

MAHARASHTRA ADVERTISEMENTS TAX ACT, 1967

18 of 1967

[17th August, 1967]

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MAHARASHTRA ADVERTISEMENTS TAX ACT, 1967

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An Act to provide for the levy of a tax on advertisements exhibited by cinematograph at certain places of entertainment in the State of Maharashtra. WHEREAS, it is expedient to provide for the levy of a tax on advertisements exhibited by cinematograph at certain places of entertainment in the State of Maharashtra, and for matters connected with the purpose aforesaid; It is hereby enacted in the Eighteenth Year of the Republic of India as follows :-

1. Short title and commencement :-

(1) This Act may be called the Maharashtra Advertisements Tax Act, 1967.

(2) It shall come into force in such areas and on such date as the

State Government may by notification in the official Gazette appoint in this behalf; and different dates may be appointed for different areas of the State.

(3) The State Government may, at any time by like notification, direct that the provisions of the Act shall cease to be in force in such area and on such date as may be specified in the notification; and on such date the provisions of this Act shall cease to be in force in such area.

(4) section 7 of the Bombay General Clauses Act, 1904, shall apply upon this Act ceasing to be in force in any area, as if it had then been repealed by a Maharashtra Act.]

2. Definitions :-

In this Act, unless the context requires otherwise,-

(a) "business" in relation to a proprietor means so much of his business as a proprietor as is concerned with exhibition of advertisements at his place of entertainment;

(b) "cinematograph" includes any apparatus for the representation of moving pictures or series of pictures ;

(c) "place of entertainment" means a place licensed under the Bombay Cinemas (Regulation) Act, 1953 ;

(d) "film" means a cinematograph film ;

(e) "proprietor" in relation to a place of entertainment includes any person responsible for, or for the time being in charge of, the management thereof.

3. Rate not exceeding twenty five percent :-

(1) On advertisements exhibited for payment at any place of entertainment by means of a cinematograph through slides, trailers of films or films, there shall be levied and collected an advertisement tax at such rate not exceeding twenty-five per cent, out of such payment made or to be made to the proprietor as the State Government may, by notification in the Official Gazette, specify in this behalf.

(2) On every advertisement exhibited as aforesaid, but without any payment made or to be made therefor, there shall be levied and collected an advertisement tax

(a) in the areas within the limits of Greater Bombay and of the cities and Cantonments of Poona, Sholapur and Nagpur at the rate of one rupee per day per trailer of a film, and thirty paise per day per slide, or film (not being a trailer of a film).

(b) in any other area, at one-half the rates specified in clause (a):

Provided that, where the length of a film (other than a trailer of a film) exceeds thirty meters, the advertisement tax shall be levied and collected at double the rate provided for in clause (a), or as the case may be, clause (b).

(3) The tax shall be charged on, and paid by, the proprietor; but (subject to any agreement to the contrary), the amount borne by the proprietor in respect of the advertisement tax shall be recoverable by him from any person liable to him for the payment so made or to be made.

(4) For the purposes of this section, "payment" includes any valuable consideration [but excludes all payments made by way of commission to agents or other persons.]

(5) In computing the tax payable under sub-section (1), the tax leviable shall, wherever necessary, be rounded off to the nearest paise, fractions of half a paise and over, being counted as one, and less than half being disregarded.

4. Payment of advertisement tax when due and payable :-

(1) The advertisement tax payable by a proprietor in respect of any advertisement exhibited at his place of entertainment shall be due on the exhibition of the advertisement, and shall be paid in cash within such period as may be prescribed ; and he shall before the expiry of such period make to the State Government a return showing the amount payable, in such form, and giving such particulars, as may be prescribed.

(2) Where for any exhibition of an advertisement, a proprietor receives or is entitled to an entire consideration not solely referable to the exhibition of that advertisement, the advertisement tax payable in respect of the exhibition shall be calculated on so much only of the consideration as is referable to that exhibition according to an apportionment in such manner as the State Government may direct.

(3) Where a proprietor fails to make a return required by this

section, or makes a return appearing to the State Government to be incomplete or inaccurate, the State Government may estimate the amount of advertisement tax to the best of its judgement, and the amount estimated shall be treated as payable, unless the contrary is proved .

(4) Any estimate made under this section shall be without prejudice to any prosecution for an offense under this Act.

5. Proprietor to keep books of account, etc Cor a minimum six months :-

(1) A proprietor shall :-

(a) keep such books, records and accounts in relation to the business as the State Government may direct, and (except in so far as the State Government dispenses with this requirement) preserve for six months or any longer period required by the State Government all books, records, accounts or documents relating to the business ;

(b) permit any officer to inspect and take copies of or extracts from any books, records, accounts or other documents in his possession or power which relate or appear to relate to the business.

(2) The State Government may require the proprietor or any person employed or having any functions in connection with the business of a proprietor to give such information relating to his business as the State Government may require, and in particular, to produce at a specified time and place books, records, accounts or documents relating to the business.

6. Punishment for non-compliance of sections 4 and 5 :-

A person who fails to comply with a requirement imposed on him by or under section 4 or section 5 shall, on conviction, be punished with fine which may extend to five hundred rupees.

7. Punishment for non-compliance with other provisions :-

Any person who contravenes any of the provisions of this Act or any rules thereunder for which no other provision has been provided for in this Act shall, on conviction, be punished with a fine which may extend to five hundred rupees.

8. Compounding of offenses :-

Any officer authorised by the State Government in this behalf may recover from any person who has committed or has reasonably

been suspected of having committed an offense against this Act or rules thereunder, by way of composition of such offense-

(a) where an offense consists of the failure to pay, or the evasion of, any advertisement tax payable under this Act, in addition to the tax so payable, a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater ; and

(b) in other cases, a sum of money not exceeding five hundred rupees.

9. Exemption from payment of advertisement tax :-

(1) Nothing in section 3 shall apply in relation to any advertisement which is exhibited without any payment made or to be made therefor -

(a) for or on behalf of any Government,

(b) for or on behalf of any local authority if the advertisement in the opinion of the State Government is for philanthropic or charitable purposes or wholly educational in character and is not exhibited or intended to be exhibited for purposes of profit.

(2) If the Commissioner of Police in any area where a Commissioner of Police has been appointed, or the District Magistrate elsewhere, is of opinion that any advertisement which is exhibited is of the character mentioned in clause (b) of sub-section (1) and is not exhibited or intended to be exhibited for purposes of profit, he shall exempt such advertisement from payment of the advertisement tax.

(3) The State Government may, by general or special order, exempt any advertisement or class of advertisements from payment of advertisement tax, subject to such terms and conditions as may be specified in the order.

10. Power to enter place of entertainment for purposes of this Act :-

(1) The Commissioner of Police in any area for which a Commissioner of Police has been appointed, or the District Magistrate elsewhere, or any officer other than a police officer below the rank of head constable duly authorised by them in this behalf, may enter any place of entertainment where any

advertisement is being exhibited at any reasonable time with a view to seeing whether the provisions of this Act or the rules made thereunder are being complied with.

(2) The proprietor of every place of entertainment shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

(3) If any person prevents or obstructs the entry of the inspecting officer, he shall, in addition to any other punishment to which he is liable under any law for the time being in force on conviction be punished with fine which may extend to five hundred rupees.

11. Recovery of advertisement tax :-

Any sum due on account of the advertisement tax shall be recoverable as an arrear of land revenue.

12. Delegation of powers by the State Government :-

Any of the powers and duties conferred or imposed upon the State Government by this Act may be exercised or performed, subject to such conditions as the State Government may prescribe, by any officer not below such rank as may be prescribed whom the State Government may by general or special order empower in this behalf.

13. Bar of certain proceedings :-

(1) No prosecution, suit or other proceeding shall, without the sanction of the State Government, lie against any officer or servant of the State Government for any act done or purporting to be done under this Act.

(2) No prosecution, suit or other proceeding shall lie against any such officer or servant for anything in good faith done or intended to be done under this Act.

14. Limitation :-

No suit shall be instituted against the State Government and no prosecution, suit or other proceeding shall be instituted against any officer or servant of the State Government in respect of any act done or purporting to be done under this Act after six months from the date of the commission of the act.

15. Rules :-

(1) The State Government may, by notification in the Official

Gazette, make rules for the purpose of carrying out the object of this Act.

(2) The rules to be made under this section shall be subject to the condition of previous publication :

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of rules to be made under this section.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.