

Goa Tax On Luxuries Act, 1988

17 of 1988

[26 August 1988]

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Goa Tax On Luxuries Act, 1988

17 of 1988

[26 August 1988]

An Act to provide for levy of tax in the State of Goa. Be it enacted by the Legislative Assembly of Goa in the Thirty-ninth Year of the Republic of India as follows:-

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Goa Tax on Luxuries Act, 1988.
- (2) It extends to the whole of the State of Goa.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) accommodation provided for commercial purpose means a building or part of a building where accommodation is provided for holding trade fairs, exhibitions, demonstrations, sales promotions, conferences, etc., and includes open space where tents or any enclosure erected for giving on hire space for holding the activities herebefore mentioned.

(aa) appointed day means the day on which this Act comes into force;

(b) business includes.--

(a) The activity of providing residential accommodation and any other services in connection with, or incidental to or ancillary to such activity of providing residential accommodation by a hotelier for monetary consideration;

(b) The activity of providing, stocking, wending, distributing or supplying of luxuries;

(c) The activity of providing accommodation for commercial purpose, such as, for holding trade fairs, exhibitions, demonstrations, sales promotions, conferences, etc., for monetary consideration;

(c) club includes both, an incorporated as well as unincorporated association of persons, by whatever name called;

(cc) Commissioner means the person appointed to be the Commissioner of Luxury Tax under section 3 for the purposes of this Act and includes Additional Commissioner of Luxury Tax;

(d) hotel includes a residential accommodation, a lodging house, an inn, a public house or a building or part of building, a club, a boat, vessel or any place where a residential accommodation is provided by way of business;

"Explanation- A residential accommodation provided under Timeshare Agreement or under Package Deal Agreement or under any such system wherein the facility of availing residential accommodation during a given period in a year is allowed upon a lumpsum payment shall be deemed to be a "hotel" for the purposes of this Act.;

(e) hotelier means the owner of the hotel and includes the person who for the time being is in charge of the management of the hotel;

(ee) luxuries means commodities or services specified in the Schedule, ministering the enjoyment, comfort or pleasure extraordinary to necessities of life;

(f) luxury provided in a hotel means accommodation and other

services provided in a hotel, including air conditioning, telephone, television, radio, music, entertainment, extra beds and the like, but does not include the supply of food and drinks. person includes any company or association or body of individuals whether incorporated or not, and also a

(g) Hindu undivided family, a firm, a local authority, a corporation, a State Government and the Central Government;

(h) place of business includes an office, or any other place which a hotelier or proprietor or stockist uses for the purpose of his business or where he keeps his books of accounts.

(i) prescribed means prescribed by rules made under this Act;

(ii) proprietor in relation to accommodation provided for commercial purpose includes the person who for the time being is in-charge of the management of the building or part of the building or tent or enclosure, as the case may;

(j) receipt means the amount of monetary consideration received or receivable by a hotelier or proprietor or stockist, as the case may be or by his agent for any luxury provided in a hotel and value of stock of other luxuries provided;

(k) registered hotelier or proprietor or stockist, as the case may be means a hotelier or proprietor or stockist, as the case may be registered under section 9 of this Act;

(l) rules means rules made under this Act;

(ll) Schedule means the Schedule appended to this Act;

(m) State means the State of Goa;

(mm) stock of luxuries means the quantity of luxuries being the own stock of the stockist or stock entered in the records or account of the stockist or the quantity of luxuries the stockist receives or procures during any year for stocking, wending or distributing or supplying to a wholesaler, intermediary, retailer, or any person but shall not include any quantity of luxuries held in stock on the day or the date of commencement of the Goa Tax on Luxuries (Amendment) Act, 2001;

(mmm) stockist means a person who has in his possession or custody or in his control the stock of luxuries procured in any manner, or manufacture made or processed by him in the course of business in the State or produced or caused to be produced by him into the State, either in his own account or of any others, from any place outside the State, for stocking, wending or supplying such luxuries;

(n) tax means the tax levied on luxuries provided in a hotel or for accommodation provided for commercial purpose and on other

luxuries provided under this Act, and includes surcharge if any, leviable;

(o) Tribunal means a Tribunal constituted under section 4;

(p) turnover of receipts means, the aggregate of the amounts of monetary consideration received or receivable by a hotelier or by his agent in respect of luxuries provided in a hotel during a given period and includes the aggregate of amount of monetary consideration received or receivable by the proprietor for accommodation provided for commercial purpose;

(pp) turnover of stocks of luxuries in relation to stockist in respect of any year means the aggregate of the value of stock of luxuries;

(ppp) value of stock of luxuries means,-

(i) in respect of stockist being a manufacturer of any of the luxuries, the value of luxuries calculated at the ex-factory price;

(ii) in respect of any other stockist, the value of such luxuries calculated at the price thereto as per the bill, invoice or consignment note or other document of like nature or any person within the State or outside the State from whom such luxuries are received;

Explanation:- In respect of any stockist mentioned in sub-clause (i) and (ii), the value of stock of luxuries shall include,-

(a) excise duty, countervailing duty paid or payable on such luxuries by a manufacturer or importer thereof as the case may be; and

(b) transport charges, insurance charges, packing charges, forwarding and handling charges, if any, for carrying such luxuries to any premises, godown, warehouse or any other place of the stockist;

(q) year means,-

(i) the financial year; or

(ii) in relation to any particular registered hotelier or stockist, as the case may be for the purposes of this Act, means the year by reference to which the accounts of the hotelier or stockist, as the case may be are ordinarily maintained in his books of accounts.

3. Taxing Authorities :-

(1) For the purpose of implementing the provisions of this Act, the State Government shall appoint an officer to be called the Commissioner of Luxury Tax for the whole of the State of Goa.

(2) To assist the Commissioner in the execution of his functions under this Act, the State Government shall appoint Assistant

Commissioner of Luxury Tax and such number of-

- (a) Luxury Tax Officers,
 - (b) Assistant Luxury Tax Officers,
 - (c) Luxury Tax Inspectors and
 - (d) Other Officers and persons, and give them such designation as the State Government thinks necessary.
- (3) The State Government may, subject to such restrictions and conditions as it may impose, by notification in the Official Gazette, delegate to the Commissioner the powers (not being powers relating to the appointments of Assistant Commissioner of Luxury Tax and Luxury Tax Officers) conferred on the State Government by sub-section (2).
- (4) The Commissioner and all Officers and persons appointed under sub-section (2) shall exercise such powers as may be conferred and perform such duties as may be required, by or under this Act.*
- (5) The Commissioner and all Officers and persons appointed under sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).
- (6) The superintendence and control for the proper execution of the provisions of this Act and the rules made thereunder relating to the levy and collection of the tax shall vest in the Commissioner.

4. Tribunal :-

(1) Subject to the provisions of this section, the State Government shall constitute a Tribunal consisting of one or more members as it thinks fit to discharge the functions conferred on the Tribunal by or under this Act;

Provided that, where the Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has been a member of the Central Legal Service (not below Grade II) for at least three years, or who has been in practice as an advocate for at least ten years, and where the Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

(2) If the Tribunal consists of more than one member, the State Government shall appoint one of the members of the Tribunal to be the Chairman thereof.

(3) The qualification of the member or members constituting the Tribunal and the period for which such member or members shall hold office, shall be such as may be prescribed.

(4) The State Government may terminate the appointment of any member of the Tribunal before the expiry of the term of his office if such member-

a) is adjudged as an insolvent; or

b) engages during his term of office in any paid employment outside the duties of his office; or

c) is or becomes, in any way concerned or interested in any contract or agreement made by or on behalf of the State Government or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom; or

d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body; or

e) is convicted of an offence involving moral turpitude:

Provided that, before terminating the appointment of any member under this sub-section, such member shall be given a reasonable opportunity of making representation against such termination of appointment.

(5) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(6) If the Tribunal consists of more than one member, the functions of the Tribunal may be discharged by any of the members sitting either singly or in benches of two or more members, as may be determined by the Chairman.

(7) Where the Tribunal consists of more than one member and they are divided on any matter arising for decision before them, the decision shall be the decision of the majority, if there be a majority; but if the members are equally divided, they shall state the point or points on which they differ and the case shall be referred by the Chairman for hearing on such point or points to one or more of the other members of the Tribunal, and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case, including those who first heard it.

(8) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award costs, and the amount of such costs shall be recoverable from the person who is ordered to pay the same as arrears of land revenue.

(9) The Tribunal shall for the purpose of regulating its procedure and disposal of its business make regulations not inconsistent with the provisions of this Act and the rules made thereunder:

Provided that the regulations so made shall not have effect until they are approved by the State Government and published in the Official Gazette.

(10) Notwithstanding anything contained in this section, the State Government may, by notification in the Official Gazette, confer on any Tribunal constituted or functioning under any other law for the time being in force, the powers conferred on a Tribunal by or under this Act and thereupon such other Tribunal shall be deemed to be a Tribunal constituted under this section in relation to the said law notwithstanding anything inconsistent in such other law;

Provided that the provisions of sub-sections (3) and (4) shall not apply to the Tribunal on which such powers are so conferred

(11) Any proceedings before the Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code (Central Act 45 of 1860).

5. Incidence And Levy Of Tax :-

(1) Subject to the provisions of this Act and the rules made thereunder, there shall be levied a tax on the turnover of receipts of a hotelier.

(2) There shall be levied a tax on the turnover of receipts at the following rates, namely:-

(a) Where the charge for luxury provided in a hotel exceeds Rs. 1500/- 8% of the charge per day of luxury provided.

(b) Where the hotel providing luxury is classified or recognized as Three star and above by the Department of Tourism, Government of India. 8% of the charge per day of luxury provided.

(c) In any other cases 5% of the charge per day of luxury provided. Provided that where the charges are levied otherwise than on daily basis, then the charges for determining the tax liability under this section shall be computed proportionately for a day and based on the total period of occupation of the accommodation for which the charges are made.

(3) Where in addition to the charges for luxury provided in a hotel, service charges are levied and appropriated by the hotelier and not paid to the staff, then such charges shall be deemed to be part of the charges for luxury provided in the hotel.

(4) Where luxury provided in a hotel to any person (not being an employee of the hotel) is not charged at all, nevertheless there shall be levied and collected a tax on such luxury at one-fourth of the rates specified in sub-section (2), as if full charges for such luxury were paid to the hotelier.

(5) The tax shall not be levied and payable in respect of the turnover of receipts for supply of food and drinks, on the sale of

which the hotelier is liable to pay sales tax under the Goa Sales Tax Act, 1964 (Act 4 of 1964).

(6) For the purposes of this Act, tax collected separately by the hotelier shall not be considered to be part of the receipt of the turnover of receipts of the hotelier.

5A. Levy Of Tax On Luxuries :-

(1) Subject to the provisions of this Act, there shall be levied and collected a tax on the turnover of stock of luxuries, in respect, of luxuries mentioned in column (2) of the Schedule I, at the rate specified in the corresponding entry in column (3) of the Schedule.

(2) The tax levied under sub-section (1) shall be paid by every registered stockist or a stockist liable to get himself registered under this Act.

(3) Notwithstanding anything contained in sub-section (1), but subject to the production of proof as may be prescribed, no tax shall be leviable on the value of stock of luxuries,-

(i) dispatched to places outside the State;

(ii) on which tax under this Act has been paid or has become payable.

5B. Levy Of Tax On Accommodation Provided For Commercial Purposes :-

Subject to the provisions of this Act there shall be levied and collected a tax at the rate of 12 per cent on the turnover of receipts of the proprietor or rupees two hundred and fifty per day, whichever is higher, for accommodation provided for commercial purposes.

5C. Levy Of Surcharge :-

The tax payable under sub-section (2) of section 5 shall be increased by surcharge calculated at the rate of 10 percent of such tax.

6. Liability Of Hoteliers Or Proprietors Or Stockists, As The Case May Be To Tax :-

(1) Subject to the provisions of this Act and rules made thereunder, there shall be paid by every hotelier or proprietor or stockist, as the case may be who is liable to pay tax under this Act, the tax or taxes leviable in accordance with the provisions of this Act.

(2) If a person other than the owner (including part-owner) is for the time being in charge of the hotel, then such person and the owner (including part-owner) shall jointly and severally be liable to pay the tax.

7. Liability Of Firms As Hoteliers Or Proprietors Or Stockists, As The Case May Be :-

Where a hotel or business is owned, managed or run by a firm, then the firm and each of the partners of the firm shall be jointly and severally liable for payment of tax:

Provided that where any partner retires from the firm, he shall be liable to pay the tax, penalty or interest payable under this Act, if any, remaining unpaid at the time of his retirement, and any tax due upto the date of his retirement, even if assessment of tax including any penalty (if any) is made at a later date.

8. Special Provision Regarding Liability In Certain Cases :-

(1) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act, dies, then -

(a) if the business carried on by the hotelier or the proprietor or the stockist, as the case may be, is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay the tax including any penalty due from such hotelier or proprietor or stockist, as the case may be, under this Act in the like manner and to the same extent as the deceased hotelier or proprietor or stockist, as the case may be; or

(b) if the business carried on by the hotelier or the proprietor or the stockist, as the case may be, is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased hotelier or proprietor or stockist, as the case may be, would have been liable to pay if he had not died, the tax (including any penalty) due from such hotelier or proprietor or stockist, as the case may be, under this Act, whether such tax (including any penalty) has been assessed before his death but has remained unpaid or is assessed after his death.

Explanation.-- For the purpose of this sub-section, the expression legal representative has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908(Central Act 5 of 1908).

(2) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act is a Hindu undivided family and the joint property is partitioned amongst the various members or group of members, then each member or group of members shall be jointly and severally liable to pay the tax (including any penalty) due from the hotelier or the proprietor or the stockist, as the case may be, under this Act upto the time of partition whether such tax (including any penalty) has been assessed before partition but has

remained unpaid or is assessed after partition.

(3) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act is a firm and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 7, the tax (including any penalty) due from the firm under this Act upto the time of dissolution, whether such tax (including any penalty) has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.

(4) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, then the hotelier or the proprietor or the stockist, as the case may be, and the person succeeding shall jointly and severally be liable to pay the tax (including any penalty) due from the hotelier or the proprietor or the stockist, as the case may be, under this Act upto the time of such transfer, disposal or change, whether such tax (including any penalty) has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(5) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act, -

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary, then, if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax (including any penalty) due from the hotelier or the proprietor or the stockist, as the case may be, upto the time of termination of the guardianship or trust, whether such tax (including any penalty) has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

(6) Where a hotelier or a proprietor or a stockist, as the case may be, liable to pay the tax under this Act is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4), then such person, unless he already holds a certificate of registration, shall, within 30 days thereof, apply for registration.

9. Registration Of Hoteliers Or Proprietors Or Stockists, As

The Case May Be :-

(1) No hotelier or proprietor or stockist, liable to pay the tax under section 5 or under section 5A or under section 5B or under subsection (6) of section 8 shall provide accommodation or other luxuries by way of business, unless he possesses a valid certificate of registration as provided by this Act:

Provided that, it shall be lawful for the hotelier or the proprietor or the stockist to provide or continue to provide accommodation or other luxuries by way of business, if he has applied for registration within the time provided under subsection (2).

(2) Every hotelier or proprietor or stockist required to possess a certificate of registration shall apply in the prescribed form on payment of fees specified in Schedule II appended hereto, to the Commissioner within 30 days from the date on which he becomes liable to pay the tax.

(3) If the Commissioner, after such inquiry as he deems fit, is satisfied that an application for registration is in order, he shall register the applicant and issue to him a certificate of registration in the prescribed form.

(4) The Commissioner may after considering any information furnished or otherwise called for or received under any provisions of this Act, amend from time to time the certificate of registration.

(5) Where a registered hotelier or proprietor or stockist, as the case maybe, discontinues, transfers or otherwise disposes of his activity of providing accommodation by way of business or where he ceases to be liable to pay the tax and he applies in the prescribed form to the Commissioner, then the Commissioner shall, after making such inquiry as may be necessary, cancel the certificate of registration with effect from such date as he may fix in accordance with the rules.

(6) Where the Commissioner is satisfied that any registered hotelier or proprietor or stockist, as the case may be, has discontinued, transferred or otherwise disposed of the activity of providing accommodation by way of business and has failed to apply under sub-section (5) for cancellation of certificate of registration, the Commissioner may, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable opportunity of being heard, cancel the certificate of registration with effect from such date as he may fix to be the date from which the said activity has been discontinued, transferred or otherwise disposed of:

Provided that, the cancellation of certificate of registration on an

application of the hotelier or the proprietor or the stockist, as the case may be, or otherwise shall not effect the liability of the hotelier or the proprietor or the stockist, as the case may be, to pay the tax (including any penalty) due for any period upto the date of cancellation whether such tax (including any penalty), is assessed before or after the date of cancellation.

9A. Renewal Of Registration Certificate :-

Every hotelier or proprietor or stockist liable for registration under this Act, shall have to get his registration certificate renewed every year on payment of charges specified in Schedule II appended hereto.

10. Non-Transferability Of Registration Certificate :-

Save as otherwise provided in section 12, a certificate of registration shall be personal to the hotelier or the proprietor or the stockist, as the case may be, to whom it is granted and shall not be transferable.

11. Information To Be Furnished Regarding Changes In Business, Etc. :-

(1) If a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act, -

(a) sells or otherwise disposes of his business or any part thereof, or effects or makes any other change to his knowledge in the ownership of the business; or

(b) discontinues his business, or changes the place thereof or opens a new place of business; or

(c) changes the name or nature of his business; or

(d) enters into a partnership or other association in regard to his business, he shall within the prescribed time, inform the prescribed authority accordingly

(2) Where any such hotelier or proprietor or stockist, as the case may be, dies, his executor, administrator or other legal representative or where any such hotelier or proprietor or stockist, as the case may be, is a firm and there is a change in the constitution of the firm or the firm is dissolved, every person who was a partner thereof, shall, in like manner, inform the said authority of such death, change in the constitution or, as the case may be, dissolution.

12. Certificate Of Registration To Continue In Certain

Circumstances :-

Where a registered hotelier or a proprietor or a stockist, as the case may be;-

- (a) effects change in the name of his business; or
 - (b) is a firm, and there is a change in the constitution of the firm without dissolution thereof; or
 - (c) is a trustee of a trust, and there is change in the trustees thereof; or
 - (d) is a guardian of a ward, and there is change in the guardian,
- then merely by reason of any of the circumstances aforesaid, it shall not be necessary for the hotelier or the proprietor or the stockist, as the case may be, or the firm with the changed constitution, or the new trustees, or new guardian, to apply for a fresh certificate of registration and on information being furnished in the manner required by section 11 the certificate of registration shall be amended.

13. Payment Of Tax And Returns :-

(1) Tax payable under this Act shall be paid in the manner hereinafter provided and at such intervals as may be prescribed.

(2) Such hoteliers or proprietors or stockists, as the case may be, as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered hotelier or proprietor or stockist, as the case may be, shall furnish returns of the total turnover of the period to which such returns relate, in such manner, by such date and to such authority as may be prescribed.

(3) Before any registered hotelier or proprietor or stockist, as the case may be, furnishes the returns required by subsection (2), he shall pay into a Government Treasury or the State Bank of India or in such other manner as may be prescribed the full amount of tax due from him under this Act according to such returns, and shall furnish along with the returns a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any hotelier or proprietor or stockist, as the case may be, having furnished returns under subsection (2), discovers any omission or incorrect statement, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing

the payment in the manner provided in sub-section (3) of the extra amount.

Provided that no such revised return shall be considered as such and it shall not be taken into consideration, if the assessing authority is satisfied that the return originally furnished was with the intention to delay the payment of tax due in time, or with intent to defraud the State Government of its revenue.

(4A)

(4B)

(4A) Any tax assessed or any other amount due under this Act from a hotelier or a proprietor or a stockist, as the case may be, or any other person may, without prejudice to any other mode of collection, be recovered.--

(a) as if it were an arrears of land revenue; or

(b) by attachment and sale or by sale without attachment of any property of such hotelier or proprietor or stockist, as the case may be, or any other person by the Officer appointed under sub-section (2) of section 3, in accordance with such rules as may be prescribed.

(5) With a view to encourage prompt payment of tax the State Government may prescribe rates of remissions or rebate in respect thereof in accordance with such principles as may be prescribed.

(6) (a) The hotelier or the proprietor or the stockist, as the case may be, shall pay the amount of tax assessed or reassessed for any period under section 14 or section 16 of this Act less any sum already paid by him in respect of such period; and

(b) The amount of penalty, if any, levied under this Act shall be paid by the hotelier or the proprietor or the stockist, as the case may be, or by the person liable therefor into the appropriate Government Treasury by such date as may be specified in a notice or order issued under this Act being a date not earlier than sixty days from the date of service of notice or order.

Provided further that, the Commissioner or any person appointed to assist him under subsection (2) of section 3, may, in respect of any particular hotelier or proprietor or stockist, as the case may be, or person, and for reasons to be recorded in writing and on payment of interest at such rate as may be specified in the order, extend the date of such payment or allow him to pay tax due or penalty or interest levied, if any, by installments.

(7) (a) When a hotelier or a proprietor or a stockist, as the case may be, is in default in making payment of the tax assessed or re-assessed or of penalty imposed or interest levied, there shall be

paid by such hotelier or proprietor or stockist, as the case may be, for the period commencing from the date of expiry of the date specified in the notice for payment and ending on the date of payment of the amount, simple interest at the rate of 24% per annum of the amount not so paid.

(b) Notwithstanding anything contained in clause (a), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any person or class of persons.

(c) Any amount of tax or penalty or interest which remains unpaid after the date prescribed for payment or the date specified in the notice for payment, or in the order of imposition of penalty, or after the extended date of payment and any installments not duly paid, shall be recoverable as arrears of land revenue.

(8) The State Government may, by general or special order published in the Official Gazette, authorize any Officer not below the rank of a Luxury Tax Officer, to exercise, for the purpose of effecting recovery of the amount of tax or penalty due from any hotelier, proprietor or stockist, as the case may be, or person under this Act the powers of a Collector under the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969) to recover the dues as arrears of land revenue.

14. Assessment Of Tax :-

(1) The amount of tax due from a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax shall be assessed separately for each year during which he is so liable.

Provided that, the Commissioner may, subject to such conditions as may be prescribed, assess the tax due from any hotelier or proprietor or stockist, as the case may be, during a part of a year.

(2) If the Commissioner is satisfied that the returns furnished by a registered hotelier or a proprietor or a stockist, as the case may be, in respect of any period are correct and complete, he shall assess the amount of tax due from the hotelier or the proprietor or the stockist, as the case may be, on the basis of such returns.

(3) If the Commissioner is not satisfied that the returns furnished by a registered hotelier or a proprietor or a stockist, as the case may be, in respect of any period are correct and complete, and he thinks it necessary to require the presence of the hotelier or the proprietor or the stockist, as the case may be, or the production of further evidence, he shall serve on such hotelier or proprietor or

stockist, as the case may be, a notice requiring him on a date and at a place specified thereon, either to attend and produce or cause to be produced all evidence on which such hotelier or proprietor or stockist, as the case may be, relies in support of his returns, or to produce such evidence as is specified in the notice. On the date specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidence which may be produced, assess the amount of tax due from the hotelier or the proprietor or the stockist, as the case may be.

(4) If a registered hotelier or a proprietor or a stockist, as the case may be, fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess to the best of his judgement, the amount of tax due from him.

(5) Where all the returns are filed by a registered hotelier or proprietor or a stockist, as the case may be, for any year ending on or after the appointed day by the prescribed dates, or on or before the date prescribed for filing the last return of that year, no order of assessment under sub-section (3) or sub-section (4) in respect of that year shall be made after the expiry of four years from the end of the said year, and if for any reason such order is not made within the period aforesaid, then returns so filed shall be deemed to have been accepted as correct and complete for assessing the tax due from such hotelier or proprietor or stockist, as the case may be.

Explanation.-- In the case of returns filed by a registered hotelier or a proprietor or a stockist, as the case may be, referred to in sub-clause (ii) of clause (q) of section 2, the period of four years shall be computed from the end of the financial year in which the year, by reference to which the accounts of that hotelier or proprietor or stockist, as the case may be, are maintained in his books, ends;

Provided that, where such assessment is made in consequence of or to give effect to any order of an appellate or revisional authority or of a Court, the period of four years or six years, as the case may be, shall be reckoned from the date of such order;

Provided further that, in computing the period of limitation laid down in the above sub-section any period during which assessment proceedings are stayed by an order or injunction of any Court or authority shall be excluded.

(6) If a registered hotelier or a proprietor or a stockist, as the case may be, does not furnish return in respect of any period by the prescribed date, the Commissioner shall, at any time within four years from the end of the year in which such period occurs, after giving the hotelier or the proprietor or the stockist, as the case may

be, a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax (if any) due from him.

(7) If the Commissioner has reason to believe, that a hotelier or a proprietor or a stockist, as the case may be, is liable to pay tax in respect of any period, but has failed to apply for registration or failed to apply for registration within time as required by section 9, the Commissioner shall, at any time, within six years from the end of the year in which such period occurs, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax (if any) due from the hotelier or the proprietor or the stockist, as the case may be, in respect of that period, and any period or periods subsequent thereto.

(8) Notwithstanding anything contained in the foregoing provisions of this section, where the Commissioner is not satisfied about the correctness or completeness of the accounts of a hotelier or a proprietor or a stockist, as the case may be, or where no method of accounting has been regularly employed by a hotelier or a proprietor or a stockist, as the case may be, the Commissioner may, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable opportunity of being heard, assess to the best of his judgement, the amount of tax (if any) due from him.

(9) Any assessment made under this section shall be without prejudice to any penalty, or prosecution for an offence, under this Act.

15. Applicability Of Provisions Of This Act To The Person Liable To Pay Tax Under Section 8 :-

Where in respect of any tax (including any penalty and interest) due from the hotelier or the proprietor or the stockist, as the case may be, under this Act, any other person is liable for payment thereof under section 8, then such other person shall be deemed to be a hotelier or a proprietor or a stockist, as the case maybe, for the purpose of this Act, and all the relevant provisions of this Act shall in respect of such liability apply to such person also, as if he were the hotelier or the proprietor or the stockist, as the case may be.

16. Re-Assessment Of Turnover Escaping Assessment, Under Assessed, Etc. :-

(1) If a hotelier or a proprietor or a stockist, as the case may be, has been assessed under section 14 for any year or part thereof and where for any reason the whole or any part of the turnover of receipts in respect of that year or part thereof has escaped assessment, or has been under-assessed or assessed at a lower rate, or any deduction has been wrongly made, then the Commissioner may, at any time within five years of the end of that year, after giving the hotelier or the proprietor or the stockist, as the case may be, a reasonable opportunity of being heard, proceed to assess or re-assess, to the best of his judgement, the amount of tax due from such hotelier or proprietor or stockist, as the case may be;

Provided that, the amount of tax shall be assessed at the rates at which it would have been assessed had there been no under-assessment or escapements;

Provided further that, where in respect of such turnover of receipts an order has already been passed in appeal or revision under this Act, the Commissioner shall make a report to the appropriate appellate or revising authority under this Act, which shall thereupon after giving the hotelier or the proprietor or the stockist, as the case may be, concerned a reasonable opportunity of being heard, pass such order as it deems fit.

(2) Nothing in sub-section (1) shall apply to any proceeding (including any notice issued) under section 33 or section 36.

(3) Nothing in section 33 and 36 shall affect any proceeding under this section.

17. Imposition Of Penalty :-

(1) If, while assessing or re-assessing the amount of tax due from a hotelier or a proprietor or a stockist, as the case may be, under any provisions of this Act or while passing any order in any appeal, revision or rectification proceedings, it appears to the Commissioner that such hotelier or proprietor or stockist, as the case may be, has-

(a) failed to apply for registration as required by section 9 or has carried on business, without being registered, in contravention of section 9; or

(b) failed, without reasonable cause, to comply with any notice in respect of the proceedings under sections 14, 16, or 27 or 33; or

(c) failed to disclose any transaction of receipt or has failed to

furnish return by the prescribed date or has failed to show in the return the appropriate liability to pay tax or has failed to disclose fully and truly all material facts necessary for the proper and correct quantification of the tax liability, then the Commissioner may after giving the hotelier or the proprietor or the stockist, as the case may be, an opportunity of being heard, by order in writing impose upon the hotelier or the proprietor or the stockist, as the case may be, by way of penalty, in addition to any tax assessed or re-assessed or found due in the appeal or revision or rectification proceedings, as the case may be, a sum not exceeding one-and-a-half times the amount of tax so assessed or reassessed or found due in the appeal or revision or rectification proceedings.

18. Imposition Of Penalty For Contravening Certain Provisions :-

(1) If any person -

(a) (i) not being a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act collects any sum by way of tax; or

(ii) being a registered hotelier or a proprietor or a stockist, as the case may be, collects any amount by way of tax in excess of the tax payable by him; or

(iii) otherwise collects tax in contravention of the provisions of section 24; or

(b) being a hotelier or a proprietor or a stockist, as the case may be, liable to pay tax under this Act, or being a hotelier or a proprietor or a stockist, as the case may be, who was required so to do by the Commissioner by a notice, served on him, fails in contravention of sub-section (1) of section 26 to keep a true account of his turnover of receipts or fails when directed so to do under that section to keep any account or record in accordance with direction, he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount as follows:-

(i) Where there has been contravention referred to in sub-clauses (i) and (iii) of clause (a), a penalty of an amount not exceeding two thousand rupees or double the sum collected by way of tax, whichever is less.

(ii) Where there has been a contravention referred to in sub-clause (ii) of clause (a) or in clause (b), a penalty of an amount not exceeding two thousand rupees and in addition, any sum collected by the person by way of tax in contravention of section 24 shall be

forfeited to the State Government.

(2) If the Commissioner, in the course of any proceeding under this Act or otherwise, has reason to believe that any person has become liable to a penalty or forfeiture or both penalty and forfeiture of any sum under sub-section (1), he shall serve on such person a notice in the prescribed manner requiring him on a date and at a place specified in the notice to attend and show cause why a penalty or forfeiture or both penalty and forfeiture of any sum as provided in sub-section (1) should not be imposed on him.

(3) The Commissioner shall thereupon hold an inquiry and shall make such order as he thinks fit.

(4) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(5) When any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed.

19. Rounding Of Tax, Etc. :-

The amount of tax, penalty, interest, composition money, fine or any other sum payable under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored;

Provided that, nothing in this section shall apply for the purpose of collection by the hotelier or the proprietor or the stockist, as the case may be, of any amount by way of tax under this Act.

20. Charge On The Property Of Defaulter And Levy Of Interest For Delayed Payment Of Tax :-

(1) If a hotelier or a proprietor or a stockist, as the case may be, or person does not pay the tax within the time he is required by or under the provisions of this Act and the rules made there under to pay it, then.--

(i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act; and

(ii) the hotelier or the proprietor or the stockist, as the case may be, or the person shall be liable to pay by way of simple interest, in

addition to the amount of such tax, a sum equal to,-

(a) one and half percent of the amount of such tax for each month, for the first three months after the last date by which he should have paid such tax;

(b) two percent of such amount for each month subsequent to the first three months as aforesaid.

Explanation:- For the purpose of clause (ii) above, the interest payable for a part of the month shall be worked out proportionately.

(2) If any tax, other than the tax on which interest is leviable under sub-section (1), has remained unpaid on the date prescribed for filing the last return in respect of any period of assessment, then the hotelier or the proprietor or the stockist, as the case may be, or the person shall be liable to pay by way of simple interest, a sum equal to two percent on such tax for each month or part thereof on the expiry of 30 days from the date immediately following the date on which the period for which the hotelier or the proprietor or the stockist, as the case may be, or person has been assessed expires, till the date of order of assessment and where any payment of such unpaid tax, whether in full or in part, is made on or before the date of order of assessment, the amount of such interest shall be calculated by taking into consideration the amount and the date of such payment. If, as a result of any order passed under this Act, the amount of tax which had so remained unpaid is enhanced or reduced, as the case may be, the interest shall be enhanced or reduced, accordingly.

(3) Notwithstanding anything contained in sub-section (1), the Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period by any hotelier or proprietor or stockist, as the case may be, person or class of persons.

20A. Special Mode Of Recovery :-

(1) Notwithstanding anything contained in any law contract to the contrary, the Commissioner may, at any time, or from time to time, by notice in writing, a copy of which shall be forwarded to the hotelier or the proprietor or the stockist, as the case may be, at his last address known to the Commissioner, require,-

(a) any person from whom any amount of money is due or may become due to a hotelier or a proprietor or a stockist, as the case may be, who has failed to pay the amount of tax due or penalty imposed under this Act, or

(b) any person who holds or may subsequently hold money for or on account of such hotelier or proprietor or stockist, as the case may be, to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due

or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the hotelier or the proprietor or the stockist, as the case may be, in respect of the arrears of tax and penalty, or both, or the whole of the money when it is equal to or less than that amount.

Explanation.-- For the purpose of this section, the amount of money due to a hotelier or a proprietor or a stockist, as the case may be, from, or money held for or on account of a hotelier or a proprietor or a stockist, as the case may be, by any person, shall be calculated after deducting therefrom such claims, if any, lawfully subsisting as may have fallen due for payment by such hotelier or proprietor or stockist, as the case may be, to such person.

(2) The Commissioner may at any time, amend or revoke any such notice, or extend the time for making any payment in pursuance of such notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the hotelier or the proprietor or the stockist, as the case may be, and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the hotelier or the proprietor or the stockist, as the case may be, after receipt of the notice referred to in this section shall be personally liable to the Commissioner to the extent of the liability discharged, or to the extent of the liability of the hotelier or the proprietor or the stockist, as the case may be, for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent objects to it, by a statement in writing that the sum demanded or any part thereof is not due or payable to the hotelier or the proprietor or the stockist, as the case may be, or that the amount held for or on account of the hotelier or the proprietor or the stockist, as the case may be, is under genuine dispute, the Commissioner shall hold an inquiry and after giving a reasonable opportunity of being heard: to such person and the hotelier or the proprietor or the stockist, as the case may be, shall make such order as he thinks fit.

(6) Any amount of money which a person is required to pay to the Commissioner or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

21. Exemption :-

(1) Subject to such conditions as it may impose, the State Government may, if it deems necessary so to do in the public interest, by notification in the Official Gazette, exempt any specified class of luxuries provided in a hotel from payment of the whole or any part of tax payable under the provisions of this Act and such exemption shall take effect from the date of the publication of the notification in the Official Gazette or such other date as may be mentioned therein.

(2) Where a hotelier or a proprietor or a stockist, as the case may be, or a person has availed of such exemption and any of the conditions subject to which such exemption was granted are not complied with, for any reason whatsoever, then such hotelier or proprietor or stockist, as the case may be, or person shall be liable to pay luxury tax on the luxury provided in a hotel, in accordance with the other provisions of this Act.

(3) If the Commissioner has reason to believe that any person is

liable to pay tax under sub-section (2), the Commissioner shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.

22. Refund :-

(1) The Commissioner shall refund to a person the amount of tax and penalty (if any) paid by such person in excess of the amount due from him. The refund may be either by cash payment or, at the option of the person, by deduction of such excess from the amount of tax and penalty due in respect of any other period;

Provided that, the Commissioner shall first apply such excess towards the recovery of any amount due in respect of which a notice under sub-section (6) of section 13 has been issued, and shall then refund the balance (if any).

(2) Where any refund is due to any hotelier or proprietor or stockist, as the case may be, according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 13 for any period;

Provided that, the amount of tax or penalty or interest or all of them due from, and payable by, the hotelier or the proprietor or the stockist, as the case may be, on the date of such adjustment shall first be deducted from such refund before making adjustment.

23. Power To Withhold Refund In Certain Cases :-

Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the authority competent to grant: such refund is of the opinion that the grant of the refund is likely to adversely affect the revenue, such authority may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

24. Prohibition Against Collection Of Tax In Certain Matters :-

(1) No person shall collect any sum by way of tax in respect of his business to the extent that he is not liable to pay it under this Act.

(2) No person, who is not a registered hotelier or a proprietor or a stockist, as the case may be, and liable to pay tax in respect of luxury provided in any hotel, shall collect any sum by way of tax

from any other person and no registered hotelier or proprietor or stockist, as the case may be, shall collect any amount by way of tax in excess of the amount of tax payable by him under the provision of this Act;

Provided that, this sub-section shall not apply where a person is required to collect such amount of the tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

25. Bill Or Cash Memorandum To Be Issued To Customer :-

A registered hotelier or a proprietor or a stockist, as the case may be, shall issue to the customer or customers a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated, and preserve it until the assessment for the relevant period is duly completed in accordance with the provisions of section 14 of the Act and for a further period of five years thereafter.

26. Accounts :-

(1) Every hotelier or proprietor or stockist, as the case may, be, liable to pay tax under this Act, and every hotelier or proprietor or stockist, as the case may be, who is required so to do by the Commissioner by notice served on him in the prescribed manner, shall keep a true account of the luxury provided by him in the hotel.

(2) If the Commissioner considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not a hotelier or a proprietor or a stockist, as the case may be, is liable to tax during any period, or are so kept not to enable a proper scrutiny of the returns or the statement furnished, the Commissioner may require such hotelier proprietor or stockist, as the case may be, by notice writing to keep such accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment and as he may, subject to anything that may be prescribed in that behalf, in writing direct.

(3) The Commissioner may, subject to such conditions (restrictions as may be prescribed in this behalf, by notice in writing direct any hotelier or proprietor or stockist, as the case may be, or by notification in the Official Gazette, direct any class of hoteliers or

proprietors or stockists, as the case may be, to maintain accounts and records showing such particulars regarding their business in such form, and in such manner, as may be specified by him.

(4) Every registered hotelier or proprietor or stockist, as the case may be, shall ordinarily keep all his accounts, registers and documents relating to his business at the place or places of business specified in his certificate of registration or, with the previous approval of the Commissioner at such other place as may be approved by the Commissioner.

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

(1) The Commissioner may, subject to such conditions as may be prescribed, require any hotelier or proprietor or stockist, as the case may be, to produce before him any accounts or documents, or to furnish any information, relating to his business, or any other information as may be necessary for the purpose of this Act.

(2) All accounts, registers and documents relating to the business of any hotelier or proprietor or stockist, as the case may be, and cash kept in any place of business of any hotelier or proprietor or stockist, as the case may be, shall at all reasonable time be open to inspection by the Commissioner and the Commissioner or any person authorized by him may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of cash found as appear to him necessary for the purpose of this Act.

(3) If the Commissioner has reason to believe that any hotelier or proprietor or stockist, as the case may be, has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the hotelier or the proprietor or the stockist, as the case may be, as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceeding under this Act or for a prosecution.

(4) For the purpose of sub-section (2) or sub-section (3), the Commissioner may enter and search any place of business of any hotelier or proprietor or stockist, as the case may be, or any other place where the Commissioner has reasons to believe that the hotelier or the proprietor or the stockist, as the case may be keeps or is for the time being keeping any accounts, registers or

documents of his business.

(5) Where any books of accounts, other documents or money are found in the possession, or control of any person in the course of search, it shall be presumed, unless the contrary is proved, that such books of accounts, other documents or money belong to such person.

28. Hotelier Or Proprietor Or Stockist, As The Case May Be To Declare The Name Of Owner Of Business :-

Every hotelier or proprietor or stockist, as the case may be, who is liable to pay tax, and who is a Hindu undivided family, or an association or club or society or firm or company, or corporation who carries on business as the guardian or trustees or otherwise on behalf of another person, shall within the period prescribed send to the authority prescribed, a declaration in the manner prescribed stating the name of the person or persons who is the owner or who are the owners of the hotel. Such declaration may be revised from time to time.

29. Power To Collect Statistics :-

(1) If the State Government considers that for the purposes of the better administration of this Act, it is necessary so to do, it may, by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with by or under this Act.

(2) Upon such direction being made, the State Government or any person or persons authorized by it in this behalf may, by notification in the Official Gazette, and by notice in any newspaper or in such other manner as in its or his opinion is best calculated to bring the notice to the attention of the hotelier or the proprietor or the stockist, as the case may be, call upon all hoteliers or proprietors or stockists, as the case may be, or any class of hoteliers or proprietors or stockists, as the case may be, to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the authorities to which such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.

30. Determination Of Certain Disputed Question :-

If any question arises, otherwise than in proceeding before a Court, or before the Commissioner has commenced assessment or reassessment of a hotelier or a proprietor or a stockist, as the case may be, under section 14 or section 16, about the interpretation or the scope of any provisions of this Act, the Commissioner shall make an order determining such question.

Explanation.-- For the purpose of this sub-section, the Commissioner shall be deemed to have commenced assessment or reassessment of a hotelier or a proprietor or a stockist, as the case may be, when the hotelier or the proprietor or the stockist, as the case may be, is served with a notice under section 14 or section 16, as the case may be.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, as respects the period prior to the determination.

(3) If any such question arises from any order already passed; under this Act, no such question shall be entertained for determination under this section, but such question may be raised in appeal against or by way of revision of such order.

31. Powers Of Commissioner :-

(1) In discharging his functions by or unto this Act, the Commissioner shall have all the powers of a Civil Court for the purpose of-

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witness

(2) In the case of any affidavit to be made for the purpose of this Act, any Officer appointed by the Commissioner may administer the oath to the deponent.

(3) Without prejudice to the provisions of any other law for the time being in force, where a person, to whom a summon is issued by the Commissioner either to attend to give evidence or produce books of accounts, registers or other documents at a certain place and time, intentionally omits to attend or produce the documents at the place and time, the Commissioner may impose on him such fine not exceeding five hundred rupees as he thinks fit; and the fine so levied may be recovered in the manner provided in this Act

for recovery of arrears of tax;

Provided that, before imposing any such fine, the person concerned shall be given a reasonable opportunity of being heard.

(4) If any documents are produced by a person on whom a summon was issued by the Commissioner, and the Commissioner has reason to believe that any hotelier or proprietor or stockist, as the case may be, has evaded or is attempting to evade the payment of any tax due from him and the documents produced are necessary for establishing the case against such hotelier or proprietor or stockist, as the case may be, the Commissioner may, for reasons to be recorded in writing, impound the documents and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with the proceedings under this Act, or for a prosecution.

32. Bar To Certain Proceedings :-

Save as is provided elsewhere in this Act, no assessment made or no order passed under this Act or the rules made thereunder by the Commissioner or any Officer or person subordinate to him shall be called in question in any Court, and save as is provided section 33 no appeal shall lie against any such assessment order.

33. Appeal, Revision And Review :-

(1) Any hotelier or proprietor or stockist, as the case may be, may in the prescribed manner appeal to the authority as may be prescribed, against any assessment or reassessment within sixty days from the date of communication of the order appealed against;

Provided firstly that, the said authority may entertain the appeal after expiry of the said period of sixty days, if he is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.

Provided secondly that, no appeal shall be entertained by the said authority unless he is satisfied that such amount of the tax as the applicant may admit to be due from him has been paid.

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under subsection (1), may-

(a) confirm, reduce, enhance or annul the assessment; or

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be

directed; or

(c) pass such other orders as it may think fit.

(3) (a) In the case of an order passed in appeal by the appellate authority under sub-section (2), a second appeal shall lie to the Tribunal within sixty days of the date of passing of the order.

(b) The Tribunal may admit the second appeal referred to after the period of sixty days referred to in clause (a), if it is satisfied that the appellant had sufficient cause for not preferring the appeal in that period.

(4) No appeal under sub-section (3) or sub-section (9) shall be entertained by the Tribunal, and no revision application under sub-section (6) shall be entertained by the Commissioner, unless such appeal or revision application, as the case may be, is accompanied by satisfactory proof of the payment of tax or penalty or both that may be due;

Provided that, the Tribunal or the Commissioner, as the case may be, if it or he thinks fit, for reasons to be recorded in writing, entertain any appeal or revision against any such order without making the payment as aforesaid, if the appellant or, as the case may be, the applicant furnishes such security for such amount as it or he may direct.

(5) In disposing of an appeal, the Tribunal shall have the same powers as that of the appellate authority under sub-section (2),

(6) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner upon application or of his own motion may revise any assessment made or order passed under this Act or the rules made thereunder by a person appointed under section 3 to assist him;

Provided that, before rejecting any application for the revision of any such order, the Commissioner shall consider it and shall record reasons for such rejection;

Provided further that, no application for revision shall lie to the Commissioner in respect of any assessment if an appeal lies under sub-section (1) to the prescribed authority in respect of such assessment.

(7) The hotelier or the proprietor or the stockist, as the case may be, may, at his option file a second appeal under sub-section (3), or make an application for revision to the Commissioner under sub-section (6), and where the hotelier or the proprietor or the stockist, as the case may be, has exercised such option, he shall be precluded from filing an application for revision under sub-section (6), or, as the case may be, from filing a second appeal under sub-

section (3).

(8) In dispensing of the revision, the Commissioner shall have the same powers as those of the appellate authority under sub- section (2).

(9) Where an order is passed by the Commissioner of his own motion under sub-section (6), an appeal shall lie to the Tribunal from that order within sixty days and an appeal filed after that period may be admitted if the Tribunal is satisfied that the appellant had sufficient cause for not filing the appeal within that period.

(10) Subject to such rules as may be prescribed, any assessment made or order passed under this Act, or rules made thereunder by any person appointed under section 3 or by the Tribunal constituted under section 4 may be reviewed by the person or the Tribunal passing it, as the case may be, upon an application or of his or its own motion, as the case may be.

(11) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given reasonable opportunity of being heard.

Explanation:- In this section assessment includes imposition of penalty.

34. Non-Appealable Orders :-

No appeal shall lie against,-

(i) a notice issued under this Act calling upon a hotelier or a proprietor or a stockist, as the case may be, for assessment or asking a hotelier or a proprietor or a stockist, as the case may be, to show cause as to why he should not be prosecuted for an offence under this Act or notices issued under any of the provisions of section 20 of this Act, or

(ii) an order pertaining to the seizure or retention of accounts books, registers and other documents; or

(iii) an order sanctioning a prosecution under this Act; or (iv) an order transferring any proceeding under section 42.

35. Application Of Sections 4, 5 And 12 Of Limitation Act :-

In computing the period laid down under section 33, the provisions of section 4, 5 and 12 of the Limitation Act, 1963, (Central Act 36 of 1963) shall, so far as may be, apply.

36. Rectification Of Mistakes :-

(1) The Commissioner at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order;

Provided that, no such rectification shall be made if it has the effect of enhancing the tax unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by an appellate authority under section 33 as they apply to the rectification of a mistake by the Commissioner.

(3) Where any such rectification has the effect of reducing the amount of the tax or interest or penalty or the amount of forfeiture, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or interest or penalty or the amount of forfeiture, the Commissioner shall recover the amount due from such person in the manner provided for in section 33.

37. Offences And Penalties :-

(1) Whoever, knowingly furnishes a false on return shall, conviction, be punished -

(i) in case where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs. 10,000/- with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;

(ii) in any other case, with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.

(2) Whoever knowingly keeps false account of the receipts in contravention of section 26, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.

(3) Whoever-

(i) willfully attempts, in any manner whatsoever, to evade any tax leviable under this Act; or

(ii) willfully attempts, in any manner whatsoever, to evade any payment of any tax or penalty or interest under this Act, shall, on

conviction, be punished-

(a) in case where the amount involved exceeds Rs.50,000 during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;

(b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.

(4) Whoever aids or abets any person in commission of any act specified in sub-sections (1) to (3), shall on conviction be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and with fine.

(5) (a) Whoever- carries on business without being registered in wilful contravention of section 9; or

(aa) carries on the business without his registration certificate being renewed in wilful contravention of section 9A;

(b) fails, without sufficient cause, to furnish any information required by section 11; or

(c) fails, without sufficient cause, to furnish any return as required by section 13 by the date and in the manner prescribed; or

(d) contravenes, without reasonable cause, any of the provisions of section 24; or

(e) fails, without sufficient cause, to issue a bill or cash memorandum as required under section 25; or

(f) fails, without sufficient cause, when directed under section 26 to keep any accounts or record, in accordance with such direction; or

(g) fails, without sufficient cause, to comply with any requirements made of him under section 27; or

(h) voluntarily obstructs any Officer making inspection or search or seizure under section 27,

shall on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

(6) Whoever commits any of the acts specified in sub-sections (1) to (5) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with a daily fine of not less than rupees one hundred during the period of the continuance of the offence, in addition to the punishments provided under this section.

(7) Notwithstanding anything contained in sub-sections (1) to (6), no person shall be proceeded against under these sub-sections for the acts referred to therein, if the total amount of tax evaded or attempted to be evaded is less than Rs.200/- during the period of a

year.

(8) Whoever, when required to furnish any information or return under section 29,-

(a) wilfully refuses or without lawful excuse neglects to furnish such information or return; or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be false,

shall, on conviction be punished with the fine which may extend to one hundred rupees and in case of a continuing offence to a further fine which may extend to ten rupees for each day after the first offence during which the offence continues.

(9) Whoever, when engaged in connection with the collection of statistics under section 29, wilfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code (Central Act 45 of 1860), shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(10) Save as provided in sub-section (2) of section 38 if any servant of the Government discloses any of the particulars referred to in sub-section (1) of that section, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(11) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed by the Commissioner under any provisions of this Act.

38. Returns, Etc. To Be Confidential :-

(1) All particulars contained in any statement made; return furnished or accounts or documents produced in accordance with this Act or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything to the contrary contained in any other law relating to evidence, no Court shall, save as aforesaid, be entitled to require any employee of the State Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) Save as provided in sub-section (3), if any employee of the State Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing contained in this section shall apply to the disclosure-

(a) of any of the particulars referred to in sub-section (1) for the purpose of an investigation or prosecution under this Act or under the Indian Penal Code (Central Act 45 of 1860) or under any other enactment for the time being in force; or

(b) of such facts, to an Officer of the Central Government or the Government of any State or Union Territory, as may be necessary for verification of such facts or for the purpose of enabling that Government to levy or realize any tax imposed by it.

39. Offences By Companies :-

(1) Where an offence under this Act has been committed by 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 the director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation.-- For the purpose of this section,

(a) company means a 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.

40. Investigation Of Offences :-

(1) Subject to such conditions as may be prescribed, the Commissioner may authorize either generally or in respect of a

particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Act.

(2) Every officer so authorized shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), upon an officer in charge of a police station for the investigation of a cognizable offence.

41. Compounding Of Offences :-

(1) Subject to such conditions as may be prescribed, the Commissioner may accept from any person alleged to have committed an offence under sub-section (1) of section 37 or under any rules made under this Act, either before or after the commencement of any proceeding against such person in respect of such offence, by way of composition for such offence, a sum not exceeding five thousand rupees or where the offence alleged to have been committed is under clause (a) or clause (c) of sub-section (5) of section 37, a sum not exceeding double the amount of the tax, which would have been payable by such person had he complied with the provisions of this Act, whichever is greater,

(2) On payment in full of such sum as may be determined by the Commissioner under sub-section (1)-

(a) no proceedings shall be commenced against such person as aforesaid; and

(b) if any proceedings have been already commenced against such person as aforesaid, such proceedings shall not be further proceeded with.

42. Power To Transfer Proceedings :-

The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, wherever it is possible to do so, and after recording his reasons for doing so, by order in writing transfer any proceeding or class of proceedings under any provision of this Act, from himself to any other officer and he may likewise transfer any such proceedings (including a proceeding pending with any officer or already transferred under this section from any officer to any other officer or to himself;

Provided that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any other officer and the offices of both officers are situated in the same city, locality or place.

Explanation. In this section, the word proceedings in relation to any hotelier or proprietor or stockist, as the case may be, whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of any year in relation to such hotelier or proprietor or stockist, as the case may be.

43. Appearance Before Any Authority In Proceedings :-

(1) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend -

- (a) by a relative or a person regularly employed by him; or
- (b) by legal practitioner, Chartered Accountant or Cost Accountant; or
- (c) by a tax practitioner.

If such relative, person employed, legal practitioner, Chartered Accountant, Cost Accountant or tax practitioner is authorized by such person in the prescribed form, such authorization may include the authority to act on behalf of such person in such proceedings.

44. Indemnity :-

No suit, prosecution or other legal proceedings shall lie against any servant of the State Government for anything which is in good faith done or intended to be done under this Act or the rules made; thereunder.

45. Power To Make Rules :-

(1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for -

- (i) subordination of officers and persons appointed under section 3 amongst themselves;
- (ii) the periods within which, the manner in which and the authority to which application for registration shall be made under section 9;
- (iii) procedure for, and other matters incidental to the registration of hotelier or proprietor or stockist, as the case may be, and the

granting of certificates of registration, and the form of such certificates under section 9 and the manner in which application for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect;

(iv) authority to which, and the time within which, information shall be furnished under section 11;

(v) the period for which and the dates by which and the authority to which, the returns shall be furnished under section 13 and the terms and conditions for purposes of sub-section (1) of section 14;

(vi) the intervals at which, and the manner in which, the tax shall be paid under section 13;

(vii) procedure to be followed for assessment under section 14;

(viii) the manner in which a notice under sub-section (2) of section 18 may be served, and the details to be mentioned in the notice published under sub-section (5) of section 18;

(ix) the other particulars under section 25;

(x) the accounts and forms thereof required by the Commissioner to be kept under section 26 and the conditions or restrictions subject to which the accounts and records shall be maintained under section 26.

(xi) the conditions subject to which the production of accounts or documents or the furnishing of information may be required under section 27;

(xii) the period within which, the authority to which and the manner in which a declaration shall be sent under section 28;

(xiii) the form in which, the authority to which and the intervals in which information or returns shall be furnished under section 29 and the particulars to be specified in such information and returns;

(xiv) the procedure for, and the other matters (including fees) incidental to, appeals and revision under section 33;

(xv) the forms of authorization, for the purposes of clauses (a), (b) and (c) of section 43;

(xvi) the manner in which, and the time within which the applications shall be made, information furnished and notices served, under this Act;

(xvii) the fees payable (in Court - fee stamps) in respect of an application -

(a) for a certified copy of an order of assessment, or of any order passed or document produced or filed in any proceedings, under this Act;

(b) for determination of any question under section 30.

(xviii) the fees payable (in cash) for making and supplying a

duplicate or certified copy of any order or document under this Act or the rules made thereunder, the extra fees payable if the copy is required urgently and the deposit to be made to cover the cost of such fees;

(xix) any other matter which is required to be or may prescribed.

46. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provision or give such direction as appears to it or to be necessary for removing the difficulty;

Provided that, no such order shall be made by the State Government after the expiry of a period of two years from the appointed day.

SCHEDULE 1

THE SCHEDULE

(See sub-section (4) of section 3)

Sr. No.	Designation of Officer	Section	Description of power
(1)	(2)	(3)	(4)
(1)	Luxury Tax Officers and Assistant Luxury Tax Officers	9(3), (4)	Registration of hoteliers.
(2)	Assistant Commissioner of Luxury tax	9(5), (6)	Cancellation of registration.
(3)	Luxury Tax Officers and	11	Information to be furnished regarding
	Assistant Luxury Tax Officers		changes in business, etc.
(4)	Luxury Tax Officers and Assistant Luxury Tax Officers	12	Certificate of registration continue in certain circumstances.
(5)	Luxury Tax Officers and Assistant Luxury Tax Officers	13, 14, 16, 17, 18	Payment of tax and returns, assessment of tax, re-assessment of turnover escaping assessment, under assessed etc. imposition of penalty, imposition of penalty for contravening certain provisions.
(6)	Luxury Tax Officers and Assistant Luxury Tax Officers	20	In case wherein the hotelier has failed to pay in time the amount of tax due or penalty imposed under the Act, power to issue

			notice and require a person who holds or may subsequently hold money for or on account of such hotelier or from whom any amount of money is due or may become due to such hotelier, to pay so much of the money as is sufficient to pay the amount due by the hotelier in respect of the arrears of tax and penalty, or both or the whole of the money where it is equal to or less than that amount.
(7)	Luxury Tax Officers and Assistant Luxury Tax Officers	27	Power to require a hotelier to produce accounts, furnish any information, inspect the accounts, books and other records, and to search premises, seize such account registers and documents.
(8)	Luxury Tax Officers and Assistant Luxury Tax Officers	29	Powers to collect statistics.
(9)	Luxury Tax Officers and Assistant Luxury Tax Officers	37(5)(a), (b), (c), (d), (e), (f) and (g)	Offences and Penalties.

SCHEDULE 2

SCHEDULE II

[See sections 5A and 2(ee)]

Sr. No.	Description of Luxuries	Rate of Tax
(1)	(2)	(3)
(1)	Chewing tobacco including gutka	25%
(2)	Tobacco products excluding those covered under (1) above but other than biddies and snuff	5%

SCHEDULE 3

SCHEDULE III

(See sections 9(2) and 9A)

Category of hoteliers		Amount of registration charges/ renewal charges
(1)		(2)
(1)	For hotels having upto 4 rooms including rent back accommodation, tourist home and any other	Rs.200/-

	accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982.	
(2)	For hotels having rooms in excess of 4 but below 60 including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982.	Rs.200/- Plus Rs.10/- per room
(3)	For hotels having 60 rooms and above including rent back accommodation, tourist home and any other accommodation required to be covered under the Goa Registration of Tourist Trade Act, 1982.	Rs.800/- plus Rs.20/- per room
Stockists and others Stockists and others liable under the Act.		Rs.1000/-