

Maharashtra Tax on Lotteries Act, 2006

43 of 2006

[29 December, 2006]

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Maharashtra Tax on Lotteries Act, 2006

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An Act to provide for the levy and collection of tax on the lotteries and the matter connected therewith or incidental thereto.

CHAPTER 1

PRELIMINARY

1. Short title, extent and commencement :-

- (1) This Act may be called the Maharashtra Tax on Lotteries Act, 2006.
- (2) It extends to the whole of the State of Maharashtra.
- (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) "certifying authority" means the certifying authority appointed under sub-section (3) of section 6 ;
- (b) "Commissioner" means the Commissioner, Small Savings and State Lotteries, Government of Maharashtra;
- (c) "Government" means the Government of Maharashtra;
- (d) "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chances to those persons participating in the chances of a prize by purchasing tickets, conducted as per the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998);
- (e) "prescribed" means prescribed by Rules made under this Act;
- (f) "Promoter" means the Government of any State or an Union Territory or any country organising, conducting or promoting a lottery and includes any person appointed as first importer for

marketing lottery tickets in the State of Maharashtra on behalf of such Government or country where such Government or country is not directly marketing or conducting lottery schemes in the Stte;

(g) "rules" means the rules made under this Act;

(h) "sales" means sale of lottery tickets of the State or any other State within the State for cash or deferred payment or any other valuable consideration;

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

(j) "tax" means the tax levied and collected on lotteries under this Act.

CHAPTER 2

INCIDENCE AND LEVY OF TAX

3. Levy of tax on lottery schemes :-

(1) There shall be levied and collected a tax on the lottery schemes specified in column (2) of the Table hereunder, at the rates specified against them in column (3) of the said Table :-

TABLE

No.	Lottery schemes	Rate of tax Rs.
(1)	(2)	(3)
1	Weekly lottery	50,000

2	schemes Fortnightly lottery scheme or any lottery scheme between week and fortnight	1,00,000
3	Monthly lottery scheme or any lottery scheme of	2,00,000

	any duration exceeding fortnight	
4	Bumper lottery scheme	10,00,000

(2) The tax levied under sub-section (1) shall be paid by the Promoter.

4. Payment of tax in advance :-

(1) Every Promoter shall submit to the tax authorities the payment of Statement containing all such submit to the tax authorities the Statement containing all such particulars, within such time and in such format as may be prescribed, relating to the lottery schemes of which tickets are sold in the State.

(2) The Promoter shall pay at least one week in advance the amount of tax payable by him under this Act in respect of lottery schemes shown in the Statement referred to in sub-section (1) and the amount so payable shall, for the purposes of section 11 , be deemed to be the amount payable under this Act from the Promoter.

CHAPTER 3

TAX AUTHORITIES

5. Tax authorities :-

(1) The Commissioner shall be responsible for carrying out the purposes of this Act.

(2) The State Government may appoint such number of other officers, staff, persons and give them such designations, as the Government deems necessary.

(3) The Commissioner shall have jurisdiction over the whole of the State and other officers appointed under sub-section (2) shall have jurisdiction over the whole of the State or such area or areas, as the State Government may, by notification in the Official Gazette, specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on him by or under this Act.

(5) Other officers, staff and persons shall, within their jurisdiction, exercise such powers and perform such duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as he may, by general or special order impose, delegate to them, either generally or in respect of any particular matter or class of matters, by an order published in the Official Gazette.

(6) All officers, staff and persons appointed under sub-section (2), shall be sub-ordinate to the Commissioner and sub-ordination of officers other than the Commissioner and of staff and persons amongst themselves shall be such as may be prescribed.

(7) The Commissioner may, from time to time, issue such instructions and directions as he may deem fit to the officers subordinate to him for carrying out the purposes of this Act and officers shall observe and follow such instructions and directions of the Commissioner.

6. Powers of Commissioner :-

(1) In discharging the functions by or under this Act, the Commissioner shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the following matters, namely : -

(a) receiving evidence on affidavit;

(b) summoning and enforcing the attendance of any person and

examining him on oath or affirmation;

(c) compelling the production of document; and

(d) issuing commission for the examination of witnesses;

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

(3) The Commissioner shall appoint a certifying authority consisting of such officer or officers as deemed fit, who shall issue certificate of payment of tax to Promoters.

(4) The Promoter shall keep all accounts of the tax paid under this Act and submit the same to the certifying authority as may be prescribed.

CHAPTER 4 REGISTRATION

7. Registration and cancellation of certificate :-

(1) Every Promoter liable to pay tax under section 3 shall obtain a certificate of registration.

(2) Every Promoter required to obtain a certificate of registration under sub-section (1) shall apply in such form, manner, time and to such authority, as may be prescribed. Such application shall be accompanied by the one-time prescribed fee.

(3) The prescribed authority shall, after scrutiny of the application and on being satisfied that, the application for registration is in order, shall issue the certificate of registration in the prescribed form.

(4) Where the prescribed authority has reason to believe that the Promoter to whom a certificate of registration has been issued, has contravened any provisions of this Act or of the rules or has discontinued the business, the prescribed authority may, after giving to the Promoter a reasonable opportunity of being heard, for reasons to be recorded in writing, by order, cancel the certificate of registration.

CHAPTER 5 RETURNS

8. Returns :-

Every registered Promoter shall file a correct and duly complete

monthly return in such form, by such date and to such authority, as may be prescribed. In addition to any data required for proper computation of tax, the return may provide for furnishing of data for purposes of collecting statistics or information relating to any matter dealt with by or in connection with this Act.

9. Assessment :-

The amount of tax payable by the Promoter, for each financial year during which he is so liable, shall be assessed separately, in the manner prescribed, by the Assessing Officer appointed by the Commissioner.

10. Assessment of scheme escaping assessment :-

(1) If the Commissioner has reason to believe that any scheme has escaped assessment of tax or has been assessed at a rate lower than the rate at which it is assessable under this Act, the Commissioner may, notwithstanding anything contained in this Act, at any time, within a period of three years from the date of expiry of the end of the financial year in which the scheme has escaped assessment, or has been assessed at a lower rate than the rate at which it is assessable, proceed to assess or reassess, to the best of his judgement, the tax payable by the Promoter in respect of such scheme, after allowing the prescribed procedure.

(2) At the time of the assessment of re-assessment, as the case may be, under sub-section (1), the Commissioner may, if he is satisfied that any scheme has been suppressed by the Promoter from assessment, he shall direct the Promoter to pay, in addition to the tax assessed under sub-section (1) a penalty equal to thrice the amount of tax so assessed, alongwith interest, after following the prescribed procedure.

11. Payment of tax applicable after assessment or re-assessment :-

The tax payable after assessment or re-assessment shall be paid as per the prescribed procedure.

12. Appeals :-

(1) An appeal from every original order passed under this Act shall lie to the Commissioner and such appeal shall be filed within a period of sixty days from the date of communication of the order appealed against.

(2) Subject to such rules of procedure as may be prescribed, the Appellate Authority shall have the following powers, namely : -

(a) in an appeal against an order of assessment, it may confirm, reduce, enhance or annul the assessment :

Provided that, appellate authority may set aside the assessment order and refer the case back to the assessing authority for making fresh assessment. The assessing authority shall thereupon proceed to make such assessment and determine, the amount of tax payable on the basis of such assessment;

(b) In any other case, the appellate authority may pass such order in the appeal as it deems just and proper :

Provided that, the Appellate Authority shall not enhance an amount of tax assessed or reduces the amount of refund of the tax, unless the appellant has been given a reasonable opportunity of being heard.

(3) The Appellate Authority may, while admitting the appeal, stay the order appealed against in full or part, subject to such conditions or restrictions, as it may deem necessary including a direction for depositing of a part or whole of the disputed amount by the appellant.

13. Appeal to Government :-

An appeal shall lie to the Government from every order passed by the Commissioner and such appeal shall be filed within one hundred and twenty days from the date on which the order appealed against is received by the assessee.

CHAPTER 6

PENALTY AND SEIZURE

14. Imposition of penalty in certain circumstances :-

(1) Where any Promoter has not obtained a certificate of registration under section 7 or has not paid the tax of a particular scheme at least one week in advance as provided in section 4 , the Government or any officer authorised by it, shall seize the tickets, the lottery terminals through which marketing of the tickets for that schemes are to take place and all types of servers, including the central server from which the lottery tickets are being generated.

(2) Where any Promoter fails to file return as required by section 8

or to pay tax for three lottery schemes which he is marketing in the State, the Commissioner may, after giving the Promoter a notice of not less than seven days, and after giving an opportunity of being heard by an order in writing, impose on him, in addition to the tax payable, a penalty of an amount equal to three times of the tax and shall seize all lottery tickets, lottery terminals and servers of the Promoters through which the lottery schemes are being operated or marketed.

(3) If it is noticed that the Promoter has concealed the particulars of any transactions or furnished inaccurate particulars of any transactions, the Commissioner shall, after giving the Promoter an opportunity of being heard, by an order in writing, impose, in addition to the tax payable on that transaction, a penalty of an amount equal to three times of the tax payable by him on that transaction.

15. Penalty :-

Whoever, -

- (a) wrongly represents a registered Promoter,
- (b) furnishes false return,
- (c) produces false document which will result in loss of Government revenue,
- (d) keeps false accounts,
- (e) furnishes false information,
- (f) evades or attempts to evade any payment under the Act,
- (g) fails to comply with any notice served on him under this Act, or
- (h) voluntarily obstructs any officer making inspection, search or seizure under the provisions of this Act. shall, on conviction, be punished with simple imprisonment for a term which may extend to six months.

16. 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, or 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 and punished accordingly :

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge and that he had 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 the 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, any director, manager, secretary of the company such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this section, -

(a) "company" means a body corporate and includes firm, association of persons or body of individuals whether incorporated or not;

(b) "director", in relation to firm, means a partner in the firm, and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

17. Special mode of recovery :-

(1) Notwithstanding anything contained in other law, the special Commissioner may, on noticing that there is an outstanding liability of tax, interest or penalty against a Promoter on whom a notice has already been served, at any time, by notice in writing, require, -

(a) any person from whom any amount of money is due or may become due, to the said Promoter, or

(b) any person who holds or may subsequently hold money for or on account of such Promoter, to pay the Commissioner either forthwith upon the money becoming due or being held or within the time specified in the notice, an amount equal to the amount due and outstanding from such Promoter as aforesaid with continuing interest till the date of payment:

Provided that, no action under this sub-section shall be taken till

the date prescribed for filing of appeal against the order under which the amount has remained outstanding has expired.

(2) 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 Promoter 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.

CHAPTER 7

MISCELLANEOUS

18. Recovery of tax as arrears of the land revenue :-

For the purpose of effecting recovery of the amount of tax, penalty, interest or any other sum due and recoverable from any Promoter by or under the provisions of this Act, the same shall be recovered as arrears of land revenue.

19. Compounding of offences :-

(1) The Commissioner may, either before or after the institution of proceedings for any offence punishable under this Act accept from the person charged with such offence, by way of composition of On offence a sum not less than rupees one lakh.

(2) On payment of sum as provided in sub-section (1), no further proceedings shall be taken against the person charged with the offence and any proceedings, if already taken, shall stand abated.

20. Officers to be public servants :-

All officers appointed under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).

21. Rectification of mistakes :-

(1) The Commissioner may, at any time, within two years, from the date of an 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 rectifications shall be made if it has the effect of enhancing the tax or penalty or interest or reducing the amount of a refund 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 12 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 penalty or interest, the Commissioner shall refund any amount due to such person in the prescribed manner.

(4) Where any such rectification has the effect of enhancing the amount of the tax or penalty or interest or reducing the amount of refund, the Commissioner shall recover the amount due from such person in the prescribed manner.

22. Fee on appeal and certain other applications :-

Notwithstanding anything contained in the Bombay Court-fees Act, 1959, (Bom. XXXVI of 1959) -

(a) any application not otherwise provided for when presented to a prescribed authority for a prescribed purposes or when presented to the Commissioner shall subject to the provisions of Clause (b), be charged with such fee not exceeding one hundred rupees, as may be prescribed, and

(b) an appeal preferred under this Act shall bear a Court fee stamp of such value, not exceeding one thousand rupees, if the amount in dispute exceeds rupees one lakh, and in any other case not exceeding one hundred rupees, as may be prescribed.

23. Protection of action taken under this Act :-

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

24. Power to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) Every Rule made under this Act shall be laid as soon as may be, after it is made before each House of State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two more 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 Rule or both Houses agree that the Rule should not

be made, and notify their decision to that effect in the Official Gazette, the Rule shall, from the date of publication of such decision in the Official Gazette, 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 the Rule.

25. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion arises, by an order published in the Official Gazette, do anything, not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient, for removing the difficulty:

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.