

MAHARASHTRA AGRICULTURAL INCOME TAX RULES, 1962

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MAHARASHTRA AGRICULTURAL INCOME TAX RULES, 1962

These Rules have been framed in exercise of the powers conferred by sub-sections (1) and (2) of section 72 of the Maharashtra Agricultural Income- tax Act of 1962, and all the powers enabling the Government of Maharashtra in that behalf

1. Short title :-

These rules may be called the Maharashtra Agricultural Income-tax Rules, 1962.

2. Definitions :-

In these rules, unless the context otherwise requires, -

(a) "Act" means the Maharashtra Agricultural Income-tax Act, 1962:

(b) "Form" means a form appended to these rules;

(c) "Government Treasury" means in Greater Bombay, the Reserve Bank of India, and in other place. Treasury or Sub-treasury, as the case may be, of the district, taluka or tahsil;

(d) "Section" means a section of the Act;

(e) "Tax" means agricultural income-tax payable under the Act and includes any sum by way of penalty ;

(f) "Tribunal" means the Tribunal mentioned in section 21 of the Act.

3. Allowances on account of depreciation :-

(1)

(2) For the purpose of obtaining an allowance for depreciation referred to in sub-rule (1), the assessee shall furnish particulars in the Agricultural Income-tax Officer in Form 1 .

(3) the depreciation to be allowed in respect of any machinery or plant for the purpose of ascertaining the written down value of such machinery or plant referred to in clause (7) of section 8 shall be at the rate specified in sub- rule (1).

4. Determination of market value of Agricultural produce :-

For the purpose of the Act, the market value of any agricultural produce shall, except in the case referred to in clause (a) of the proviso to sub-section (1) of section 9, be determined in the following manner, that is to say, -

(1) if the agricultural produce was sold in the market, the market value shall be deemed to be the price for which such produce was sold ;

5. Computation of allowance on mixed income :-

Where an allowance admissible under sections 7,8 and 9 is in

respect of a common charge incurred for the purpose of deriving both agricultural income assessable under the Act and income chargeable under the Income-tax Act, such allowance shall, except in the case referred to in clause (b) of the proviso to sub-section (1) of section 9, be calculated at such proportion of the common charge as such agricultural income bears to the total of such agricultural income and income chargeable under the Income-tax Act in respect of which such common charge is incurred.

6. Mode of calculation of tax on unexempted agricultural income :-

Where there is included in the total agricultural income of an assessee any agricultural income exempted from assessment of tax under the provisions of section 11, the tax already paid on the exempted portion shall be deducted from the total tax payable by the assessee.

7. Subordination of Officers :-

For the purpose of sub-section (9) of section 20, the subordination of officers and persons shall be as follows, that is to say, -

(a) a Deputy Commissioner shall be subordinate to an Additional Commissioner;

(b) an Assistant Commissioner shall be subordinate to a Deputy Commissioner and to an Additional Commissioner ;

(c) an Agricultural Income tax Officer shall be subordinate to an Assistant Commissioner, a Deputy Commissioner and an Additional Commissioner; and

(d) an officer or person appointed under clause (d) of sub-section (2) of section 20 shall be subordinate to an Agricultural Income-tax Officer, an Assistant Commissioner, a Deputy Commissioner and an Additional Commissioner;

within whose jurisdiction he performs his functions.

8. Form of notice under section 22 (1) and the other manner of its publication :-

(1) The notice referred to in sub-section (1) of section 22 shall be in Form 2 or as near thereto as may be and shall be published on or before the 28th January, 1963 in the year which commenced on the 1st April, 1962 and on before the 1st day of May in each subsequent year, in three principal newspapers to be selected by

the Commissioner and also in the manner specified in sub-rule (2).

9. Return of agricultural income :-

The return of total agricultural income for individuals. Hindu undivided families, companies, firms and associations of persons or bodies of individuals required under sub-section (1) or sub-section (2) of section 22 shall be in Form 3 and shall be verified in the manner indicated therein and signed by -

(a) in the case of an individual, by the individual himself; where the individual is absent from the State by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by the Karta and, where the Karta is absent from the State or is mentally incapacitated from attending to his own affairs, by any other adult member of such family ;

(c) in the case of a company, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor ;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by some person competent to act on his behalf.

10. Application for extension of time for filing return of agricultural Income :-

The application to the Agricultural Income-tax Officer under the proviso to sub-sec (1) or the proviso to sub-sec (2) of S.22 for seeking an extension of date for furnishing the return of agricultural income shall be in Form 4.

11. Mode of payment of tax under section 22. (4) :-

Every assessee required to pay the tax in accordance with/ the provisions of sub-section (4) of section 22 shall pay into the Government treasury the tax due and payable according to his return, and shall submit to the Agricultural Income-tax Office one copy of the receipted chalan in Form 5 along with the return.

12. Notice of assessment :-

The notice required by sub-section (2) of section 23 shall be in Form 6 and the date fixed for compliance therewith shall not be earlier than fifteen days from the date of service thereof.

13. Form of order of assessment :-

The order of assessment under section 23 or 41 shall be in Form 7.

14. Form of notice of demand :-

The notice of demand under sec. 30 shall be in Form 8.

15. Appeals to the Assistant Commissioner :-

An appeal under section 31 to the Assistant Commissioner shall,-

(b) in other case, be in Form 14 .

16. Appeal to Tribunal :-

An appeal under section 33 to the Tribunal shall be in Form 15.

17. Signing of forms of appeal and forms of verification :-

The forms of appeal prescribed by Rules 15 and 16 and the forms of verification appended thereto shall be signed by a person who is entitled to sign the return under Rule 9. Such forms of appeal shall also be signed by the authorised representative, if any, of the appellant.

18. Memorandum of appeal to be accompanied by certified copy of order appealed against etc :-

The memorandum of appeal before the Assistant Commissioner or the Tribunal shall be accompanied by a certified copy of the order appealed against and two copies of the grounds of appeal.

19. Manner of presentation of appeals to Assistant Commissioner or Tribunal :-

An appeal may be presented either in person or by an authorised representative of the Assistant Commissioner, or as the case may be, to the Tribunal within the period specified in sub-section (2) of sec. 31, or as the case may be, sub-section (1) of section 33. An appeal may also be sent by registered post addressed to the Assistant Commissioner, or as the case may be, to the Tribunal so as to reach him or it within that period.

20. Court-fees :-

The value of the court-fee stamps under section 36 shall be as follows, namely :-

Explanation.- For the purposes of this rule, the expression "the amount in dispute" shall mean the sum representing the difference between the amount of tax or to penalty, if any or sum demanded and the amount admitted by the assessee to be payable.

21. Form of reference application :-

A reference application under section 39 requiring the Tribunal to refer to the High Court any question of law shall be in Form 16.

22. Period for which accounts, registers, etc. to be preserved :-

Every assessee and every person on whom a notice has been served under sub-sec. (1) of section 46 shall preserve all books of accounts, registers and other documents including bills, cash .memoranda, invoices, vouchers and other documents relating to his agricultural income for a period of not less than three years from the expiry of the year to when they relate.

23. form of notice for production of documents :-

where the commissioner requires any assessee to produce any accounts or documents or to furnish any information under section 47 he shall issue a notice therefore in Form, 17.

24. Notice of inspection :-

Unless the Commissioners deem it necessary to make a surprise visit, he shall give reasonable notice in writing to the assessee of his intention to inspect the books of accounts, registers,, vouchers and other documents and in fixing the date, time and place for the purpose, shall, as far as possible, have due regard to the convenience of the assessee.

25. Retention of books of accounts, registers and documents seized :-

Where the Commissioner seizes any books of accounts, registers, or documents of any assessee under section 47, he shall not retain them for more than 21 days without recording his reasons in writing for so doing.

Provided that where an officer below the rank of Deputy Commissioner (by virtue of powers of the Commissioner under section 47 delegated to him) seizes any books, registers or documents, he shall not retain them, or cause them to be retained, for a period exceeding six months unless an officer not below the rank of a Deputy Commissioner having jurisdiction over the local area in which the place of assessment is situated has for reasons to

be recorded in writing authorised the retention of the books, registers,' or documents so seized for a longer period :

Provided further that such longer period shall not be more than six months at a time.

26. Application of refund :-

An application for a refund of tax under section 53 shall be made in Form 18. Every such application shall be signed by the claimant and his authorised representatives, if any, and it may be presented by the applicant either in person or through such authorised representative.

27. Composition of offences :-

(1) the Commissioner may accept from any person, whether before or after the institution of proceedings against such person for an offence punishable under section 58 or section 59 payment of a sum of money not exceeding the amount of the tax payable by him, or if no tax is payable, a sum not exceeding 2,000 rupees by way of composition of such offence.

(2) when the payment referred to in sub-rule (1) has been duly made, no proceeding shall be instituted against such person in respect of such offence and any proceeding already instituted in respect of such offence shall be forthwith withdrawn.

28. Qualification of Agricultural Income-tax Practitioner :-

(1) an Agricultural Income-tax Practitioner shall be eligible for having his name entered in the list of Agricultural Income-tax Practitioners maintained under clause (c) of sub-section (1) of section 65 if he possesses, the qualifications mentioned in sub-rule (1) of Rule 66 of Bombay Sales Tax Rules 1959.

(2) The Commissioner shall maintain a list of all Agricultural Income- tax Practitioners and shall from time to time bring the list up-to-date and an Agricultural Income-tax Practitioner who is eligible as aforesaid shall, on application made in writing to the Commissioner be entitled to have his name entered in the list.

29. Copies of documents :-

(1) Any person who is party to a proceeding under the Act or under these rules may apply to the appropriate authority having, jurisdiction in respect of such proceeding or having the custody of the records pertaining thereto, for a certified copy of a document

produced or filed in such proceeding or of an order passed by such authority.