taxes to the panchayat after the date so fixed, the amount thereof shall be adjusted against the

payment of the lump-sum contribution.

(4) On the decision of the State Government, an agreement in Form A shall be executed between the occupier and the panchayat and the provisions of Rule 7 shall apply thereto.