

Bombay Motor Vehicles (Taxation Of Passenger) Rules, 1958

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Bombay Motor Vehicles (Taxation Of Passenger) Rules, 1958

In exercise of the powers conferred by Section 22 of the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958 (Bom LXVII of 1958), the Government of Bombay hereby makes the following rules, namely

1. Short title and commencement. :-

- (1) These rules may be called the Bombay Motor Vehicles (Taxation of Passengers) Rules, 1958.
- (2) They shall come into force on the 15th October, 1958.

2. Definitions :-

In these rules, unless the context otherwise requires:-

- (a) "Act" means of the Bombay Motor Vehicles (Taxation of Passengers) Act, 1958;
- (b) "agent" means a person authorised by the operator with the approval of the Tax Officer to act as his agent for all or any of the purposes of these rules.

- (c) "Form " means a Form appended to these rules;
- (d) "Government treasury" in relation to the areas where there is no treasury or sub-treasury, means the State Bank of India or the Reserve Bank of India;
- (e) "section " means a section of the Act;
- (f) "week" means every consecutive period of seven days commencing on the first day of the month, and includes a period less than seven days ending on the last day of that month.

3. Officers to receive returns. :-

An inspector of Motor Vehicles and a Police Officer of or above the rank of a Sub-Inspector shall be the officers to receive returns under section 4.

4. Submission of returns. :-

- (1) Every fleet-owner shall deliver or cause to be delivered to the [Director of Transport], Bombay, or to such officer as he may specify
- (2) Every other operator shall deliver or cause to be delivered to the Regional Transport Officer or the Assistant Regional Transport Officer within whose jurisdiction such operator is residing or is having his place of business or to such officer as the Regional Transport Officer or, as the case may be, the Assistant Regional Transport may specify in this behalf-
 - (a) a daily return in Form II in respect of every stage carriages authorised to be used exclusively as contract carriage under a permit;
 - (b) a weekly return in Form III in respect of every stage carriage held under a permit;
 - (c) a monthly return in Form IV in respect of all the stage carriages held under a permit.

5. Manner of delivering returns. :-

- (1) Every return under rule 4 shall be delivered or cause to be delivered by registered post, by hand delivery or by posting it under certificate of posting.
- (2) Every return received by the officer specified under sub-rule (1) or sub-rule (2) of rule 4 shall be forwarded by registered post to the [Director of Transport] or, as the case may be, the Regional Transport Officer or Assistant Regional Transport Officer within

forty-eight hours of its receipt.

6. Time limit for delivering returns. :-

(1) Every monthly return in Form I shall be delivered or cause to be delivered before the end of the month immediately succeeding the month to which the return relates.

(2) Every daily return in Form II shall be delivered or cause to be delivered on the day immediately succeeding the day to which the return relates.

(3) Every weekly return in Form III shall be delivered or cause to be delivered within two days of the expiry of the week to which the return relates.

(4) Every monthly return in Form IV shall be delivered or cause to be delivered not later than the seventh day of the month immediately following the month to which the return relates.

7. Submission of receipt evidencing payment of tax. :-

The receipt evidencing payment of tax payable during any month in accordance with the returns submitted under Section 4 shall, in the case of a fleet-owner, be forward to the officer authorised to receive returns under sub-rule (1) of Rule 4 so as to reach him on or before the last day of the month immediately succeeding such month, and in the case of any other operator shall be forwarded to the officer authorised to receive returns under sub-rule (2) of that rule on or before the 10th day of such month.

7A Refund Of Excess Payment

(1) Subject to the provisions of sub-rule (2), a Tax Officer shall suo motu or on an application by a operator in Form IV-A order the refund of the amount of tax and penalty (if any) paid by, or recovered form, the operator in excess of the amount due from him in that behalf. The refund order shall be made in Form IV-B.

(2) No refund order under sub-rule (1) shall be made unless the Tax Officer is satisfied (regard being had to the record of the case or the application) that the refund of the tax and penalty (if any) is due to the operator.

8. Notice in cases referred to in Section 6. :-

Before determining the sum payable to the State Government in the cases referred to in Section 6, the Tax Officer shall serve a notice in Form V on the operator and shall fix a date (not being

earlier than seven days, from the date of receipt of such notice) for the production of such accounts and documents as the Tax Officer may require and for considering the objections, if any, of the operator to the demand

9. Notice of demand. :-

(1) The notice of demand to be issued under sub-section (1) of Section 9 shall be in Form VI.

10. Manner of serving notice of demand. :-

(1) A notice of demand under the Act shall be served by any of the following methods, namely:-

(a) by delivery or tender of a copy of the notice to the addressee or his agent or any other person duly authorised to receive notice on his behalf;

(b) by post under a certificate of posting:

Provided that if upon an attempt having been made to serve any such notice by any of the above mentioned methods, the Tax Officer is satisfied that the addressee is keeping out of the way for the purpose of avoiding service, or that, for any other reason the notice cannot be served by any of the above mentioned methods, the Tax Officer may direct that the notice shall be served by affixing a copy thereof on some conspicuous part of the addressee's place of business or garage or of the building in which his place of business or garage is located, or where the addressee

(2) Where an officer serving notice (hereinafter in this rule referred to as the "serving officer") delivers or tenders a copy of the notice to the addressee personally or to his agent or any other person duly authorised to receive notice on his behalf, the serving officer shall require the addressee or any other person to whom the copy is so delivered or tendered to put his signature on an acknowledgement of service endorsed on the original notice and the addressee or such person shall comply with such requirement. When the notice is served affixing a copy thereof in accordance with the proviso to sub-rule (1), the serving officer shall return the original to the Tax Officer who issued the notice with a report endorsed thereon or annexed thereto stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the place of business or garage of the addressee, or the building in which his place of business or garage is or was located, or the place where the

addressee ordinarily resides or resided was identified and in whose presence the copy was affixed. The serving officer shall also require the person identifying the place of business or garage or residence of the addressee to put his signature or thumb impression on his report, and such person shall comply with such requirement.

(3) When the notice is served by post, the service shall be deemed to be effected by properly addressing, pre-paying and posting under a certificate of posting, the notice, and unless the contrary is proved the service shall be deemed to have been effected at the time at which the service would be delivered in the ordinary course of post.

(4) The Tax Officer at whose instance the notice was issued shall, if he is satisfied from the report of the serving officer or the postal acknowledgement or by taking such evidence as he deems proper, that the notice has been in service in accordance with the rule, record an order to that effect. If he is not satisfied that the notice has been properly served, he may, after recording an order to that effect, direct the issue of a fresh notice.

11. Use of stage carriage prohibited when returns not submitted. :-

No stage carriage in respect of which any return other than a daily return has not been delivered within the period prescribed in Rule 6 shall be used on any public road in the State for more than fifteen days after the expiry of the said period until the returns are submitted.

12. Appeals. :-

(1) An appeal against the notice of demand shall, in the case of a fleet-owner, lie to the State Government and such appeal shall be heard by the Secretary or the Deputy Secretary to the Government of Bombay in the Home Department on behalf of the State Government.

(2) An appeal against the notice of demand shall, in the case of any other operator, lie to the Commissioner within the limits of whose jurisdiction the area of jurisdiction of the Tax Officer issuing the notice lies.

(3) Every appeal against the notice of demand shall be made in the form of a memorandum in duplicate setting forth the name and address of the appellant, the grounds of objection to the notice of demand, the amount admitted by the appellant to be due, and

particulars to prove payment of such amount. Every such memorandum shall be signed and verified by the appellant and shall be accompanied by a certified copy of the notice of demand appealed against.

12A Grant Of Stay In Appeal And Revision

(1) No appellate or revisional authority, while entertaining and disposing of the appeal or revision application, shall grant a stay against notice of demand unless the appellate or revisional authority is satisfied that there is an apparent error in interpretation and application of relevant law resulting in undue hardship to the aggrieved party.

(2) Where the stay is granted under sub-rule (1), the appellate or revisional authority shall, as far as possible, dispose of the appeal or application for revision, within a period of six months from the date of grant of such stay.

13. Accounts. :-

(1) Where a stage carriage is used otherwise than as a contract carriage-

(i) a serially numbered pre-printed ticket of appropriate denomination shall be issued to every passenger;

(ii) a Way-Bill in Form VII or in such other form as may be approved by Government shall be prepared at the end of each shift of duty by the conductor from whom it shall be obtained by the operator.

(2) Where a stage carriage, is used as a contract carriage, tickets from serially numbered books containing a hundred numbered duplicate forms each stamped with the seal of the Tax Officer, shall be issued in Form VII in respect of each of the trips. One copy of Form VIII duly completed shall be issued to the hirer, and a carbon copy thereof retained in the book.

(3) The Way-Bills mentioned in sub-rule (1) and the books mentioned in sub-rule (2) shall be available for inspection with the operator for a period of 18 months from the date on which the fare was collected.

14. Power of certain officers. :-

(1) For the purpose of Section 14, any Tax Officer, any officer of the Motor Vehicles Department or any Police Officer of or above the rank of a Sub-Inspector may require any passenger traveling in a

stage carriage to produce his ticket for inspection and the passenger shall comply with such requirements.

(2) Any Tax Officer, any Police Officer of or above the rank of a Sub-Inspector or any officer of the Motor Vehicles Department, in uniform may require the driver of any stage carriage in any public place to stop such stage carriage and cause it to remain stationary so long as may reasonably be necessary for the purpose of checking the tickets issued to the passengers.

(3) Any Tax Officer may, for carrying out the purposes of the Act or these rules issue, from time to time, instructions to any operator for the proper maintenance of registers and accounts used or to be used in connection with the business of the operator or for the maintenance of any additional accounts that may be considered necessary by such officer and the operator shall comply with such requirements and instructions.