

Maharashtra Tax On Luxuries Rules, 1987

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Maharashtra Tax On Luxuries Rules, 1987

1. Short Title And Commencement :-

- (1) These rules may be called the Maharashtra Tax on Luxuries Rules, 1987.
- (2) They shall come into force on the 1st day of January 1988.

2. Definitions :-

In these rules, unless the context otherwise requires,-

- (a) "Act" means the Maharashtra Tax on Luxuries Act, 1987;
- (b) "accounting year" means the year by reference to which the accounts of a hotelier are ordinarily maintained;
- (c) "agent" means a person authorised in writing under section 48 of the Act to appear on behalf of a hotelier or other person before any authority under the Act;
- (d) "chief place of business" means in relation to a hotelier in any area within the jurisdiction of Luxury Tax Officer, the place of

business mentioned as his chief place of business in the certificate of registration granted under section 8 of the Act;

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

(f) "Guest" means the person in whose name the accommodation in a hotel is booked;

(g) "Government/treasury" means-

(i) as respects a hotelier who is, or is liable to be, registered within the jurisdiction of a Luxury Tax Officer outside Greater Bombay, the treasury or sub-treasury, as the case may be, of the district or taluka where the chief place of business of the hotelier within that jurisdiction is situated;

Provided that, as respects a hotelier whose place of business is situated at the District Headquarters or at (1) Purli-Vaijanath in Beed District; (2) Shegaon in Buldhana District; (3) Lonand in Satara District; (4) Jaisingpur and Ichalkaranji in Kolhapur District; (5) Virar in Thane District; (6) Pimpri, Chinchwad and Bhosari in Pune District outside Greater Bombay, the expression Government Treasury also includes-

(a) any branch of the State Bank of India or of any Subsidiary Bank as defined in the State Bank of India (subsidiary Banks) Act, 1959 (38 of 1959); or

(b) any branch of a bank appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934),
if he makes payment in cash or holds an account with any such branch and makes payment by cheque.

(ii) as respects a hotelier who is, or is liable to be, registered within the jurisdiction of a Luxury Tax Officer in Greater Bombay,-

(a) The Reserve Bank of India,

(b) The State Bank of India,

(c) (A) any branch of the State Bank of India or of any subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959);

(b) any branch of a bank appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934),

if he makes payment in cash or holds an account with any such branch and makes payment by cheque.

(h) "Government" or "the Government" when referred to as a hotelier shall mean any State Government or the Central Government, as the case may be;

(i) "Quarter" in relation to the year as defined in clause (q) of section 3, means--

(i) in relation to the financial year, the period of three months ending on the 30th June, 30th September, 31st December or 31st March; and

(ii) in relation to the accounting year, each of the following periods of such year,--

(1) the period, from the first day of such year to the last day of the third month;

(2) three months ending on the last day of the sixth month thereof;

(3) three months ending on the last day of the ninth month thereof; and

(4) the remaining period ending on the last day of the year:

Provided that, when the accounting year, which is other than the financial year,--

(A) consists of one or more additional months, whether known by the name of Adhik Mass or any other name, the particular quarter or quarters, which comprise such additional month or months shall consists of four months, and

(B) consists of a quarter in which a month is eliminated due to Kshaya or any other reason, such quarter shall consists of two months;

(j) "registering authority" means as respect a hotelier, the Luxury Tax Officer having jurisdiction over the local area in which any place or places of business of the hotelier are situated;

(k) "section" means the section of the Act;

(l) words and expression used but not defined in these rules shall have the same meaning respectively assigned to them in the Act.

3. Maintenance Of Accounts :-

(1) Every proprietor shall maintain,-

- (a) information of residential accommodation and tariff therefor in respect of his hotel, in Form 1;
- (b) daily account of occupation of residential accommodation in his hotel and collection of tax therefor, in Form 2; and
- (c) monthly abstract of collection and remittance of tax in Form 3.

(2) The hotelier shall maintain a separate bound register for each of the Forms and shall get each of the pages of such registers serially numbered, sealed and certified by the Commissioner or any officer duly authorised by him in this behalf.

(3) Every tobacconist shall maintain a true and complete account supply tobacco made by him and of the tobacco supplied to or obtained by him.

(4) Every textile trader shall maintain a true and complete account of supply of textiles made by him and of the textile supplied to or obtained by him

4. Subordination Of Officers :-

The subordination of officers and persons appointed under section 7 amongst themselves shall be as follows, that is to say,-

- (a) a Deputy Commissioner of Luxury Tax shall be subordinate to an Additional Commissioner of Luxury Tax;
- (b) an Assistant Commissioner of Luxury Tax shall be subordinate to a Deputy Commissioner of Luxury Tax, and to an Additional Commissioner,
- (c) a luxury tax Officer shall be subordinate to an Assistant Commissioner, a Deputy Commissioner and an Additional Commissioner of Luxury Tax.

5. Application For Registration And Furnishing Information :-

(1) Every application for the registration under section 8 shall be made in Form 4 by a hotelier and in Form 4A by a tobacconist and in Form 4B by a textile trader.

(a) within a period of thirty days from the appointed day if he was liable to pay the tax under the provisions of the Maharashtra Tax on Luxuries 2[* *] Act, 1974 before the appointed day: and

(b) in any other case, within a period of thirty days from the date on which such hotelier or such textile trader or, as the case may be, such tobacconist first becomes liable to pay the tax.

(2) A hotelier or a textile trader or, as the case may be, a tobacconist who has 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 places of business within the jurisdiction of that authority.

(3) Every application for registration shall be made, signed and verified in the case of business carried on by-

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

(b) a firm, by any partner thereof;

(c) a Hindu undivided family, by the Karta or an adult member thereof;

(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 duly authorised to act on its behalf;

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

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

(4) In the case of a firm, every partner thereof shall furnish the declaration as provided in Form 4, 5 or, as the case may be, in Form 4A or in Form 4B. 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 for registration.

(5) 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.

(6) Every person signing and verifying an application for registration in the capacity specified in clause (a), (b) or (c) or sub-rule (3) shall also furnish with the application, a copy of his recent photograph in passport size.

(7) 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.

(8) In the case of a business carried on by 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, members of the managing committee of the association, and of persons having any interest in the business, shall be stated in the application for registration.

6. Grant Of Certificate Of Registration :-

(1) The certificate of registration shall be issued in Form 5 of a hotelier, in Form 5A to a tobacconist and in Form 5B to a textile trader

(2) Where a hotelier 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, association or Government, as the case may be.

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

(a) (i) if it was made within the period specified in clause (a) of sub-rule (1) of rule 5, 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 5, it shall take effect from the date on which the

hotelier becomes liable for registration under the Act;

(iii) if it was made within the time specified in sub-section (6) of section 6, it shall take effect from the date on which the hotelier becomes liable to pay tax under the said sub-section;

(b) if such application was made after the expiry of the aforesaid periods, it shall take effect from the date on which the application was made.

(4) Where the hotelier has two or more places of business within the jurisdiction of the same registering authority, the registering authority shall issue to the hotelier one copy of the certificate of registration for each additional place of business specified in the application for registration.

(5) The information under section 10 shall be furnished in writing within thirty days from the date of occurrence of any of the events specified in the said section 10 to the registering authority.

7. Exhibition Of Certificate Of Registration :-

Every registered hotelier shall display conspicuously at each place of his business the certificate of registration or a copy thereof.

8. Cancellation Of Certificate Of Registration :-

(1) An application for cancellation of registration under sub-section (5) of section 8 shall be made to the registering authority in Form 6 by a hotelier and in Form 6A by a tobacconist and in Form 6B by a textile trader

(2) If the registering authority is satisfied that the application is in order, it shall by order, in writing cancel the registration with effect from the date fixed in accordance with sub-rule (3), and shall by a notice place on the notice board of its office, publish the name, address and registration number of the hotelier and the date from which the cancellation takes effect. A copy of such order shall be served on the hotelier.

(3) Where registration is to be cancelled on the ground referred to in sub-section (6) of section 8, the date on which the business has been discontinued or has been transferred or otherwise disposed of,

shall be the date of effect of cancellation of registration:

Provided that, the commissioner shall, after giving the hotelier a reasonable opportunity of being heard, pass an order in writing canceling the certificate of registration with effect from such date as the Commissioner may fix to be a date on which the business has been discontinued or transferred or disposed of, as the case may be.

(4) If the registration of a hotelier is cancelled under sub-section (5) or sub-section (6) of section 8, the hotelier shall surrender the certificate of registration and the copies thereof, if any granted to him by the registering authority, within fifty days from the date of receipt by him of the order cancelling the registration.

9. Declaration Of Name Of Owner Under Section 31 :-

A declaration under section 31 shall be made in Form 7 and shall be sent to the registering authority.-

(a) where such declaration is to be made for the first time, it shall be made within the period specified in rule 5, or in sub-section (6) of section 6, as the case may be;

(b) where any such declaration is to be revised, the revised declaration shall be made to the registering authority, within thirty days from the date on which the change of ownership of the business has taken place.

10. Additional Copies Of Certificate Of Registration Etc :-

(1) When a registered hotelier opens a new place of business in addition to the place or places which were in existence at the time of his registration or at the time of issue to him of a certificate of registration as the case may be, the registering authority shall issue free of charge an additional copy of the certificate of registration, on the receipt of application from the registered hotelier.

(2) A fee of rupees three shall be payable on an application for a duplicate copy of a certificate of registration. Such fee shall be paid in Court-fee stamps.

11. Production Of Certificate Of Registration Etc :-

(1) The registering authority may, by notice in writing, require a registered hotelier to produce before it, his certificate of registration for the purpose of carrying out any amendment therein under the Act.

(2) Every such hotelier shall, within seven days from the date of service on him of a notice as aforesaid, produce the certificate of registration to the registering authority, or, as the case may be, the Commissioner.

12. Submission Of Returns :-

(1) The returns required to be furnished under section 12 by a registered hotelier or textile trader or, as the case may be, registered tobacconist shall be in Form 8 or, as the case may be, Form 8A or Form 8B the Form shall consist of return-cum-challan. Such Form shall be obtained only from the Government treasury or from the office of the Luxury Tax Officer Every registered hotelier or textile trader or, as the case may be, registered tobacconist who is required to furnish such return shall, subject to provisions of this rule and rule 13, furnish it duly signed by him or by a person authorised by him in Form 25, to the authorities specified hereinafter, that is to say:-.

(a) where tax is due and payable according to the return and penalty and/or interest, if any under section 16 is due and payable according to the return, such a return shall be furnished to the Government treasury while making payment of the tax, and penalty and/or interest as the case may be;

(b) where no tax is due and payable according to the return or in any other case, the return shall be furnished,-

(i) to the Luxury Tax Officer or the Assistant Commissioner of Luxury Tax, as the case may be, to whom the power to assess the registered hotelier or textile trader or, as the case may be, registered tobacconist has been delegated by the Commissioner under clause (b) of sub-section (1) of section 7, if the Commissioner has permitted the registered hotelier or textile trader or, as the case may be, registered tobacconist who has places of

business within the jurisdiction of different Luxury Tax Officers, or the Assistant Commissioners of Luxury Tax, as the case may be, to furnish a consolidated return in respect of all or any of these places of business to such Luxury Tax Officer, or the Assistant Commissioners of Luxury Tax as the case may be; or

(ii) to the Luxury Tax Officer or the Assistant Commissioner of Luxury Tax as the case may be, within whose jurisdiction, the place or places of business, as specified in the certificate of registration of the registered hotelier or textile trader or, as the case may be, registered tobacconist is or are situated.

(2) While furnishing any return in Form 8, the registered hotelier may show the amounts of turnover of receipts, or of tax, interest or penalty after rounding them off to the nearest rupee. For this purpose, where any such amount contains a part of a rupee consisting of paise, then if such part is less than fifty paise, it shall be ignored.

(3) (a) A registered hotelier, the amount of tax payable by whom is not less than rupees twenty thousand in the previous year, shall furnish monthly returns for each of the months of the current year and each such return shall be furnished on or before the last day of the month immediately succeeding.

(b) A registered hotelier, the amount of tax payable by whom does not exceed rupees five thousand in the previous year, shall furnish an annual return for the current year and such return shall be furnished on or before the last day of the month immediately succeeding the end of the year:

Provided that if the amount of tax payable by a registered hotelier does not exceed rupees five thousand in the previous year but exceeds rupees five thousand in the current year, then such a hotelier shall furnish return for the period from the commencement of the current year to the end of the quarter in which the amount of tax payable by him first exceeds rupees five thousand. Such return shall be furnished on or before the last day of the month immediately succeeding. Such a hotelier shall with effect from the commencement of the quarter immediately succeeding the quarter in which the amount of tax payable by him first exceeds rupees five thousand, furnish returns as provided hereinafter in sub-clause (i)

and (ii) of clause (d).

(c) A registered hotelier, the amount of tax payable by whom exceeds rupees five thousand but is less than rupees twenty thousand in the previous year, shall furnish quarterly returns for each of the quarters of the current year, and each such return shall be furnished on or before the last day of the month immediately succeeding the end of the quarter:

Provided that such a hotelier shall also furnish, for the quarter immediately following the quarter in which 31st December occurs, monthly returns for the months of that quarter except the last month of that quarter. Such monthly return shall be furnished on or before the last day of the month immediately succeeding the month..

(d) Notwithstanding anything contained in clauses (a), (b) or (c).

(i) a registered hotelier, the amount of tax payable by whom is less than rupees twenty thousand in the previous year but is not less than rupees twenty thousand in the current year, shall, with effect from the commencement of the quarter immediately succeeding the quarter in which the amount of tax payable by him reaches rupees twenty thousand, furnish monthly returns as provided in clause (a) above.

(ii) a registered hotelier, the amount of tax payable by whom does not exceed rupees five thousand in the previous year, but exceeds rupees five thousand but does not reach rupees twenty thousand in the current, year, shall, with effect from the commencement of the quarter immediately succeeding the quarter in which the amount of tax payable by him exceeds rupees five thousand, furnish quarterly returns as provided in clause (c) above.

(4) Every hotelier and every person, who becomes liable to pay tax under sub-section (2) of section 22, and who is not otherwise required to furnish returns under any other provisions of these rules shall furnish before the expiry of the month following the quarter during which he becomes so liable, a return in Form 8 in respect of the said quarter to the authorities specified in clause (b) of sub-rule (1) and shall pay the tax according to such return in the manner specified in rules 15 and 16.

13. Special Provisions For Returns In Certain Cases :-

(1) Where a hotelier has become liable to be registered under sub-section (2) of section 8 or sub-section (6) of section 6, the first return to be furnished by him shall be for the period from the 1st of April of the year, or as the case may be, from the date of event which makes him liable for registration under sub-section (6) of section 6, to the end of the quarter in which he is granted the certificate of registration.

(2) Where the business carried on by a registered hotelier is discontinued, then the last monthly, quarterly or, as the case may be, annual return shall be for the period beginning with the month, quarter or, as the case may be, year and ending with the date of discontinuance of the business.

(3) The returns to be furnished for different periods under provisions of this rule shall,-

(i) where the period of the return ends with the end of the month, quarter or a year, be furnished on or before the last day of the month immediately succeeding the month, quarter or year, as the case may be; and

(ii) where the period for which the return is furnished does not end with end of any month, quarter or year, be furnished within thirty days from the end of the period of the return.

14. Consolidated Returns :-

A registered hotelier shall make an application in Form 9 1[and a registered tobacconist shall make an application in Form 9A] 2[and a registered textile trader shall make an application in Form 9B] for permission under clause (b) of sub-section (1) of section 12 to submit consolidated return.

15. Time For Payment :-

(1) Every hotelier required to furnish a monthly, quarterly or annual return shall, on or before the date prescribed for submission of such return, pay into the Government treasury the tax due and payable according to such return and penalty and interest if any,

payable by him under section 16.

(2) Subject to the provisions of sub-rule (1), where a Government Department or office is liable to pay tax under the Act, the Officer authorised by the Government in respect of such Department, or the officer in charge of such office, as the case may be, shall as soon as may be convenient but on or before the date prescribed for submission of the return, pay the amount of tax so payable into the Government treasury

(3) Any sum determined by way of composition of any offence in accordance with section 46 shall within the time stated in the order determining such composition be paid,-

(i) into the Government treasury, if such sum exceeds rupees one hundred; and

(ii) into the Government treasury, or to any officer or any authority appointed under the Act, if such sum does not exceed rupees one hundred.

16. Method Of Payment :-

(1) Every payment of tax or penalty or interest and balance of tax payable according to return and penalty and interest payable under section 16 shall be accompanied by return-cum-chalan in Form 8 1)in the case of a hotelier and in Form 8A in the case of a tobacconist 2) and Form 8B in case of textile trader]

(2) Every payment of tax or penalty or interest not referred to in sub rule (1) and every payment of amount forfeited, composition money, fine imposed under section 17 shall be accompanied by Chalan in Form 10.

(3) The Form accompanying the payment as aforesaid shall be duly filled in, signed and verified by the payer and the amount paid should be stated both in words and in figures in the space provided for that purpose in the respective Form.

(4) Payment shall be made into Government treasury Portion of the concerned Form marked "for the Payer" shall be returned by the Government treasury to the hotelier duly receipted and the portion

of the Form marked to be sent to the Luxury Tax Department" shall be forwarded by the Government treasury to the Luxury Tax Officer or the Assistant Commissioner of Luxury Tax specified in rule 12.

(5) Subject to the provisions of sections 20 and 21, no payment as aforesaid shall be made to any Officer or authority appointed by or under the Act.

17. Special Provision For Filing The Returns For The First Year From Obtaining Registration Certificate :-

Notwithstanding anything contained in rule 12 or 13, every registered hotelier to whom registration certificate is granted for the first time under the Act, shall, until the expiry of a period of twelve months from the date of the grant thereof, furnish monthly returns, and each such return shall be furnished on or before the last day of the month immediately succeeding.

18. Reduction Of Receipt For Levy Of Tax :-

A registered hotelier may, in respect of any receipt on which luxury tax is payable by him, either,-

- (i) exclude the amount, if any, collected by him separately by way of tax from the receipt on which tax is leviable; or
- (ii) where the tax is not separately collected, deduct from the receipt as per tariff charged, a sum calculated in accordance with the formula given in the Table hereunder:-

TABLE

The formula shall be as follows:-

Receipt multiplied by R where R means the rate of tax.] $100 + R$

19. Notice For Payment Of Tax Not Paid According To Return :-

When a hotelier has furnished a return under sub-section (1) of section 12 or a revised return under sub-section (2) thereof, but has not first paid into a Government treasury the whole of the amount of tax or penalty or interest due or the extra amount due

according to such a return or, as the case may be, the revised return, as required under sub-section (2) or sub-section (3) of section 18, the concerned Luxury Tax Officer or the Assistant Commissioner of Luxury Tax as the case may be, may by notice in Form 11 served on him, require him to pay the amount due from him according to the return or, as the case may be the revised return, but remaining unpaid, by a date specified in the notice.

20. Assessment Of Tax :-

The notice by sub-section (3) of section 13 shall be in Form 12 and the date fixed for compliance therewith shall not be earlier than fifteen days from the date of service thereof.

21. Notice Under Sub-Sections (6) And (7) Of Section 13 :-

The Commissioner shall, before proceeding to assess the 1[hotelier] to tax under sub-section (6) or (7) of section 13, call upon the hotelier by a notice in Form 12 to show cause as to why he should not be so assessed. The date for compliance with the notice shall not be earlier than fifteen days from the date of service thereof.

22. Form Of Notice Under Section 15 And Date For Compliance Therewith :-

A notice under section 15 shall be in Form 14 and the date fixed for compliance with the notice shall not be earlier than fifteen days from the date of service thereof.

23. Form Of Notice Under Section 17(2) :-

The notice under sub-section (2) of section 17 shall be in Form 15 and the date fixed for compliance therewith shall not be earlier than fifteen days from the date of service thereof.

24. Notice Under Section 17(5) :-

Where an order of forfeiture is made, the Commissioner shall by a notice placed on the notice board of his office publish the following

details for the information of the persons concerned, namely:-

- (i) The name, address and the Registration Certificate number of the hotelier in whose case the order is passed;
- (ii) Number and date of the order;
- (iii) The amount forfeited;
- (iv) The period for which the order is passed; and
- (v) Reasons for forfeiture.

25. Form Of Order Of Assessment :-

(1) The order of assessment under sections 13 and 15 ordinarily be in Form 13 1[in the case of a hotelier and in Form 13A in the case of a tobacconist] 2[in Form 13B in case of textile]

(2) An assessee or a person to whom section 14 applies and who requires an with or without penalty under section 17 in respect of any period may be incorporated in the order of assessment made under this rule relating to that period.

26. Supply Of Copy Of Order Of Assessment :-

(1) A certified copy of an order of assessment shall be furnished to the assessee free of charge along with the notice issued in accordance with sub-section (4) of section 18.

(2) An assessee or a person to whom section 14 applies and who requires an additional copy or copies of such order shall be supplied with the same on his making an application in this behalf, bearing a court fee stamp of one rupee only and on payment of the copying charges prescribed under rule 47.

27. Assessment Case Record :-

(1) All papers relevant to the making of an assessment in respect of a hotelier shall be kept together and shall form an assessment case record.

(2) Assessment case record shall be preserved for ten years next following the period to which the assessment relates or for three

years next following the completion of last proceeding under the Act relating to the said period, whichever is later.

27A. Refund Of Tax To A Tobacconist 4[Or Textile Trader :-

(1) While assessing the amount of tax payable in respect of any period by a Registered tobacconist, 4[or textile trader] the Commissioner shall, grant him a refund of the tax on the tobacco 5[or as the case may be, the textile] supplied to him if such tobacco 5[or as the case may be, the textile] has been,-

(a) supplied by the said tobacconist 5[or as the case may be, the textile] by way of inter-state consignment to another State, whether the consignment is to himself or to any other person, or
(b) supplied by way of sale in the course of inter-state trade or commerce or in the course of export outside the territory of India.

Explanation;--For the purpose of clause (b), a sale shall be deemed to be in the course of inter-state trade or commerce or in the course of export outside the territory of India if such sale has occasioned the movement of tobacco from Maharashtra to any other State or has occasioned such export.

(2) No refund under sub-rule (1) shall be granted unless the tobacconist 1[or as the case may be, the textile trader],-

(a) proves to the satisfaction of the Commissioner that tax leviable under the Act has actually been paid on the very tobacco 1[or as the case may be, the textile] so supplied;
(b) produces on demand, in support of inter-state consignment a certificate in Form 7A, 2[or as the case may be, in Form 7B] and
(c) produces a proof of sale in the course of inter-state trade or commerce or export.

28. Order Sanctioning Refund :-

When the Commissioner is satisfied that a refund is due, he shall record an order showing the amount of refund due and shall communicate the same to the hotelier.

29. Refund According To Revised Return :-

Where a hotelier has furnished a revised return under sub-section (2) of section 12 and the amount of tax paid with the original return already furnished exceeds the amount payable according to the revised return, the 3[hotelier] may apply for a provisional refund of the excess and the Commissioner may sanction such refund by an order in writing:

Provided that, in making such order the Commissioner may withhold one-fourth part of the excess or a sum of rupees one hundred, whichever is greater:

Provided further that, the refund so sanctioned shall be without prejudice to any order of assessment or re-assessment which may be passed subsequently under section 13 or 15.

30. Refund Payment Orders :-

When an order for refund has been made under rule 28 or 29, the Commissioner shall, if the applicant desires payment in cash, issue to him a refund payment Order in Form 16 or Form 16-A as may be applicable.

31. Refund Adjustment Orders :-

If the applicant desires payment by adjustment against an amount payable by him, the Commissioner shall make out a Refund Adjustment Order in Form 17 authorising the applicant 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 12 and during which the refund is sanctioned or any subsequent period, or payable under any notice under sub-section (4) of section 18.

32. Cancellation Of Refund Adjustment Orders :-

When the Refund Adjustment Order is furnished with the return submitted under rule 12, the Commissioner shall cancel his own

copy as well as the refundees copy of the Refund Adjustment Order.

33. Order Sanctioning Interest On Delayed Refunds :-

Where upon an application by any person claiming interest on any delayed refund or otherwise the Commissioner is satisfied that such interest is due and payable to the applicant or any person under section 24, the Commissioner shall record an order specifying therein the amount of refund the payment of which was delayed, the period of delay for which interest is payable and the amount of interest payable by the State Government therefore, and shall communicate the same to the applicant or person concerned. The powers conferred by this rule and the next succeeding rule on the Commissioner shall be subject to the control of the State Government.

34. Interest Payment Orders :-

When an order for payment of interest on any delayed refund has been made under rule 33, the Commissioner shall issue to the applicant or person concerned an interest payment order in Form 18.

35. Refund Under Sub-Section (6) Of Section 18 :-

An application for refund under sub-section (6) of section 18 shall be made in Form 19.

36. Particulars To Be Specified In Bill Or Cash Memorandum :-

Every hotelier who is required by section 28 to issue a bill or cash memorandum shall specify, in the bill or cash memorandum issued by him, the full name and style of his business, the address of his place of business and the number of his certificate of registration and the particulars of the receipts.

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

Every registered hotelier and every hotelier on whom a notice has been served under sub-section (1) of section 29, shall preserve all books of accounts, registers and other documents including bills, cash memoranda, invoices, vouchers and other documents relating to the receipts, for a period of not less than five years from the expiry of the year to which they relate.

38. Form Of Notice For Production Of Documents Etc :-

When the Commissioner requires any hotelier to produce any accounts or documents or to furnish any information under section 30, he shall issue a notice therefore in Form 20.

39. Notice Of Inspection :-

Unless the Commissioner deems it necessary to make a surprise visit, he shall give reasonable notice in writing to the hotelier of his intention to inspect the accounts, registers, documents or bills of such hotelier or any cash kept by him at his hotel and in fixing the date, time and place for the purposes, shall, as far as possible, have due regard to the convenience of the hotelier.

40. Retention Of Books Of Accounts, Registers And Documents Seized :-

If the Commissioner seizes any books of accounts, registers or documents of any hotelier under section 30, he shall not retain them for more than twenty-one days without recording his reasons in writing for so doing.

Provided that, where an Officer below the rank of Deputy Commissioner of Luxury Tax seizes and books, registers or documents, by virtue of powers of the Commissioner under section 30 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 a Deputy Commissioner of Luxury Tax having jurisdiction over the local area in which the place of business of the hotelier 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.

41. Submission Of Appeals :-

(1) Every first or second appeal shall,-

- (a) be in writing,
- (b) specify the name and address of the applicant,
- (c) specify the date of the order against which it is made,
- (d) contain a clear statement of facts,
- (e) state precisely and in brief the relief prayed for, and
- (f) be signed and verified by the appellant or by an agent duly authorised by him in writing in that behalf, in the following form, namely :

" I agent appointed by the appellant named in the above memorandum of appeal do hereby declare that what is stated herein is true to the best of my knowledge and belief.

(2) The memorandum of appeal shall be accompanied by either the order in original against which it is made or duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of the presentation of the appeal to the satisfaction of the appellate authority.

(3) An appeal against an order of assessment or a second appeal against an order passed in appeal, shall as far as possible be in accordance with Form 21.

(4) The memorandum of appeal shall either be presented by the appellant or his agent to the appellate authority or be sent to the said authority by registered post.

42. Summary Rejection :-

(1) If the memorandum of appeal omits to state any of the particulars required under rule 41 or is not accompanied with the order against which it is made or a duly authenticated copy thereof,

the appeal may be summarily rejected:

Provided that, no appeal shall be summarily rejected under this sub-rule unless the appellant is given a reasonable opportunity to amend the memorandum of appeal.

(2) The appeal may also be summarily rejected on grounds other than those specified in sub-rule (1) which the appellate authority may consider sufficient and which shall be reduced to writing by the appellate authority:

Provided that, before an order summarily rejecting an appeal under this sub-rule is passed, the appellant concerned shall be given a reasonable opportunity of being heard.

(3) If within thirty days from the date on which any appeal is summarily rejected under sub-rule (1) or (2), the appellant makes an application to the appellate authority for setting aside the order of summary rejection and satisfies it that the notice under the proviso to sub-rule (1) to amend the memorandum of appeal or of a hearing under the proviso to sub-rule (2) was not duly served on him, or that he was prevented by sufficient cause from amending the memorandum of appeal or from appearing when the appeal was called on for hearing, the said Authority shall make an order setting aside the summary rejection and restore the appeal to its file.

43. Hearing :-

(1) (a) If the appellate authority does not summarily reject the appeal, it shall fix a date and time for hearing. The date so fixed shall not be either than ten days from the date on which intimation thereof is given to the appellant or to his agent:

Provided that, a date earlier than aforesaid may be fixed for hearing if the appellant or his agent agrees thereto in writing.

(b) The authority concerned may for sufficient reasons adjourn at any stage the hearing of an appeal to a different time on the same day or any other day so however that the day to which the hearing is adjourned shall not be earlier than ten days from the day on

which intimation thereof is given to the appellant or to his agent:

Provided that, a date earlier than aforesaid may be fixed for hearing, if the appellant or his agent agree thereto in writing.

(2) If on the date and at the time fixed for hearing or on any other date or at any other time to which the hearing may be adjourned, the appellant or his agent does not appear before the said authority either in person or through an agent, the said authority may dismiss the appeal or may decide it ex-parte as it may think fit:

Provided that, if within thirty days from the date on which the appeal was dismissed or decided ex-parte under this sub-rule the appellant makes an application to the appellate authority for setting aside the order and satisfies it that the intimation of the date of hearing was not duly served on him or that he was prevented by sufficient cause from appearing when the appeal was called on for hearing, the said authority shall make an order setting aside the dismissal or ex-parte decision upon such terms as it thinks fit, and shall appoint a day for proceeding with the appeal.

44. Notice To Person Likely To Be Affected Adversely :-

Before an appellate authority passes an order in appeal which is likely to affect any person other than an appellant adversely, it shall serve on such person a notice in Form 22 and shall give him a reasonable opportunity of being heard.

45. Supply Of Copy Of Order :-

A copy of the order passed in appeal shall be supplied free of cost to the appellant or the persons adversely affected thereby, and another copy shall be sent to the officer whose order forms the subject of the appeal proceedings.

46. Notice For Rectification Of Mistake Under Section 41 :-

The notice required to be given under section 41 shall be in Form 23.

47. Fees :-

(1) The following fees shall be paid:

(a)	on a memorandum of appeal against an order of assessment with or without penalty or interest or of penalty or of interest or of forfeiture -	
	(i) if made against the order of Luxury Tax Officer or any other Officer subordinate to him:	Rs. 5.00
	(ii) if made against the original order of an Assistant Commissioner or of a higher authority.	Rs. 10.00
(b)	On a second appeal to the Commissioner.	5 per cent of the amount in dispute calculated to the nearest rupee subject to the minimum of Rs. 50 and the maximum of Rs. 500.
(c)	On memorandum of appeal against an order other than an order specified in clause (a).	Rs. 10.00
(d)	On an application for determination under section 33.	Rs. 10.00
(e)	For obtaining a certified copy of a document under rule 52.	
	(i) for the first 200 words or less- in English	Rs. 3.00
	in Hindi or in any regional language	Rs. 2.00
	(ii) for every additional 100 words or	
	fraction thereof-in English	Rs. 2.00
	in Hindi or in any regional language	Rs. 1.00

(2) A uniform extra copying fee of Rs. 2 per copy shall be charged on an application for a copy required urgently.

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 of penalty or interest if any or sum forfeited or demanded and the amount admitted by the hotelier to be payable.

(3) All fees payable under this rule shall be paid in court fee stamps, save for copying fees which shall be payable in cash.

48. Luxury Tax Practitioners And Their Qualifications :-

(1) A Luxury Tax Practitioner shall be eligible for having his name entered in the list of Luxury Tax Practitioners maintained under section 48, if-

(a) he has passed an accountancy examination, recognised by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924), for the purpose of clause (v) of sub-section (2) of section 288 of the Income Tax Act, 1961 (43 of 1961); or

(b) he has acquired such educational qualifications as are prescribed by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924), for the purpose of clause (vi) of sub-section (2) of section 288 of the Income Tax Act, 1961 (43 of 1961) under rule 51 of the Income Tax Rules, 1962; and

(c) he was formerly an employee of the Sales Tax Department and he is in the opinion of the Commissioner a fit and proper person to attend before any Luxury Tax authority as a Luxury Tax practitioner:

Provided that, during a period of two years from the appointed day a Luxury Tax Practitioner who possesses the qualification specified in clause (a) or in clause (b) shall subject to clause (c), be qualified to practice.

(2) A Luxury Tax Practitioner shall also be eligible for having his name entered in the said list, if-

(a) he has retired from the Sales Tax Department of the Government of Maharashtra and has held, during his service in that Department, an office, now lower in rank from that of Luxury Tax Officer for not less than two years; and

(b) he is in the opinion of the Commissioner a fit and proper person to attend before any Luxury Tax Authority as a Luxury Tax practitioner:

Provided that, during a period of two years from the date of his retirement from the Sales Tax Department, such Luxury Tax practitioner shall not be qualified to practice before any Luxury Tax authority.

(3) The Commissioner shall maintain a list in Form 24 of all Luxury Tax Practitioners who possess the qualifications laid down in sub-rules (1) or (2) or who are entitled to attend in a proceeding before an authority appointed under section 7, and shall, from time to

time, bring the list up-to-date and Luxury Tax Practitioner who is eligible as laid down in sub-rule (1) or sub-rule (2) to appear in a proceeding under the Act before an authority appointed under section 7 shall, on application made in writing to the Commissioner in Form 25, be entitled to have his name entered in the list aforesaid.

49. Form Of Authority Under Section 48 :-

The authority to attend before any Luxury Tax authority in connection with any proceeding under the Act shall be in Form 26.

50. Authority Of Agent To Continue :-

An authority given to an agent shall continue to be valid for the purpose of appearance in proceedings in an appeal or revision in respect of an order passed in the proceeding in respect of which such authority was given:

Provided that, a separate authority shall be furnished for appearance in proceedings relating to each period for which a separate order of assessment is required to be made or has been made under section 13 or 15.

51. Service Of Orders And Notices :-

(1) The orders and notices under the Act or under these rules shall be served by one of the following methods, namely:

(a) by delivery by hand of a copy of the order or notice to the addressee or to a person declared by him in Form 7 or to be his agent duly authorised in this behalf by him or to a person regularly employed by him in connection with the business in respect of which he is registered as a hotelier, or to any adult male member of his family residing with the hotelier;

(b) by post:

Provided that if upon an attempt having been made to serve any such notice by either of the above said methods, the luxury tax authority concerned has reasonable grounds to believe that the addressee is evading the service of notice or that, for any other reason which in the opinion of such authority is sufficient, the notice cannot be served by any of the abovementioned methods,

the said authority after recording the reasons there for shall-

(A) in the case of an addressee on whom an attempt has been made to serve the notice by post but the notice is returned undelivered by the postal authority for want of proper address or on the ground that the addressee could not be found, cause the notice to be published in a local news paper.

(B) in other cases, cause the notice to be served by fixing a copy thereof,-

(i) if the addressee is a hotelier, on some conspicuous part of the hoteliers office or the building in which the hoteliers office is located or upon conspicuous part of the place of the hoteliers business last intimated to the said authority by the hotelier or of the place where the hotelier is known to have last carried on business, or

(ii) if the addressee is not a hotelier, on some conspicuous part of his residence or office or the building in which his residence or office is located, and such service or publication shall be deemed to be as effectual as if notice has been served on the addressee personally:

Provided further that, where the officer at whose instance the notice is to be served is on enquiry satisfied that the said office, building, place or residence is known not to exist or is not traceable, such officer may by order in writing dispense with the requirement of service of the notice under clause (B) of the last preceding proviso.

(2) When the officer serving an order or notice delivers or tenders copy of the order or notice to the hotelier or addressee personally or to any of the persons referred to in paragraph (a) of sub-rule (1), he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original order or notice. When the notice is served by affixing a copy thereof in accordance with the first proviso to sub-rule (1) the officer serving it shall return the original to the Luxury Tax Authority which issued the notice with a report endorsed thereon or annexed thereto, stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressees office or residence or the building in which his office or residence is located or his place of business was identified, and in whose presence the

copy was affixed. The said officer shall also obtain the signature or thumb impression of the person identifying addressees residence or office or building or place of business, to his report.

(3) When service is made by post, the service shall be deemed to be effected by properly addressing or preparing the order or notice and posting it by registered post with acknowledgment due, and unless the contrary is proved, the service shall be deemed to have been effected at the time at which the order or notice would be delivered in the ordinary course of post.

52. Copies Of Documents And Orders :-

(1) Any person who is a 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.

(2) An application made under sub-rule (1) shall be accompanied by a fee of one rupee in Court-fee stamp and a deposit of an amount to cover the cost of preparing certified copies according to the scale of copying fees specified in rule 47. The amount calculated according to the said scale of fees shall be retained by the authority as copying fees and the amount, if any, by which the amount deposited exceeds the amount of copying fees so retained shall be refunded to the applicant at the time of delivering the copy:

Provided that, the applicant shall if the amount deposited by him is not found to be sufficient to cover the amount of copying fees, pay the deficit before taking delivery of the copy.

53. Offences And Composition :-

Where, under section 46, the Commissioner accepts from any person a sum by way of composition of an offence, he shall send an intimation in writing in that behalf, in Form 27, to that person and also to the authority referred to in clause (c) below, specifying therein:-

- (a) the sum determined by way of composition;
- (b) the date on or before which the sum shall be paid into the Government treasury;
- (c) the authority before whom and the date on or before which a receipted chalan shall be produced in proof of such payment; and
- (d) the date on or before which the person shall report the fact to the Commissioner.

53A. Application Of Certain Rules To Tobacconist 3[And Textile Trader :-

The provisions contained in clauses (b), (c), (d), (g) and (j) of rule 2, sub-rule (2), of rule 6, sub-rules (2), (3) and (4) of rule 6, rule 7, sub-rules (2), (3) and (4) of rule 8, rules 10 and 11, sub-rules (2) and (3) of rule 12, rules 13 and 16, sub-rule (4) of rule 16 and rules 17 to 19, 21, 24, 27 to 29, 36, 37, 39, 40, 47 and 51 shall, mutatis mutandis, apply to a tobacconist and textile trader as they apply to a hotelier.

54. Penalty :-

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

55. Repeal And Saving :-

On the commencement of these rules, the Maharashtra Tax on Luxuries [* *] Rules, 1974, shall stand repealed:

Provided that, anything done or any action taken under the rules so repealed shall be deemed to have been done or taken under the corresponding provisions of these rules.