

Maharashtra Sales Tax On Transfer Of The Right To Use Any Goods For Any Purpose Rules, 1986

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Maharashtra Sales Tax On Transfer Of The Right To Use Any Goods For Any Purpose Rules, 1986

CHAPTER 1 PRELIMINARY

1. Short Title And Commencement :-

(1) These may be called the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose, 1986.

(2) They shall come into force on and from the 1st day of October. 1986.

2. Definitions :-

In these rules, unless the context otherwise requires,--

(a) "Act" means the Maharashtra Sales Tax on the Transfer of the Right to use any goods for any Purpose Act, 1985;

(b) "Commissioner" includes such officers which the State Government has appointed under section 20 of the Bombay Sales Tax Act, 1959 and for the purpose of whose jurisdiction, delegation and exercise of powers under this Act, the provisions in section 20 of the Bombay Sales Tax Act. 1959, shall apply;

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

(d) "place of business" includes shop, warehouse, godown or other place where a dealer stores his goods, and any place where he keeps his books of accounts and in respect of a dealer who has no fixed place of business in the State, the place where the right to use goods specified in the Schedule, is exercised;

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

(f) words or expressions used in these rules, but not defined shall have the same meanings, respectively, assigned to them in the Act or, as the case may be, in the Bombay Sales Tax Act. 1959 or the Bombay Sales Tax Rules, 1959.

CHAPTER 2 REGISTRATION

3. Application For Registration :-

(1) In the case of dealer who becomes liable to pay tax under section, 5 an application for registration under section 7 shall be made-

(a) within 10 days from the appointed day, if his turnover of all sales during the year ending on the 31st March 1986 or during the year commencing on the 1st April, 1986 has exceeded the limit specified in section 5 before the appointed day; and

(b) in any other case, within 30 days from the date on which his turnover of all sales during the year commencing on the 1st April, 1986 or as the case may be, during any subsequent year, first exceeds the limit specified in section 5.

(2) In the event specified in clause (a) of sub-rule (1) of rule 7, the successor of the dealer in his activity of transferring the right to use goods specified in the Schedule for any purpose, or part of his activity and in the event specified in sub-rule (2) of Rule 7; if the activity of transferring the right to use such goods is continued, then the legal representative of the dealer or his legal heir shall make an application for registration under section 7 within thirty days from the occurrence of the event.

(3) An application for registration under sub-section (2) of section 7 shall be made in Form I to the registering authority.

(4) A dealer having places of business within the jurisdiction of different registering authorities, shall make an application for registration separately to each such authority in respect of his place of business (not being merely a warehouse) within the jurisdiction of that authority.

(5) Every application for registration shall be made, signed and verified in the case a dealer who is-

(a) an individual, by the proprietor or by person having due authority to act on behalf of such proprietor;

(b) a firm, by a partner thereof or by a person duly authorised by all the partners to act on behalf of such a firm;

(c) a Hindu undivided family, by the Karta or an adult member thereof or by a person duly authorised by the Karta to act on behalf of such a Hindu undivided family;

(d) a body corporate (including a company, a co-operative society, or a corporation or local authority) by a director, manager, secretary or the principal officer thereof, or by a person authorised to act on its behalf;

(e) an association of individuals to which clauses (b), (c) or (d) does not apply, by the principal officer, or person managing the activity of the dealer;

(f) the Government, by a person duly authorised to act on its behalf.

(6) In the case of a firm, every partner thereof shall furnish the declaration as provided in Form I; such declaration, if not furnished, at the time of making an application for registration, shall be furnished not later than three months from the date of making such application.

(7) The person signing and verifying an application for registration shall specify the capacity in which he does so, and shall wherever possible give particulars of the authority vested in him for signing and verifying the application.

(8) (i) Every person signing and verifying an application for registration in the capacity specified in clause (a), (b) or (c) of sub-rule (5) shall also furnish with the application a copy of his recent photograph of passport size.

(ii) Where a person other than the proprietor, or a partner or the Karta or adult-member as specified in clauses (a), (b) and (c) who is duly authorised in the manner specified above signs the application, he shall also furnish with the application, a copy of a recent photograph in passport size of the proprietor in the case of (a), of a partner in the case of (b) or the Karta or an adult member in the case of (c):

Provided where the person whose photograph so furnished is not ordinarily residing in the State of Maharashtra, the said photograph should bear the persons signature duly authenticated by a

Gazetted Officer of the State or Central Government.

(9) The person so furnishing the photograph shall when called upon to do so attend before the registering authority and sign before him on the copy of the photograph furnished by him.

(10) Where the applicant dealer is an individual, a firm, a Hindu undivided family or other unincorporated association of individuals, the name and permanent residential address of such individual, each of the partners of the firm, members of the family, or as the case may be, addresses of the managing committee of the association, or of persons having any interest in the activities of the dealer, shall be stated in the application for registration.

(11) Every applicant for registration shall state in general terms the description of the goods, the rights to use in respect of which are transferred by the dealer.

4. Grant Of Certificate Of Registration :-

(1) Certificate of registration shall be issued in Form II.

(2) Where a dealer applying for registration is a firm, Hindu undivided family, body corporate or association of individuals or Government, the certificate of registration shall be issued in the name of such firm, family body corporate, associate or Government, as the case may be.

(3) Where a certificate of registration is issued to a dealer on application made therefor, then-

- (a) (i) if it was made within the period specified under clause (a) of sub-rule (1) of rule 3, it shall take effect from the appointed day;
 - (ii) if it was made within the period specified in clause (b) of sub-rule (1) of rule 3, it shall take effect from the time on which the dealers turnover first exceeds the limit specified in section 5;
 - (iii) if it was made within the time specified in sub-rule (2) of rule 3, it shall take effect from the date of occurrence of the event specified in the said sub-rule.
- (b) If such application was made after the expiry of the aforesaid period, it shall take effect from the date on which the application

was made.

(4) Where a dealer has two or more places of business within the jurisdiction of the same registering authority, the registering authority shall issue to a dealer one copy of the certificate of registration for each additional place of business (not being merely a warehouse) specified in the application for registration.

5. Exhibition Of Certificate Of Registration :-

Every registered dealer shall display conspicuously at each place of his business (not being merely a warehouse), the certificate of registration or a copy thereof.

6. Cancellation Of Certificate Of Registration :-

(1) An application for cancellation of registration under sub-section (6) of section 7 shall be made to the registering authority in Form III.

(2) If the registering authority is satisfied that the application is in order and falls within the provision of sub-section (6) of section 7, it shall by order in writing, after giving the dealer a reasonable opportunity of being heard cancel the registration with effect from a date fixed in accordance with sub-rule (3) and shall, by a notice placed on the notice board of its office, publish the name, address and registration number of the dealer and the date from which the cancellation takes effect. A copy of such order shall be served on the dealer.

(3) Where a registration is to be cancelled, -

(a) on the ground of discontinuance, transfer or otherwise disposal of the dealer's activity or 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 any 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).

(4) Where a registration of the dealer is to be cancelled under sub-section (7) of section 7, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, cancel the registration by an order in writing with effect from such 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.

(5) If the registration of a dealer is cancelled either on his application or under-section (7) of section 7, the dealer shall surrender the certificate of registration and the copies thereof, if any, granted to him, to the registering authority, within fifteen days, from the date of receipt by him of the order cancelling the registration.

7. Intimation In The Event Of Change Of Ownership Or Nature Of Activity Of Transferring The Right To Use Goods Specified In The Schedule For Any Purpose :-

(1) If any registered dealer liable to any tax under the Act,

(a) sells or otherwise dispose of his activity of transferring the right to use goods specified in the Schedule for any purpose, partly or wholly, or effects or comes to know of any other change in the ownership of his activity, or

(b) discontinues his activity or changes his place of business or opens a new place of business, or

(c) changes the name or nature of this activity or effects any change in his activity.

he shall, within thirty days of the occurrence of any of the events mentioned in clause (a), (b) and (c), send an intimation of particulars of such change in writing together with the certificate of registration to the registering authority.

(2) If any registered dealer dies, his legal representative shall within thirty days from his death inform the registering authority about the date of the dealers death and the names and addresses of his legal heirs.

CHAPTER 3 RETURNS, PAYMENT OF TAX AND REFUND

8. Submission Of Returns And Payment Of Tax :-

(1) Every dealer registered under the Act shall, unless he has been exempted in this behalf by the Commissioner by an order in writing, furnish a return in Form IV. The form shall consist of a return-cum-challan. The return shall be furnished to-

(a) the Government treasury along with the payment of tax and penalty, if any, due and payable according to the return.

(b) the Sales Tax Officer or as the case may be, to the Assistant Commissioner of Sales Tax, if no tax and penalty is due and payable according to the return, or in any other case.

(2) If any dealer, having furnished return under sub-rule (1), discovers any omission or wrong statement, he may furnish a revised return before the expiry of three months next following the period to which the return relates.

(3) Tax or penalty payable otherwise than according to the return or that which is not paid with the return shall be paid with challan in Form V.

(4) The provisions of the Bombay Sales Tax Rules, 1959, so far as they relate to-

(i) The periods for which the return shall be furnished;

(ii) The circumstances under which the dealer shall become liable to furnish monthly return, quarterly return or return for other periods;

(iii) The periods within which the return shall be furnished;

(iv) The manner in which the payment shall be made; and

(v) Permission to furnish consolidated return;

shall, mutatis mutandis, apply to furnishing of returns and payment of tax by dealer registered under the Act, as if the return to be furnished or taxes to be paid by the registered dealer under the Act are return and taxes under the Bombay Sales Tax Act, 1959.

(5) The following Forms are prescribed, as far as applicable, for the purposes of these rules, namely:-

- (i) An application for permission to submit returns for different periods in lieu of quarterly returns shall be in Form VI.
- (ii) An order permitting a dealer to submit returns for different periods in lieu of quarterly returns shall be in Form VII;
- (iii) An application for grant of permission to file consolidated return shall be in Form VIII;
- (iv) A notice for payment of tax due according to a return under this rule shall be in Form IX;
- (v) A notice for the purpose of assessment shall be in Form X and the date fixed for compliance thereof shall not be earlier than fifteen days from the date of service thereof;
- (vi) A notice for the purpose of re-assessment shall be in Form XI and the date fixed for compliance thereof shall not be earlier than fifteen days from the date of service thereof;
- (vii) A notice for rectification of mistake shall be in Form XII;
- (viii) A notice for forfeiture and for imposing penalty shall be in Form XIII;
- (ix) An order of assessment shall be in Form XIV;
- (x) A final notice of assessment shall be in Form XV.

8A. Set-Off Under 1[**] The Act :-

When any dealer claims set-off against the tax paid, under the Act, into Government Treasury on the last sale or purchase of the goods, the burden of providing that the tax has been paid into Government Treasury shall be on the dealer, and for this purpose he may furnish to the assessing authority a declaration in Form XXV duly filed and signed by the dealer who deposited the tax into Government Treasury.]

Rule 8A was inserted w.e.f. 1-10-1995 by GN. No. RUT-2495/CR-89/Taxation-1. Dated 30-9- 1995 and corrected by GN. No. RGT.

8B. Drawback, Set Off Or Refund Under Section 4A :-

(1) While assessing the amount of tax in respect of any period starting on or after the 1st April 2001, payable by a Registered dealer "(hereinafter referred to in this rule as "the claimant dealer"), the Commissioner shall in respect of any goods purchased by the claimant dealer on or after the said date, grant him a set-off, draw-back, or refund as provided herein.

(2) (a) If the purchase price of the goods is liable to be included in the gross turnover of purchases of the said dealer under the Bombay Sales Tax Act, 1959, then the Commissioner shall grant the claimant dealer a drawback, set-off or refund of the aggregate of the sums determined in accordance with the provisions of rule 44D of the Bombay Sales Tax Rules, 1959:

Provided that, the set-off granted under this clause shall not exceed 4 per cent of the purchase price.

(b) If the sale price of the goods purchased is liable to be included in the gross turnover of sales of the vendor for the purposes of this Act, then the Commissioner shall grant the claimant dealer a drawback, set-off or refund of the tax collected separately from the claimant dealer by the vendor making the sale:

Provided that, the set-off granted under this clause shall not exceed the tax charged on the transaction of sale by the vendor making the sale to the claimant dealer.

(3) A claimant dealer who by virtue of this rule becomes entitled in any period to a sum by way of drawback, set-off or refund, may, subject to any other provision made in this behalf, adjust such sum against the tax payable according to the return relating to the said period.

Provided that, where the sum admissible or such adjustment is in excess of the tax payable in respect of such period, then the said dealer shall adjust such excess against the tax payable according to

the return for any subsequent period and not claim it by way of refund in respect of the period in which such drawback, set-off or refund becomes admissible, or any period subsequent thereto:

Provided further that, if the certificate of registration of the claimant dealer is cancelled with effect from any date, then the claimant dealer shall be entitled to claim such excess, by way of refund, in the return relating to the period containing the said date of cancellation.]

Rule 8B was inserted by G.N. of 7-9-2001.

9. Refund Of Tax :-

(1) When the Commissioner is satisfied that a refund is due to a registered dealer, he shall record an order showing the amount of refund due and shall communicate the same to the dealer.

(2) When an order for refund has been made under sub-rule (1), the Commissioner shall, if the registered dealer desires payment in cash, issue to him a Refund Payment Order in Form XVI or XVI-A as may be relevant.

(3) If the registered dealer desires payment by adjustment against an amount payable by him under the Act, the Commissioner shall make out a Refund Adjustment Order in Form XVII authorising the said registered dealer to adjust the sum to be refunded against any amount payable by him in respect of the period for which a return is to be furnished under rule 8 and during which the refund is sanctioned or any subsequent period, or payable under any notice issued to him.

(4) When the refund adjustment order is furnished with the return submitted under rule 8, the Commissioner shall cancel his own copy as well the refundees copy of the refund adjustment order.

CHAPTER 4 REDUCTION OF SALE PRICE

10. Determination Of Turnover :-

In determining the turnover of a dealer for the purpose of the Act, the following deduction shall be made from the aggregate of the sale price, namely:-

The amount arrived at by applying the following formula:-

Rate of tax multiplied by aggregate of sale price $100 + \text{rate of tax}$

Provided that, no deduction on the basis of the formula shall be made if the amount by way of tax collected by a registered dealer in accordance with the provisions of the Act, has been otherwise deducted from the aggregate of the sale price.

CHAPTER 5 BILLS, MEMORANDA, CERTIFICATE AND ACCOUNTS

11. Bills, Memoranda, Certificate And :-

(1) If a registered dealer sells any goods at a sale price exceeding rupees one hundred in any one transaction to any other person, he shall issue to the purchaser a bill or cash memoranda or a receipt, serially numbered, signed and dated by him or his servant, manager or agent and specifying therein the full name and style of his business, the address of his place or places of business, and the number of his certificate of registration and also showing therein the particulars of the goods and the methods of payment in relation to the transfer of the right to use the goods. Such bill or cash memorandum or a receipt shall also contain a certificate indicated in sub-rule (2), duly signed by him or a person duly authorised by him in this behalf.

(2) The certificate for the purpose of sub-rule (1) shall be in the following form namely:-

"I/We hereby certify that my/our registration certificate under the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any Purpose Act, 1985, is in force on the date on which the sale of goods specified in this bill/cash memorandum receipt is made by me/us and the tax under the Act will if payable, be paid before furnishing my/our return under the Act."

(3) (i) A registered dealer shall, within thirty days from the date on which the dealer has been granted the certificate of registration, furnish to the Commissioner in Form XVIII three specimens of

signature which he intends to use in signing the declaration referred to in sub-rule (2).

(ii) Where a registered dealer nominates one or more persons to sign on his behalf, he shall, within thirty days from the date of making such nomination, send to the Commissioner an intimation in Form XIX specifying the date of such nomination, the full name and address of the person nominated, and containing three specimens of the signature which such person intends to use for signing on behalf of such dealer a certificate as provided in sub-rule (2).

(iii) If such dealer cancels such nomination, he shall inform the Commissioner forthwith in writing the name of the person whose nomination has been cancelled and the date of such cancellation.

12. Manner In Which Account Shall Be Kept :-

The particulars of all sales which are exigible to tax under the Act effected by a dealer shall be entered by him in a separate account, and where a dealer keeps a day book of sales, it shall form a separate part of section thereof. The name of the person to whom the right to use any goods is transferred, his address and the amount of sale price received or receivable from him shall be entered. The amount of tax payable under the Act in respect of each sale and the net amount of sale price shall be entered in separate columns in the said account and the column shall be totalled for each period for which the turnover of sales of the dealer is determined for the purposes of paying tax under the Act, for which the dealer is required to furnish return under the Act.

13. Preservation Of Books Of Accounts, Registers Etc :-

Every registered dealer shall preserve all books of accounts, registers and other documents including bills, cash memoranda, invoices, vouchers, agreements and other documents relating to the activity of transferring the right to use any goods for a period of not less than eight years from the expiry of the year to which they relate.

14. Furnishing Of Information, Inspection Of Books, Accounts, Etc :-

(1) The Commissioner may, by notice, in Form XX require any dealer to produce before him any accounts or documents or to furnish any information relating to stock of goods, sales and any other information concerning his activity of transferring the rights to use any goods as may be necessary for the purposes of the Act.

(2) All accounts, registers and documents relating to stock of goods, of purchase and sales kept in any place of business, or warehouse of any dealer shall at all reasonable time be open to inspection by the Commissioner; and the Commissioner may take or cause to be taken such copies or extracts therefrom as appear to him necessary for the purposes of the Act.

(3) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of tax due from him under the Act, he may for reasons to be recorded in writing, seize such accounts, registers, agreements or documents of the dealer 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:

Provided that where an officer below the rank of Deputy Commissioner seizes any books, registers, or documents, by virtue of the powers of the Commissioner under section 49 of the Bombay Sales Tax Act, 1959 read with section 8 of the Maharashtra Sales Tax on the transfer of the Right to use any Goods for any purpose Act, 1985, delegated to him, 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 Deputy Commissioner having jurisdiction over the local area in which the place of business of the dealer 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.

(4) For the purpose of sub-rules (2) and (3), the Commissioner may visit, enter and search at all reasonable time any place of business or warehouse of any dealer or any other place where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, agreements or

documents of his activity of transferring the right to use any goods or stock of goods relating to this activity.

(5) Where any books of accounts, documents, money or goods 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, documents, money or goods belong to such person.

CHAPTER 6 MISCELLANEOUS

15. 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 names 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.

16. Application Of The Bombay Sales Tax Rules, 1959 :-

(1) Subject to the provisions of these rules, for the purposes of the subordination of officers, notice for payment of tax not paid according to return, supply of the copy of order of assessment, service of orders and notices and copies of documents and orders, appeals, revisions and fees the provisions of the Bombay Sales Tax Rules, 1959 relating to all the aforesaid matters, and the matters enumerated in section 8 shall, mutatis mutandis apply in relation to any process connected thereto as far as relevant as if the tax payable under the Act is a tax payable under the Bombay Sales Tax Act, 1959.

(2) An appeal against an order of assessment or second appeal

against an order passed in appeal shall, as far as possible, be in Form XXII; an application for revision against any order passed in appeal shall, as far as possible, be in Form XXIII, and a notice for any of the aforesaid purposes or in relation thereto shall be in Form XXIV.

17. Penalty :-

A breach of any of these rules shall be punishable with fine which may extend to one thousand rupees and when offence is continuing one, with a daily fine of not exceeding rupees fifty during the continuance of the offence.