

## **Gujarat Purchase Tax on Sugarcane Rules, 1999**

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## **Gujarat Purchase Tax on Sugarcane Rules, 1999**

Gujarat Purchase Tax on Sugarcane Rules, 1999

### **1. Short title :-**

These rules may be called the Gujarat Purchase Tax on Sugarcane Rules, 1999.

### **2. Definitions :-**

In these rules, unless the context otherwise requires:

- (a) "Act" means the Gujarat Purchase Tax on Sugarcane Act, 1989;
- (b) "Form" means a form appended to these rules;
- (c) "Government Treasury" means the treasury or as the case may be, sub-treasury of the district or taluka where the factory or unit

in which the owner manufactures or produces sugar is situated;

Words and expression used but not defined in these rules shall have the meaning respectively assigned to them in the Act.

### **3. Subordination of Officer :-**

For the purpose of sub-sec. (8) of Sec. 8 the subordination of the officers and persons shall be as follows, that is to say:

(a) A Deputy Commissioner of Purchase Tax (Sugarcane) shall be subordinate to an Additional Commissioner of purchase Tax (Sugarcane).

(b) An Assistant Commissioner of Purchase Tax (Sugarcane) shall be subordinate to a Deputy Commissioner of Purchase Tax (Sugarcane) and to an Additional Commissioner of Purchase Tax (Sugarcane).

(c) A purchase Tax Officer (Sugarcane) shall be subordinate to an Assistant Commissioner of Purchase Tax (Sugarcane), Deputy Commissioner of Purchase Tax (Sugarcane) and an Additional Commissioner of Purchase Tax (Sugarcane).

(d) An Officer or person appointed under clause (d) of sub-sec. ("8) of Sec. 8 shall be subordinate to a Purchase Tax Officer (Sugarcane) and an Assistant Commissioner of Purchase Tax (Sugarcane) within whose jurisdiction he performs his functions.

### **4. Application for a licence :-**

(1) An application for a licence under sub-sec. (2) of Sec. 9 shall be made in Form I to the Commissioner accompanied by the fee of rupees fifty.

(2) The licence under sub-sec. (3) of Sec. 9 shall be issued in Form-II.

(3)

(a) An application for renewal of a licence shall be made in Form-III to the Commissioner accompanied by the fee of rupees ten.

(b) Application for renewal shall be submitted before the 1st day of September every year.

(4) The licence shall be renewed by making thereon an endorsement to that effect and such renewal shall be valid for a period of one year.

(5) The licence issued under Sec. 9 shall be subject to the following conditions, namely:

(i) The owner shall keep a true daily account of the quantity of sugarcane purchased, quantity of sugarcane used and the quantity of sugar manufactured and the quantity of Khandsari Sugar produced.

(ii) The owner shall furnish to the Purchase Tax Officer (Sugarcane) monthly return alongwith a copy of the challan within thirty days from the end of the month to which the return relates.

(iii) The amount of tax payable as per return shall be paid within such period as the State Government may by order specify.

(iv) The owner shall pay the difference, if any, between the amount of tax, assessed on monthly return and the amount of tax paid in accordance with the return within the time allowed thereof.

(v) The owner shall furnish to the Commissioner such information and such documents as may be required by the Commissioner for the purposes of the Act.

(vi) The owner shall comply with the provisions of the Act and the rules made thereunder.

(vii) The owner shall furnish the security as may be required by the Commissioner.

**5. The manner in which security may be required to be furnished :-**

(1) The Security required to be furnished under sub-sec. (1) or (2) of Sec. 7 shall be in any one of the following manners, namely:

(a) by furnishing a bond executed by the owner himself in Form IV with one surety acceptable to the authority passing the order under sub-sec. (1) or (2) of Sec. 7 (hereinafter referred to in this rule as "the order") for such sum as the authority may specify in the order in this behalf and the surety shall execute a bond in Form IV, or

(b) by depositing Government securities in the form of stock certificate or Government promissory notes of a market value of not less than such sum as may be specified in the order or National Savings Certificates, Bond issued by Sardar Sarovar Narmada Nigam of the face value of not less than the said sum, duly endorsed in favour of the Commissioner, or

(c) by furnishing the guarantee of a bank, approved by the Government in this behalf, agreeing to pay to the Commissioner, on demand such sum not exceeding such amount as may be specified in the order, or

(d) by depositing with the Commissioner in cash such sum as may be specified in the order.

(2) Where by reason of an order under sub-sec. (2) of Sec. 7, the security furnished by any owner is rendered insufficient he shall make up the deficiency by furnishing fresh security, or as the case may be, additional security in the manner specified in sub-rule (1) within the time specified in the order.

(3) Where the bank guarantee furnished by the owner is for a specified period the owner shall furnish a fresh bank guarantee or an other security specified in sub-rule (1) before the expiry of the bank guarantee.

#### **6. Furnishing returns :-**

A return to be furnished under Sec. 13 shall be in Form V.

#### **7. Deduction allowed for levy of tax :-**

For the purpose of levy of the tax under Sec. 3, two percent of the gross weight of sugarcane shall be deducted from the gross weight and after such deduction the tax shall be levied on the remaining weight of sugarcane.

#### **8. Method of payment :-**

(1) Every payment of tax, interest, penalty or such determined by way of composition under Sec. 41 shall be accompanied by a challan in Form VI obtained from a Government Treasury or the office of the Purchase Tax Officer (Sugarcane).

(2) Payment shall be made in cash into a Government Treasury accompanied by a challan in quadruplicate. The copies marked "Original" and "Duplicate" shall be returned to the owner duly receipted by the treasury and the copy marked 'Duplicate' shall be submitted by the owner to the concerned Purchase Tax Officer (Sugarcane).

(3) Subject to the provision of Sec. 29 and Rule 8, no payment of tax, interest, penalty or sum determined by way of composition under Sec. 41, shall be made in cash to any officer authority appointed by or under the Act.

**9. Issue of notice under sub-sec (4) of Sec. 13 :-**

The notice to be issued under sub-sec. (4) of Sec. 13 shall be in Form VII.

**10. Remission of tax under Sec. 19 in of case of loss due to calamities etc :-**

(1) Subject to the provisions of sub-rules (2) and (3) the Commissioner may remit the whole or any part of the tax payable of in respect of any period by an owner if such an owner has suffered financially on account of any riot or natural calamity.

(2) No remission of tax shall be made under this rule

(a) except on an application made in that behalf to the Commissioner by the owner setting forth.

(i) the details regarding the riot or, as the case may be, the natural calamity,

(ii) the exact amount of loss sustained by him,

(iii) the extent of relief prayed for and the reasons thereof, and

(iv) the details regarding realisation of any claim made under any insurance or receipt of any grant-in-aid.

(b) if the loss has been substantially, mitigated by the realisation of any claim preferred under any insurance or on receipt of any grant-in-aid.

(3) Where the amount to be remitted under this rule exceeds rupees twenty thousand, the remission of the excess shall not be made without the previous sanction of the State Government.

**11. Submission of appeal or application for revision :-**

(1) Every first or second appeal and every application for revision under Sec. 21, or 22 shall:

(a) be in writing;

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

(c) specify the date of the order against which it is made;

(d) specify reasons if appeal or application for revision is not made within the time allowed;

(e) specify the date and amount of payment of tax or penalty or both if the subject matter or appeal or revision relates to the assessment, re-assessment or levy of penalty;

(f) contain a clear statement of facts;

(g) state precisely and in brief the relief prayed for and;

(h) contain a declaration. Following form be signed and verified by the appellant or the applicant or by a legal practitioner engaged by him or by agent authorised by him in writing in that behalf namely:

"I..... legal practitioner engaged by/agent appointed by/the appellant/applicant/named in the above memorandum of appeal/application for revision, do hereby declare that what is stated herein is true to the best of my knowledge and behalf. Signature....."

(2) The memorandum of appeal or the application for revision shall be accompanied by either the order complained of in original against which it is made or certified copy thereof, unless the omission to produce such order in original or certified copy thereof is explained at the time of the presentation of the appeal or application for revision, to the satisfaction of the appellate or as the case may be revising authority.

(3) An appeal against an order of assessment or a second appeal against such order passed in appeal, shall as far as possible, be in accordance, with Form VIII.

(4) An application for revision against any order shall as far as possible be in accordance with Form K.

(5) The memorandum of appeal or the application for revision shall either be presented by the appellant or applicant or his agent to the appellate or as the case may be revising authority or be sent to the said authority by registered post.

## **12. Furnishing of Security :-**

Any appellant required to furnish security under sub-sec. (4) of Sec. 21 shall

(i) furnish a bond executed by himself in Form X with one surity acceptable to the appellate authority, for such sum as the appellate authority may determine in his discretion and the surity shall execute a Board in Form X, or

(ii) deposit Government Securities in the form of stock Certificates or Government promissory Notes of a market value not less than the sum determined as aforesaid or National Savings Certificates. Bond issued by Sardar Sarovar Narmada Nigam of a face value and less than the said sum, duly endorsed in favour of the Commissioner or furnish to the Commissioner the guarantee of a Bank approved by Government, agreeing to pay to the Commissioner on demand a sum not exceeding the amount determined as aforesaid as the Commissioner may certify as being due from the applicant in respect of the appeal filed by the appellant.

### **13. Summary rejection :-**

(1) If the memorandum of appeal of the application for revision omits to state any of the particulars required under sub-rule (1) of Rule 11 or is not accompanied by the order against which it is made or by a duly certified copy thereof as laid down in sub-rule (2) of Rule 11, the appeal or as the case may be, the application for revision may be summarily rejected: Provided that no appeal or application for revision shall be summarily rejected under this sub-rule unless the appellant or the applicant is given reasonable opportunity to amend the memorandum of Appeal or application or to furnish the copy of order.

(2) The appeal or application for revision may also be summarily rejected on grounds other than those specified in sub-rule (1) which the appellate or as the case may be, revising authority may consider sufficient. The ground shall be recorded in writing by the appellate or revising authority:

Provided that before an order summarily rejecting an appeal or application for revision under this sub-rule is passed, the appellant or, as the case may be, applicant shall be given a reasonable opportunity of being heard.

### **14. Hearing :-**

(1)

(a) Where the appellate or revising authority does not summarily reject the appeal or the application for revision, it shall fix the date for hearing. The date so fixed shall not be earlier than ten days from the date on which intimation thereof is given to the appellant or to the applicant or to his agent or to the legal practitioner

engaged by the appellant or the applicant:

Provided that the date earlier than aforesaid may be fixed for hearing if the appellant or the applicant or his agent or the legal practitioner engaged by him agrees there to in writing, with the concurrence of the other side, if any.

(b) The authority aforesaid may for sufficient reasons to be recorded in writing adjourn at any stage the hearing of an appeal or application for revision to a different time on the same day or to any other day.

(2) If on the date and at the time fixed for hearing, the appellant or the applicant does not appear before the said authority either in person or through an agent, the said authority may dismiss the appeal or the application or may decide it ex-parte as it may think fit:

Provided that if, within thirty days from the date on which the appeal or application for revision is dismissed or decided ex-parte under this sub-rule, the appellant or, as the case may be, the applicant may make an application to the appellate or revising authority for setting aside its order and satisfies it that the intimation of the date of hearing was not duly served on him or that he was prevented by sufficient cause from appearing when the appeal or, as the case may be, application for revision was called on for hearing, the said authority shall make an order setting aside the dismissal or ex-parte decision on such terms as it thinks fit, and shall appoint a day for proceeding with the appeal or application for revision.

#### **15. Notice to person likely to be affected adversely :-**

(1) Before appellate or revising authority passes an order in appeal or revision which is likely to affect the appellant or applicant or any other person adversely, it shall serve a notice in Form XI on such person and shall give him a reasonable opportunity of being heard.

(2) Before the Commissioner passes any order under clause (a) of sub-sec. (1) of Sec. 22 which is likely to affect adversely to any person who is a party to such proceeding, he shall serve on such person a notice in Form XI and shall give him a reasonable opportunity of being heard.

#### **16. Supply of copy of order to the appellant or applicant and**

**to the officer concerned :-**

A copy of the order passed in an appeal or revision shall be furnished free of charge to the appellant, or as the case may be, the applicant or to any other agent duly authorised by him, or to person regularly employed by him in connection with his business or to any adult member of the family residing with him or to any other person adversely affected thereby and a copy of the order passed under clause (a) of sub-sec. (1) of Sec. 22 shall be furnished free of charge to the party to such proceedings or to any other agent duly authorised by him or to a person regularly employed by him in connection with his business or to any adult member of his family residing with him or to any other person adversely affected thereby; and another copy shall be sent to the officer concerned whose order form the subject of the respective proceeding.

**17. Notice for rectification of mistake :-**

The notice required to be given under the proviso to sub-sec. (1) of Sec. 27 shall be in Form XII.

**18. Order regarding sanction of refund :-**

When the Commissioner is satisfied that a refund is due to any person, he shall record an order showing the amount of refund and shall communicate the same to the person concerned.

**19. Refund Payment Order :-**

When an order for refund has been made under Rule 18, then unless the Commissioner sets off the amount of refund against any payment due from the person on account of tax, interest, or penalty under the Act, the Commissioner shall issue to him refund payment order in Form XIII and simultaneously forward a copy thereof to the concerned treasury officer or to the concerned branch of State Bank of India or the concerned branch of State Bank of Saurashtra.

**20. Order accepting composition money :-**

(1) Where under Sec. 41, the Commissioner accepts a sum from any person by way of composition of an offence, he shall communicate in that behalf in Form XIV specifying therein,

(a) the sum determined by way of composition;

(b) the date on or before which the sum shall be paid into the Government treasury;

(c) the authority before whom and the date on or before which a receipted challan shall be produced in proof of such payment, and;

(d) the date on or before which the person shall report the fact to the Commissioner.

(2) The Commissioner shall send the copy of such order to the person from whom the said sum is decided to be accepted by way of composition and also to the authority referred to in clause (c) of sub-rule (1).

**21. Penalty for breach of rules :-**

A breach of any of these rules by an owner shall be an offence under this rule and the same shall on conviction be punishable with fine which may extend to two thousand rupees and, when the offence is continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.