
Madhya Pradesh Sugarcane (Purchase Tax) Act, 1961**39 of 1961****CONTENTS**

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Madhya Pradesh Sugarcane (Purchase Tax) Act, 1961**39 of 1961**

An Act to impose a tax on the purchase of sugarcane by Factories. Be it enacted by the Madhya Pradesh Legislature in the Twelfth Year of the Republic of India as follows :- 1. Received the assent of the President on the 25th November, 1961, assent first published in the "Madhya Pradesh Gazette" on the 8th December, 1961.

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Madhya Pradesh Sugarcane

(Purchase Tax) Act, 1961.

(2) It extends to the whole of Madhya Pradesh.

(3) It shall come into force on such date as the State Government may, by Notification, appoint in this behalf.

2. Definitions :-

In this Act, unless the context otherwise requires,-

1[(a) "Commissioner" means the Commissioner of Sales Tax appointed under Section 3 of the Madhya Pradesh General Sales Tax Act, 1958 (2 of 1959)];

(b) "Owner of a factory" means the person who or the authority which owns or has the ultimate control over the affairs of the factory and shall, where the said affairs are entrusted to a Manager, Managing Director, or a Managing Agent; 2[x x x]

3[(b-1) "year" means the period beginning on the first day of October in any year and ending on the thirtieth day of September in the year next following];

(c) words and expressions used but not defined in this Act, but defined in the Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958 (No. 1 of 1959) shall have the meanings respectively assigned to them in that Act.

1. Substituted by M.P. Act No. 24 of 1962.

2. Omitted by M.P. Act No. 24 of 1962.

3. Inserted by M.P. Act No. 24 of 1962.

2A. Officers Who Shall Assist Commissioner :-

1[(1) The following category of officers appointed under the Madhya Pradesh General Sales Tax Act, 1958 (2 of 1959), shall assist the Commissioner in carrying into effect the provisions of this Act, namely :-

(a) Additional Commissioner of Sales-Tax;

(b) Assistant Commissioner of Sales-Tax;

(c) Sales-Tax Officer; and

(d) Inspector of Sales-Tax.

(2) The officers mentioned in sub-section (1) shall have jurisdiction under this Act over such area within which they exercise jurisdiction under the Madhya Pradesh General Sales Tax Act, 1958 (2 of 1959).

(3) An Additional Commissioner of Sales Tax shall exercise all the powers and perform all the duties as are conferred or imposed on the Commissioner by or under this Act and the other officers referred to in sub-section (1) shall exercise such powers and perform such duties as may be delegated to them by the Commissioner.]

1. Inserted by M.P. Act No. 24 of 1962.

3. Imposition Of Tax :-

(1) There shall be levied and collected in such manner as may be

prescribed, a tax on the 1[purchase of sugarcane made by the owner of a factory] at a rate of not less than 1[thirty two Naye Paise and not more than sixty seven Naye Paise per quintal] of sugarcane as the State Government may, from time to time, by notification, specify.

2[(2) The tax levied under sub-section (1), shall be payable by the owner of the factory to the State Government on such date, at such place, in such instalments and in such manner as may be prescribed].

1. Substituted by M.P. Act No. 24 of 1962.

2. Substituted by M.P. Act No. 26 of 1965.

3A. Submission Of Returns And Payment Of Tax :-

1[(1) Every owner of a factory shall furnish a correct and complete return for such period, in such form, by such date, and to such authority as may be prescribed.

(2) Every such return shall be signed and verified in accordance with Order VI, Rule 15, of the Code of Civil Procedure, 1908 (V of 1908).

2[(3) Every such return shall be accompanied by a receipt evidencing the payment on Government account into a Government treasury of the amount of tax payable under sub-section (2) of Section 3 of this Act].

1. Inserted by M.P. Act No. 24 of 1962.

2. Substituted by M.P. Act No. 26 of 1965.

3B. Assessment Of Tax :-

(1) If the Commissioner is satisfied that the return furnished by the owner of a factory in respect of any period is correct and complete he shall assess the owner of a factory on it.

(2) If any owner of a factory fails to furnish a return in respect of any period by the date prescribed for such period under sub-section (1) of Section 3-A or knowingly furnishes incomplete or incorrect return for any such period the Commissioner may, after making such inquiry as he considers necessary and after giving such owner of a factory a reasonable opportunity of being heard, assess, to the best of his judgment the amount of tax due from him for such period.

1[(3) Where the owner of a factory has not paid the amount of tax payable under sub-section (2) of Section 3 of this Act along with the return furnished by him or where as a consequence of assessment under this section, any amount of tax is due from the owner of a factory the Commissioner shall cause a notice to be served upon him requiring him to pay the amount of tax due from him and remaining unpaid within ten days from the date of service of such notice.

1[(4) Any tax payable under this Act, if not paid by the last date prescribed for payment thereof shall carry interest from such date till the date of payment at such rate as the State Government may, from time to time, by notification, specify and different rates may be specified for different periods].

(4) Any tax payable under this Act, if not paid by the last date prescribed for payment thereof shall carry interest at the rate of six per cent, per annum, from such date till the date of payment.]

(5) Where any tax payable under this Act, or interest thereon, or both, as the case may be, remains unpaid for a period exceeding fifteen days beyond the date specified in sub-section (3), the Commissioner may, after giving the owner of the factory liable to pay the same a reasonable opportunity of being heard direct him to pay, in addition to the amount of arrear of tax and interest thereon, a further sum

by way of penalty not exceeding ten percentum of the total sum payable by a date to be specified in the order.

(6) Any tax, or interest, or penalty, if any, or part thereof remaining unpaid for a period of one month after the date such tax, interest or penalty, if any, becomes payable under sub-section (3), (4) or (5) as the case may be, shall be recoverable as an arrear of land revenue.

1. Substituted by M.P. Act No. 33 of 1974.

3C. Finality Of Assessment, Etc., And Recovery Of Dues :-

No assessment made or penalty imposed in accordance with the provisions of this Act shall be called into question in any Civil Court and save as provided in Sections 5 and 5-A no appeal or application for revision shall lie against such assessment or penalty.

4. Appeal :-

Any person aggrieved by an order of assessment made under this Act or by the imposition of interest or penalty 1[under sub-section (4) or sub-section (5) of Section 3-B] as the case may be, may within thirty days of the intimation of such order, prefer an appeal to the 1[Commissioner]:

Provided that no appeal shall be entertained under this section unless the tax with interest and penalty, if any, in respect of which the appeal has been preferred, has been paid.

1 Substituted by M.P. Act No. 24 of 1962.

5. Appellate Power Of Commissioner :-

(1) The 1[Commissioner] may either admit the appeal or, after calling for the record and giving the appellant an opportunity to be heard, may summarily reject it:

Provided that the 1[Commissioner] shall not be bound to call for the record where the appeal is time-barred or does not lie.

(2) If the appeal is admitted, a date shall be fixed for hearing and notice shall be served on the respondent.

(3) After hearing the parties, if they appear, the 1[Commissioner] may confirm, vary or reverse the order appealed against; or may direct such further investigation to be made, or such additional evidence to be taken, as he may think necessary; or may himself take such additional evidence; or may remand the case for disposal with such directions as he thinks fit.

(4) An order passed by the 1[Commissioner] in appeal shall be final.

1. Substituted by M.P. Act No. 24 of 1962.

5A. Revision :-

1[The Commissioner may, of his own motion or on information received, call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any person referred to in Section 2-A is erroneous in so far as it is prejudicial to the interest of revenue, he may, after giving the owner of a factory an opportunity of being heard, and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment:

Provided that no proceedings shall be initiated under this section after the expiry of three years from the date of the order sought to be revised.]

1. Inserted by M.P. Act No. 24 of 1962.

6. Refunds :-

(1) If, consequent on an order passed by him in an appeal or otherwise, the 1[Commissioner] is satisfied that the amount of the tax or interest or penalty are all paid by or on behalf of any person liable to pay the same for any 1[year] exceeds the amount to which he has been assessed under this Act for that year, he shall cause a refund to be made of any amount, in the manner prescribed, found to have been paid in excess either in cash or at the option of the aforesaid person, by the deduction of such excess from the amount of tax due in respect of any other year.

(2) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive or the rectification of any mistake by any officer of his decision which is subject to appeal.

2[(3) Where the tax payable under this Act has been remitted in whole or in part in any year under Section 16, the tax shall,-

(a) if levied assessed and collected for that year be refunded to the extent of such remission in such manner and subject to such conditions as may be prescribed; or

(b) if levied and assessed for that year be deemed to have been reduced to the extent of such remission and be collected accordingly, anything contained in this Act to the contrary notwithstanding.]

1. Substituted by M.P. Act No. 24 of 1962.

2. Inserted by M.P. Act No. 33 of 1974.

7. Accounts :-

Every owner of a factory shall keep true account of all the purchases of sugarcane made by him during any 1[year] and keep such other registers in such form as may be prescribed.

1. Substituted by M.P. Act No. 24 of 1962.

8. Production Of And Inspection Of Accounts And Documents And Search Of Premises :-

(1) The 1[Commissioner] may, subject to such conditions as may be prescribed, require any owner of a factory to produce before him any accounts, registers, or documents relating to the purchase of sugarcane or to furnish any information relating to the stock of sugarcane or purchases made by him, as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to the stocks of sugarcane of any owner of a factory shall, at all reasonable times, be open to inspection by the 1[Commissioner].

(3) If the 1[Commissioner] has reason to suspect that any owner of a factory is attempting to evade payment of tax payable under this Act, he may for reasons to be recorded in writing, seize such accounts, registers or documents of the owner of a factory as he may consider necessary and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(4) For the purposes of sub-section (2) or sub-section (3), the 1[Commissioner] may enter and search any factory.

1. Substituted by M.P. Act No. 24 of 1962.

9. Fines And Punishments :-

If a person defaults in the payment of tax levied under sub-section (1) of Section 3, or 1[sub-section (4) or sub-section (5) of Section 3-B] or contravenes any of the provisions of this Act, or of the rule made thereunder, he shall, without prejudice to his liability for the payment of interest or penalty, or both, as the case may be, be punishable with imprisonment up to six months, or to fine not exceeding rupees five thousand, or both, and in the case of continuing contravention to a further fine not exceeding rupees one thousand for each day during which the contravention continues.

1. Substituted by M.P. Act No. 24 of 1962.

10. Institution Of Proceeding :-

(1) No prosecution shall be instituted under this Act except upon a complaint made by or under the authority of the 1[Commissioner].
2[x x x]

(2) On the application of a person accused of an offence under this Act, the 1[Commissioner], 2[x x x] may at any stage compound such offence by levying a composition fee not exceeding five thousand rupees.

(3) No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act, or any rule made thereunder.

1. Substituted by M.P. Act No. 24 of 1962.

2. Omitted by M.P. Act No. 24 of 1962.

11. Special Powers Of Magistrate :-

Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898 (V of 1898), it shall be lawful for a Magistrate of the First Class, specially empowered by the State Government in this behalf, trying any case under this Act, to pass a sentence of fine, not exceeding five thousand rupees, on any person convicted of an offence under this Act.

1. See now the Code of Criminal Procedure, 1973 (2 of 1974).

12. Protection Of Action Taken Under This Act :-

(1) No suit, prosecution or other legal proceeding shall lie against 1[any servant of the State Government] for anything which is, in good faith, done, or intended to be done, under this Act, or in pursuance of any order or rule made thereunder.

(2) No suit or other legal proceeding shall lie against the State Government for any damage caused or likely to be caused by anything which is, in good faith, done, or intended to be done, under this Act, or in pursuance of any order or rule made thereunder.

1. Substituted by M.P. Act No. 24 of 1962.

13. Offences By Companies :-

(1) If the person committing an offence under this Act is 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 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 any 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.

14. Madhya Pradesh Act No. 2 Of 1959 Not To Apply To Sugarcane :-

No sale or purchase tax under any other Madhya Pradesh Act shall be payable in respect of any transition or purchase of sugarcane in respect of which a tax is payable under this Act, anything contained in the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959), to the contrary notwithstanding.

15. Delegation Of Commissioners Powers And Duties :-

Subject to the provisions of this Act and to such restrictions and conditions, as may be prescribed, the 1[Commissioner] may by order in writing, delegate any of his powers and duties under this Act except those under 1[Sections 5 and 5-A] and sub-section (2) of Section10, to any officer subordinate to him.

1 Substituted by M.P. Act No. 24 of 1962.

16. Powers Of The State Government To Grant Remissions :-

The State Government, on being satisfied that it is necessary so to do in the public interest, with a view to-

(a) encouraging or regulating the supply of sugarcane to or its purchase by factories; or

(b) encouraging the establishment of new factories; or

(c) assisting factories which are continuously running into loss due to-

- (i) under crushing, or
 - (ii) purchase of cane yielding low sugar recovery;
 - 1[(d) encouraging the export of sugar out of the territory of India;]
- may, by notification, remit in whole or in part, the tax payable under this Act, in any 1[year], by every such factory falling under clause (a) or clause (b) or clause (c) 2[or clause (d)].
- 1. Substituted by M.P. Act No. 24 of 1962.
 - 2. Inserted by M.P. Act No. 24 of 1962.

17. Power To Make Rules :-

- (1) The State Government may make rules for carrying out the purposes of this Act.
 - (2) Without prejudice to the generality of the foregoing power, such rules may provided for-
 - 1[(a) the date on which, the place at which, the instalments and the manner in which the tax shall be paid by the owner of a factory under sub-section (2) of Section 3];
 - (b) collecting any information or statistics for the purposes of this Act;
 - 2[(c) the manner of and the form in which, the authority to whom, the period for which and the date by which the return shall be furnished under sub-section (1) of Section 3-A];
 - 2[(d) the form of notice to be served under sub-section (3) of Section 3-B;
 - (d-1) the manner in which tax shall be assessed and collected;
 - (d-2) the procedure for the other matters (including fees) incidental to the disposal of appeal];
 - (e) the matters which are to be and may be prescribed.
 - (3) All rules made under this Act shall be laid on the table of the Legislative Assembly.
- 1. Inserted by M.P. 26 of 1965.
 - 2. Substituted by M.P. 24 of 1962.

18. Repeal :-

Section 23 and clause (m) of sub-section (2) of Section 30 of the Madhya Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1958 (No. 1 of 1959), are hereby repealed.