

**Maharashtra Sales Tax On The Transfer Of The Right To Use
Any Goods For Any Purpose Act, 1985**

18 of 1985

[12 August 1885]

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**Maharashtra Sales Tax On The Transfer Of The Right To Use
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An Act to levy and collect the tax on the transfer of the right to use any goods for any purpose whether or not for a specified period) for cash, deferred payment or other valuable consideration in the State of Maharashtra; It is hereby enacted in the thirty sixth Year of the Republic of India as follows: - Notes Statement of Objects and Reasons.-By clause (29A) inserted in article 366 of the Constitution of India by the Constitution (Forty-sixth Amendment) Act, 1982 which came into force on the 2nd February 1983, the expression "tax on the sale or purchase of goods" used in entry 54 in List II in the Seventh Schedule to the Constitution is defined so as to include inter alia a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. Although in this State the Bombay Sales Tax Act, 1959, is enacted to levy of tax on the sale or purchase of certain goods, the provisions as respects the levy of tax on the transfer of the right to use any goods for any purpose (whether The Mah. S. T. on Lease Act, 1985 or not for a specified period) for cash, deferred payment or other valuable consideration could not be made earlier. By virtue of the provisions made in clause (29A) of article 366 as aforesaid, it is now permissible for the State Government to levy tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration. The State Government has, therefore, decided to levy such tax with a view to augment the revenue and for that purpose to enact a separate law instead of making provisions in respect thereof in the Bombay Sales Tax Act, 1959.

CHAPTER 1 PRELIMINARY

1. Short Title, And Commencement :-

(1) This Act may be called the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985.

(2) It extends to the whole of the State Maharashtra.

(3) It shall come into force on such *date as the State Government may, by notification in the Official Gazette appoint [w.e.f. 1-10-1995].

2. Definitions :-

In this Act, unless the context otherwise requires-

- (1) "appointed day" means the 1st day of October, 1986. ;
- (2) "Bombay Sales Tax Act" means the Bombay Sales Tax Act, 1959.
- (3) "Commissioner" means the person appointed to be the Commissioner of Sales Tax under the Bombay Sales Tax Act.

Notes

Commissioner.-Rule 2(b) of the Maharashtra Sales Tax on the transfer of the right to use any goods for any purpose Rule, 1986 provides that the expression Commissioner shall include such officers appointed by the State Government under section 20 of the Bombay Sales Tax Act, 1959 and for the purpose of their jurisdiction, delegation and exercise of the powers under this Act the provisions under this Act the provisions of Section 20 aforesaid shall apply.

Section 20 of the Bombay Sales Tax Act provides for appointment of (1) Commissioner, (2) Additional Commissioner, (3) Deputy Commissioner, (4) Assistant Commissioner, (5) Sales Tax Officers and (6) Other officers and persons with different designations as necessary, to carry out the purposes of the Act.

Jurisdiction.-The Commissioner shall have jurisdiction all over the whole of State and Additional Commissioners, if any, shall have jurisdiction over the whole state or over any local areas thereof as directed by the State Government. All other officers shall have jurisdiction over such local areas as the State Government directs.

Power and Duties.-The Commissioner shall have and exercise all the powers and perform all the duties conferred or imposed on him by Act. The Additional Commissioner, if any, shall save otherwise directed by the State Government, have and exercise within his jurisdiction all powers of Commissioner and perform all the duties of the Commissioner. A Deputy Commissioner shall have and exercise in the area of his jurisdiction all the powers of the Commissioner. Assistant Commissioner, Sales Tax Officers and Other Officers shall, within their jurisdiction, exercise such powers and perform such duties of the Commissioner as are by general or special order delegated them by the State Government.

- (4) "dealer" means any person who whether for commission, remuneration or otherwise transfer the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and includes the State Government or the Central Government which so transfers the right to use such goods and also any society, club or association of persons which so transfer the right to use such goods to its

members.

Explanation:-In respect of the transfer of the right to use 1[***] video cassettes, the person who transfers such right to the exhibitor or user and from whom exhibitor or user derives the right to make such use shall be deemed to be the dealer under this clause.

Notes

Dealer:-By virtue of the definition the expression "person" in section 2(6) the definition of the expression dealer under the Act has become comprehensive so as to includes State Government, Central Government and any society, club or Association of person which transfer the property in the goods to their members, and also a company, body of individual, whether incorporated or not, Hindu undivided family, a firm and a local authority. Dealer means any person who whether for commission, remuneration or otherwise transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

Transfer of right may not be for a specified period.-The expression dealer embraces all transfer whether for a specified period or not.

Transfer of right may be for cash or for a deferred payment.-The transfer of right to use any goods may be for cash, valuable consideration or for a deferred payment. Any person who leases out even from outside the State of Maharashtra will be within the purview of this Act if he transfers his right to use goods within this State to the lessee and gets rentals for his hire than such rentals are taxable in the State of Maharashtra.

Exhibitor of Video Cassettes is a dealer under the Act.-As provided in the Explanation an exhibitor of video cassettes is a dealer within the meaning of the term dealer under the Act.

Essentials of to become a dealer.--Under the Lease Act, only one transaction in which a transfer of right to use goods has taken place can cause that person to become a dealer under the Lease Act. To come within the purview of Lease Act the transfer of goods is a must from lessor to lessee. An Agriculturist who is not liable to be a dealer under the Bombay Sales Tax Act but will be liable to be dealer under this Act if he hires an agricultural machinery and equipments to others who may exclusively use in agricultural operations.

(5) "goods" means all kinds of moveable property (not being newspapers, or actionable claims or money, or stocks, shares or securities);

(6) "person" includes any company or body of individuals, whether incorporated or not, and also a Hindu undivided family, a firm and a local authority;

(7) "prescribed" means prescribed by rules;

(8) "registered dealer" means a dealer registered under section 7;

(9) "rules" means rules made under this Act;

(10) "sale" means the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or any other valuable consideration and the word "sell" with all its grammatical variations and cognate expressions, shall be construed accordingly.

Explanation:-For the purposes of this clause, the transfer of the right to use any such goods shall be deemed to have taken place in the State of Maharashtra 1[if the goods are in the State of Maharashtra at the time of their use] irrespective of the place where the agreement for such transfer of the right to use such goods is made, and whether the assent of the party is prior or subsequent to such transfer of the right to use any such goods.

Notes

"Sale" means the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or any other valuable consideration. Explanation to the definition specifies the situs of sale. The Explanation defines that if the goods are in the State of Maharashtra at the time of their actual use than that transaction comes within the definition of "sale".

(11) "sale price" means the amount of valuable consideration received or receivable for the transfer of the right to use any goods for any purpose (whether or not for a specified period);

1[Explanation.--For the purpose of this clause, sale price shall include the amount received by the seller by way of deposit (whether refundable or not), which has been received whether by way of a separate agreement or not in connection with or incidental or ancillary to, the said sale or the distribution of the said goods.]

(12) "Schedule" means the Schedule appended to this Act;

(13) "State" means the State of Maharashtra;

(14) "tax" means a tax payable under this Act;

(15) "turnover sales" means the aggregate of the amounts of sale price received or receivable during a year by a dealer in respect of the transfer of the right to use any goods 2[specified in the Schedule] and includes any advance received by a dealer as a part of sale price;

Notes

Turnover of Sales.-The turnover of sales means the aggregate of the amount valuable consideration received or receivable for transfer of right to use goods for any purposes specified in the Schedule and include any advance received by a dealer for transfer of such right. Rule 10 provides for determination of turnover and deductions to be made from aggregate sale price.

(16) "year";

(a) means the financial year;

(b) in relation to any particular registered dealer for the purpose of this Act (except sections 5 and 7), means the year by reference to which the accounts of that dealer are ordinarily maintained in his books, but the dealer may by written declaration made by him in this behalf opt for the financial year :

Provided that, where an option has once been exercised by a registered dealer, he shall not, except with the consent of the Commissioner and upon such conditions as the Commissioner may determine, make any variation in respect thereof.

CHAPTER 2 INCIDENCE AND LEVY OF TAX

3. Incidence Of Tax :-

Subject to the provisions contained in this Act and the rules made thereunder a tax shall be leviable on the turnover of sales in respect of :-

(i) the transfer of the right to use any goods agreed to before the appointed day but the right to use is exercised on or after the appointed day;

(ii) the transfer of right to use any goods agreed to prior to the appointed day, and where in the right to use has been continued after the appointed day, to the extent of the sale price received or receivable in respect of such use on or after the appointed day; and

(iii) the transfer of right to use any goods agreed to on or after the appointed day.

Notes

Incidence of Tax.-Section 3 of the Act provides that a tax shall be leviable on the turnover of sales in respect of the transfer of the right to use any goods for any purpose, when the right is exercised on or after the appointed. It is immaterial whether the agreement to transfer such right is entered into before appointed day. The section says that:-

(1) Even if the agreement to transfer the right to use any goods for

any purpose is entered into prior to appointed day but if the right is exercised on or after the appointed day then tax is payable on such transfer.

(2) If the transfer of right is agreed upon prior to appointed day and the right is continued after the appointed day then the sale price received or receivable in respect of such use on or after the appointed day is subject to levy, and

(3) Tax shall be leviable on transfer of right agreed upon on or after the appointed day.

The word "Transfer" has been defined by Salmond on Jurisprudence (Twelfth Edition at page 332 and 333) as follows:--

"The transfer of a right is an event which has a double aspect. It is the acquisition of a right by the transferee, and loss of it by the transferor. The vestitive fact, if considered with reference to the transferee is a derivative title, while from the point of view of the transfer it is an alienative fact."

In Corpus Juris Secundum "transfer" is defined as follows:-

"The common use of the word "transfer" is to denote the passing of title in property, or an interest therein, from one person to another, and in this sense the term means that the owner of property delivers it to another person with the intent of passing the right which he had in it to the latter. " (Volume 87 p. 892).

Incidence of tax in the Lease Act takes place when the lessor leases out his asset to the lessee. Essence of taxable event is "use" and it should be in the State of Maharashtra.

Essentials of the Leasing Transaction.--In the Leasing Transaction there must be an agreement to lease a specified good. The Lessor and the Lessee must be competent to contract. There must be an asset to be leased by the lessor. To come within the purview of the Act there must be actual transfer of right to use goods i.e. actual possession and control of the asset must be transferred. The lessee must accept the leased property, and must have the right to enjoy the said property from the lessor. The agreement must be for a consideration for the lease of the goods. The Lessor must continue to be the owner of the goods or asset. The agreement must be for lease and not for any other rights, and all other rights pertaining to the asset or goods must be with the owner. The goods must be falling within the description of Schedule appended to the Act.

4. Levy Of Tax :-

There shall be levied a tax on the turnover of sales in respect of the

transfer of the right to use goods specified in the Schedule a such rate not exceeding fifteen paise in the rupee as the State Government may by notification in the Official Gazette, specify from time to time 1[and different rates may be specified for different goods specified in the Schedule].

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Notes

Levy of Tax.-This section lays down the quantum of tax which is leviable upto a maximum limit of 15 paise in the rupee. Different rates may be specified for different goods specified in the Schedule. By a notification on 19th September 1986, the rate of tax has been specified at 4 paise in the rupee for all the goods specified in the Schedule refer notification No. RUG.1086/ CR-64-C/ Taxation-1, dated 19-9-1986 and Refer Notification RUG 1194/CR/32/Taxation-1, Dated 29-3-1994 w.e.f. 1-4-1994.

The Maharashtra Government has by Mah. Act No. 29 of 1994 added a proviso to section 4 which provides that for computation of turnover of sales, the turnover related to the goods in respect of which tax under the Bombay Sales Tax Act has been paid on any earlier transaction shall not be taken into consideration. This Amendment was enacted to avoid double taxation under the Bombay Sales Tax Act and the Lease Act. The said proviso was amended in 1996 by the Mah. Act No. 19 which provides that the purchase of goods even from an unregistered dealer and where purchase tax is paid by the dealer under the Bombay Sales Tax Act shall not be considered for the purpose of computation of turnover of sales. Prior to the amendment the Act provided that the goods must have been purchased from a Registered dealer only, now that lacuna has been removed.

By virtue of the an amendment to section 4, i.e. incorporating second provision the dealer under this section on the turnover of sales tax already paid into Government Treasury on the turnover of sales of the same goods at an immediate preceding stage shall be set-off against the tax so payable subject to rules." Above both the proviso have been deleted by Mah. Tax Laws (Levy and Amendment) Act, 2001, to facilitate multi-stage levy of tax.

4A. Set-Off, Drawback, Etc :-

(1) The State Government may, by rules, prescribe the conditions subject to which and circumstances under which set-off of whole or any part of tax paid or levied on earlier sale of goods under this Act or under the Bombay Sales Tax Act, 1959, shall be granted to the

dealer, liable to pay tax under section 4:

Provided that, such amount of set-off shall not exceed the amount of tax received under this Act, into the Government Treasury.

(2) For the purpose of levy of tax under the provisions of this Act, the sale price in the case of any class of sales may be reduced to such extent and in such manner as may be prescribed.]

4B. Exemption :-

(1) Notwithstanding anything contained in this Act, no tax shall be levied on the turnover of sales, effected by any registered dealer to a certified registered dealer, if such certified registered dealer furnishes to the selling registered dealer the declaration in the prescribed form.

(2) Where any certified registered dealer has issued a declaration mentioned in sub-section (1), but has failed to comply with the prescribed conditions relating to such declaration or, where such dealer or person was not entitled to issue such declaration, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by order in writing, impose upon such dealer, a penalty equal to the aggregate of the tax which would have been payable under the provisions of this Act in respect of the sale to him of the goods in the absence of such declaration and a simple interest on the amount of such tax at the rate of one and quarter per cent, per month or part thereof computed from the date of sale.

Explanation.-For the purpose of this section, "certified registered dealer" means a dealer registered under the Bombay Sales Tax Act, 1959 who is a developer of Special Economic Zone or an industrial unit or any other establishment and who holds a certificate from the designated Development Commissioner of Special Economic Zone certifying that the place of business of the dealer is situated in the said Special Economic Zone.]

5. Liability Of Dealer :-

(1) Every dealer whose turnover of all sales made during-

(i) the year ending on the 31st day of March 1[1986].

(ii) the year commencing on the 1st day of April 1[1986].

has exceeded or exceeds the limit of fifty thousand rupees shall, until such liability ceases under sub-section (3), be liable to pay tax

under this Act on the turnover of sales on or after the appointed day:

Provided that, a dealer to whom clause (ii) applies and whose turnover of all sales exceeds the limit of fifty thousand rupees after the appointed day shall not be liable to pay tax in respect of sales which takes place upto the time when his turnover of sales are computed from 1st day of April 1[1986] first exceeds such limit.

(2) Every dealer whose turnover of sales during any year commencing on the 1st day of April, being a year subsequent to the years mentioned in sub-section (1) first exceeds the limits of rupees fifty thousand shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date:

Provided that, a dealer shall not be liable to pay tax in respect of such of the sales as take place during the period commencing on the 1st day of April of the said year upto the time when his turnover of sales as computed from the 1st day of April of the said year first exceeds the limit of rupees fifty thousand.

(3) Every dealer who becomes liable to pay tax under this Act shall continue to be so liable until his registration certificate is duly cancelled and upon such cancellation his liability to pay tax on other than tax already levied or leviable shall until his turnover of sales again first exceeds the limit of rupees fifty thousand, cease:

Provided that, where the dealer becomes liable to pay tax again in the same year in which he ceases to be liable as aforesaid, then in respect of sales which take place during the period commencing on the date of cessation of liability to tax and 1[upto the time when] his turnover of sales first exceeds such limit, no tax shall be payable.

Notes

Liability of Dealer.-Dealers whose turnover of all sales in the year ending on 31st March, 1986 or beginning within 1st April, 1986 or in any subsequent year has exceeded or exceeds Rs. 50,000/- shall be liable to pay tax under the Act. His liability to pay the tax shall continue till his Registration is cancelled in accordance with the provisions of rules.

6. Sales Tax Payable By Dealer :-

Subject to the provisions of this Act and the rules made thereunder, there shall be paid by every dealer who is liable to pay tax under this Act, the tax leviable in accordance with section 4 on

the turnover of sales in respect of the transfer of the right to use goods specified in the. Schedule.

CHAPTER 3 REGISTRATION

7. Certificate Of Registration :-

(1) No dealer who becomes liable to pay tax under this Act shall sell any goods unless he possesses a valid certificate of registration as provided by this Act;

Provided that it shall be lawful for the dealer to sell or continue to sell any goods if the dealer has applied for such registration within the prescribed time.

(2) Every dealer required to possess a certificate of registration shall apply in such manner, and to such authority, as may be prescribed.

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

(4) The authority 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) If any person upon an application made by him has been registered as dealer under this section, and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax on his sales made from the date on which his registration certificate took effect until it is cancelled notwithstanding that he may not be liable to pay tax under section 5.

(6) Where a registered dealer discontinues sales, or the turnover or sales of a registered dealer has during any year not exceeded limit of fifty thousand rupees and the dealer applies in the prescribed manner of cancellation of his registration certificate, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.

(7) Where the Commissioner is satisfied that any registered dealer has discontinued sale and has failed to apply under sub-section (6) for cancellation of registration certificate, the Commissioner may after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the registered dealer has discontinued sale: Provided that, the cancellation of certificate of registration on an

application of the dealer or otherwise shall not affect the liability of the dealer to pay 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.

Notes

Registration.-No dealer who. becomes liable to pay tax under this Act shall transfer the right to use any goods for any purpose unless he possesses a valid certificate of Registration.

In application for Registration shall be in Form I.

Such application shall be made,-

(1) Within 10 days from the appointed day in cases of dealers whose turnover in the year ending, on 31st March 1986 or for the period 1 st April 1986 to any date prior to the appointed day has exceeded Rs. 50,000/-.

(2) If a registered dealer sells or otherwise disposes of his business actually partly or wholly or effects or comes to know of any other charge in the ownership of activity, the successor of such dealer shall apply to the registering authority within 30 days from the occurrence of the event.

(3) If the registered dealer dies, his legal representative or his legal heir shall make an application to the Registering Authority within 30 days from the death of the dealer.

Separate application for separate places of business.-A dealer having places of business, within jurisdiction of different registering authorities, shall apply, for registration to different authorities in respect of different places of business.

Signing and verifying the application.-Applications for Registration shall be signed and verified by the following persons specifying the capacity in which he is signing and verifying,-

Individual Proprietor.

Firm Partners

Hindu undivided family Karta

Body Corporate Director, Manager, Secretary or principle Officer or a person duly authorised.

Association of Individuals Principle Officer or the person managing the activity of association.

Government A person duly authorised.

Declarations.-Declarations by all the partners of a firm.-When the dealer is a firm all the partners thereof shall file a declaration as provided in Form I. When such declaration is not furnished alongwith application such declaration can be furnished within 3 months.

When the dealer is an individual, firm or H.U.F. the person verifying on behalf of such dealer shall furnish with the application a recent photograph of passport size to be attested by when called upon to do so.

Declaration as to Manager of Hindu Undivided family, Association, etc:-Every dealer who is liable to pay tax under the Act, and who is an Hindu undivided family, association, club, society, firm or company or any person who carries on the activity of transferring the right to use any goods as a guardian or trustee or otherwise on behalf of another person, while making an application for registration shall furnish to the registering authority, a declaration in Form XXI stating the name of the person who shall be deemed to be the manager in relation to the activity of transferring the right to use any goods in the State of Maharashtra. If any change occurs in the person managing the said activity, fresh declaration in the said form shall be furnished to the registering authority within thirty days from the date of such change.

Declaration in Bill or Cash Memo.-A Registered dealer shall, within 30 days from the grant of registration certificate furnish to the Commissioner three specimen signature which he intends to use in signing declaration on Bills or Cash Memos. Such signatures are to be furnished in Form XVIII, and in case of nominee in Form XIX.

Grant of Certificate.-The Certificate of Registration shall be granted in Form II.

If the dealer is Firm, H.U.F., Company, Government or, body of individuals. Certificate of Registration shall be issued in the name of such firm, H.U.F., Company, Government or body of Individuals.

Cancellation of Registration.-When a Registered dealer discontinues his business or where his turnover of sales during any year has not exceeded the limit of Rs. 50,000/- and he appears in the prescribed manner for cancellation of his Registration Certificate the prescribed authority shall cancel the Registration Certificate from the date as it may fix.

An application for cancellation of the Registration shall be in Form III.

The Commissioner may if satisfied that a Registered dealer has discontinued the sales but failed to apply for cancellation of Registration certificate; cancel the registration certificate of a dealer, after giving him a reasonable opportunity of being heard. Such cancellation shall be effective from the date of discontinuance of sale.

The Cancellation of Certificate of Registration earlier on the

application of the dealer or otherwise shall not affect his liability to pay any due for any period upto the date of cancellation.

Where the registration is to be cancelled,-

(a) on the ground of discontinuance, transfer or otherwise disposal of the dealers activity of transferring the right to use any goods, the date of cancellation of registration shall be the date on which the activity has been discontinued or transferred or otherwise disposed of;

(b) on the ground that the turnover of sales of the registered dealer has during the year not exceeded the limit of Rupees fifty thousand, the date of cancellation of registration shall not be later than the first day of the month next following the day on which the notice is published under sub-rule (2).

Where a registration of the dealer is to be cancelled under sub-section (7) of section, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, cancel the registration by an order in writing with effect from the date as the Commissioner may fix to be the date on which the activity of transferring the right to use any goods has been discontinued or transferred or disposed of as the case may be, and the Commissioner shall by a notice placed on the notice board of his office, publish the name, address and registration number of the dealer and the date from which the cancellation takes effect. A copy of the cancellation order shall be served on the dealer.

CHAPTER 4 CERTAIN PROVISIONS OF THE BOMBAY SALES TAX ACT APPLICABLE

8. Authorities Under Bombay Sales Tax Empowered To Assess, Re-Assess, Etc., Tax Under This Act :-

(1) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the Bombay Sales Tax Act shall assess, re-assess, collect and enforce payment of tax including any penalty payable by a dealer under this Act as if the tax or penalty payable by such a dealer under this Act is a tax or penalty payable under the Bombay Sales Tax Act and for this purpose they may exercise all or any of the powers they have under the Bombay Sales Tax Act, and the provisions of the Bombay Sales Tax Act relating to returns, assessments, advance payment of tax, rectification, collection, forfeiture, registration of the transferee of any dealer liable to pay tax under

this Act, imposition of the tax liability of a dealer, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, special mode of recovery of tax, appeals, revisions, reference, refunds, rebates, penalties, charging or payment of interest, compounding of offences, and the treatment of documents furnished by a dealer as confidential, shall, mutatis mutandis, apply accordingly.

(2) All the provisions relating to offences 1[charging or payment of interest] and penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence) of the Bombay Sales Tax Act shall mutatis mutandis apply in relation to the assessment, re-assessment, collection and the enforcement of payment of the tax required to be collected under this Act or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payments as if the tax payable under this Act were the tax payable under the Bombay Sales Tax Act.

Notes

Returns.-Every Registered dealer shall submit a Return in Form IV. The form shall consist of return-cum-challan. The returned is to be furnished to the government treasury alongwith the payment of tax and penalty, if any. If no tax or penalty is due, the return is to be submitted to Sale Tax Officer or the Assistant Commissioner of Sales Tax.

Revised return.-The dealer may furnish a revised return, within 3 months following the period to which the return relates, if an error or omission is discovered by him in the original return.

Refund of tax.-When the Commissioner is satisfied that a refund of tax is due to a registered dealer, he shall pass an order for refund of such tax, payable at the instance of the dealer either in cash by Refund Payment Order No. XVI or XVI-A, as the case may be, or adjust it against any amount of tax payable by the dealer such Refund Adjustment Order shall be in Form XVII.

Application of the provisions of Bombay Sales Tax Act and Rules.-Various sections and rules of Bombay Sales Tax Act and Rules relating to return, assessment, advance payment of tax, rectification, collection, forfeiture, imposition of the tax liability on a dealer, recovery of tax, appeals, revisions, references, refunds, rebates, penalties, charging or payment of interest and compounding of offences will be applicable mutatis mutandis to this Act.

8A. Certain Sales Not To Be Liable To Tax :-

Nothing in this Act or the rules made thereunder shall be deemed to impose or authorise the imposition of a tax on any sale of any goods, where such sale takes place,-

(a) (i) outside the State ; or

(ii) in the course of import of the goods into the territory of India or the export of the goods out of such territory; or

(b) in the course of inter-State trade or commerce;

and the provisions of this Act or the said rules shall be read and constructed accordingly.

8B. Interest On Amount Of Refund :-

Where, in pursuance of any order under this Act, in respect of any period of assessment commencing on or after the 1st April 2004, refund of any tax becomes due to a registered dealer, he shall, subject to the rules, if any, be entitled to receive, in addition to the refund, simple interest at the rate of six per cent. per annum for the period commencing on the date next following the last date of period of assessment to which such order relates and ending on the date of such order or for a period of eighteen months, whichever is less. The interest shall be calculated on the amount of refund due to the dealer in respect of the said period after deducting therefrom the amount of penalty and interest, if any, charged in respect of the said period and also the amount of refund, if any , adjusted towards any recovery under this Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

Explanation.-- For the purposes of this section, where the refund of tax, whether in full or in part, includes any amount of refund on any payment of tax made after the date prescribed for filing of the last return for the period of assessment, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

8C. Interest On Delayed Refund :-

Where an amount required to be refunded by the Commissioner to any registered dealer by virtue of an order issued under this Act is not so refunded to him within ninety days from the date of the order, the State Government shall, pay such dealer a simple

interest at the rate of six per cent, per annum on the said amount from the date immediately following the expiry of the period of ninety days from the date of such order:

Provided that, where the amount becomes refundable by virtue of an order of the Tribunal, the interest under the provisions of this section shall be payable from the date immediately following the expiry of period of ninety days from the date of receipt of the order of the Tribunal by the officer whose order forms the subject of the appeal proceedings before the Tribunal.

CHAPTER 5 MISCELLANEOUS AND RULES

9. Power Of State Government To Amend Schedule :-

The State Government may, from time to time, by notification in the Official Gazette, amend the Schedule by inserting any entry in respect of the transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and thereupon the Schedule shall stand amended accordingly for the purpose of levy of tax under this Act.

10. Powers To Make Rules :-

(1) The State Government may make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the power to make rules under sub-section (1) of the rules may provide for-

(a) the time within which a dealer shall apply for registration under sub-section (1) of section 7;

(b) the manner in which and the authority to whom an application for registration certificate shall be made under sub-section (2) of section 7;

(c) the form of certificate of registration to be issued under sub-section (3) of section 7;

(d) the manner in which an application shall be made for cancellation of registration certificate under sub-section (6) of section 7; and the authority who shall cancel such registration certificate;

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

(3) In making any rules the State Government may direct that a

breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) Rules 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 any rule to be made under this section.

(5) Every rule made under this section 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 total 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 immediate 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 this rule.