

## **Haryana Tax On Luxuries Act, 1994**

**8 of 1994**

**[07 April 1994]**

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## **Haryana Tax On Luxuries Act, 1994**

**8 of 1994**

**[07 April 1994]**

AN ACT to provide for the levy and collection of a tax on luxuries and for matters connected therewith Be it enacted by the Legislature of the State of Haryana in the Forty-fifth Year of the republic of India as follows:- 1. For statement of Objects and Reasons see Haryana Government Gazette (Extraordinary), dated, the 3rd March, 1994, Page

### CHAPTER 1 PRELIMINARY

#### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Haryana Tax on Luxuries Act, 1994.
- (2) It extends to the whole of the State of Haryana.
- (3) It shall come into force with effect from 18th February, 1994.

#### **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or context,-

- (a) "assessing authority" means any person authorised by the State Government to make any assessment under this Act and to perform such other duties as may be required, by or under this Act;
- (b) "business" means the activity of supplying tobacco; whether or not such activity, other services or supply is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such activity, other services or supply;
- (c) "dealer" means a tobacconist;
- (d) "Commissioner" means the Excise and Taxation Commissioner,

Haryana ;

(e) "Government" means the Government of the State of Haryana;

(f) "luxury" means consumption of tobacco supplied by a tobacconist;

(g) "person" includes any company. Club or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm, a local authority, a State Government and the Central Government;

(h) "place of business" includes an office, or any other place which is used by a person for the purpose of his business or where he keeps his books of account;

(i) "prescribed" means prescribed by rules made under this Act; (j) "receipt" means the aggregate of maximum retail price of tobacco supplied by the dealer for the purpose of consumption in the State;

(k) "registered dealer" means a dealer registered under section 7 of this Act;

(l) "State" means the State of Haryana;

(m) "tax" means the tax levied on luxuries under this Act;

(n) "tobacco" means processed tobacco and tobacco-based products supplied in packets or sealed containers for retailing such as cigarettes, cigars, cigarillos, cheroots, pipe tobacco and zarda tobacco but shall not include cigarettes costing Rs. 5.00 or less per packet of 10 and "biros"

(o) "tobacconist" means a person who supplies tobacco;

(p) "Tribunal" means Tribunal constituted under section 4 of the Haryana General Sales Tax Act, 1973 (Act 20 of 1973);

(q) "turnover" means the aggregate of receipts during a given period but does not include any sum collected by way of luxury tax; and

(r) "year" means the financial year.

## CHAPTER 2

### TAXING AUTHORITIES

### **3. Taxing Authorities :-**

(1) For carrying out the purpose of this Act, the Commissioner may be assisted by such other persons as the State Government may appoint in this behalf.

(2) The Commissioner shall have jurisdiction over the whole of the State and shall exercise all the powers conferred and perform all the duties imposed on the Commissioner, by or under this Act.

(3) Persons appointed under sub-section (1) shall exercise such

powers as may be conferred, and perform such duties as may be required, by or under this Act.

(4) The Superintendence and control for the proper execution of the provision of this Act and the rules made there under relating to the levy and collection of the tax shall vest in the Commissioner.

#### **4. Indemnity :-**

(1) All persons appointed under sub-section (1) of section 3 and members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

(2) No suit, prosecution or other legal proceedings shall lie against any officer or servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made there under.

#### **CHAPTER 3**

#### **INCIDENCE AND LEVY OF TAX**

#### **5. Incidence Of Taxation :-**

(1) Subject to other provisions of this Act, every dealer whose turnover during a year exceeds the taxable quantum, shall be liable to pay tax on his turnover from the day his turnover first exceeds the taxable quantum at such rates, not exceeding twenty per centum, as the Government may, by notification, specify:

Provided that in a chain of supply of tobacco, the tax shall be realized from the earliest of the tobacconists in the State but a successive tobacconist shall be exempt from payment of tax only if he furnishes, in the manner prescribed, proof of payment of tax:

Provided further that if tax has been paid on supply of tobacco in the State but such tobacco is eventually supplied outside the State, the tax earlier paid shall be refunded to the registered dealer who supplied such tobacco outside the State subject to his furnishing, in the manner prescribed, proof of the payment of tax and the supply of tobacco out side the State.

(2) Every dealer who has become liable to pay tax shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover has failed to exceed the taxable quantum.

(3) Every dealer, whose liability to pay tax has ceased under the provisions of sub-section (2), shall again be liable to pay tax in accordance with the provisions of sub-section (1).

## **6. Taxable Quantum :-**

In this Act, the expression "taxable quantum", means in relation to a tobacconist-

- (i) who processes, manufactures, imports or .. Nil
- (ii) who is not covered by (i) above .. Rupees five lacs.

### **CHAPTER 4**

#### **REGISTRATION OF DEALERS**

## **7. Registration :-**

(1) Every dealer liable to pay tax under this Act shall make an application for registration within such time, in such form and manner and to such authority, along with such fees not more than one hundred rupees, as may be prescribed.

(2) If the prescribed authority is satisfied that the applicant is a bona fide dealer and the application for registration made by him is in order, he shall, subject to the provisions of section 8 of this Act, grant him a certificate of registration in the prescribed form. Such certificate of registration shall be valid from such date, as may be prescribed.

(3) A certificate issued under sub-section (2) shall be renewed after such period, and on payment of such fee not exceeding one hundred rupees, as may be prescribed. The registered dealer shall make an application for renewal in such manner, within such time and to such authority, as may be prescribed.

(4) A certificate issued under sub-section (2) shall be valid up to such period as may be prescribed; provided that if an application for the renewal of a registration certificate is made within the prescribed time the holder of the registration certificate shall be deemed to be in possession of a valid registration certificate until the registration certificate is renewed or until he is informed that the renewal of the registration certificate has been refused.

(5) The Commissioner may, from time to time, by order, amend or cancel any certificate of registration-

- (a) on information furnished;
- (b) if the dealer has violated any provisions of this Act or the rules made there under; or
- (c) for any other sufficient cause including misuse of the certificate of cessation of liability to payment of tax under this Act:

Provided that no order affecting any person adversely shall be made under this sub-section without affording him a reasonable

opportunity of being heard.

(6) When-

(a) any business, in respect of which certificate has been granted, has been discontinued or transferred; or

(b) the turnover of any such business during each of three consecutive year fails to exceed the taxable quantum, the Commissioner shall cancel the certificate of registration and the cancellation shall come into force after the expiry of such period, as may be prescribed.

## **8. Security From Certain Class Of Dealers :-**

(1) Where it appears to the authority to whom an application is made under section 7 to be necessary so to do for the proper realization of the tax payable, he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration, a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified for all or any of the purposes of this Act.

(2) Where it appears to the Commissioner or any other person appointed to assist him under sub-section (1) of section 3 to be necessary so to do for the proper realization of tax payable under this Act, he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate has been granted to furnish within such time as may be specified has been granted, to furnish within such time as may be specified in the order and in the prescribed of an order under this sub-section or sub-section (1) such additional security, as may be specified in the order for the aforesaid purpose.

(3) No dealer shall be required to furnish a security under subsection (1) or sub-section (2) by the authority referred to therein, unless he has been given a reasonable opportunity of being heard and the amount of security that may be required to be furnished by any dealer under either of the aforesaid sub-section or the aggregate of the amount of such security and the amount of additional security that may be required to be furnished by any dealer under sub-section (2), shall in no case exceed the tax payable, in accordance with the estimate of such authority, on the turnover of the dealer for the year in which such security or, as the case may be, additional security is required to be furnished.

(4) Where the security furnished by a dealer under sub-section (1) or subsection (2) is in the form of surety bond and the surety becomes insolvent or is otherwise incapacitated or dies or withdraws, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a rash surety bond or furnish in the prescribed manner other security for the amount of the bond.

(5) The commissioner or any person appointed to assist him under sub-section (1) of section 3 may, by order and for good and sufficient cause, forfeit the whole or any part of the security furnished by a dealer for realizing any amount payable by the dealer under this Act:

Provided that no order shall be passed under this sub-section without giving the dealer a reasonable opportunity of being heard.

(6) Where by reason of an order under sub-section (5), the security furnished by any dealer is rendered insufficient he shall make up the deficiency in such manner and within such time as may be prescribed.

(7) If a dealer fails to comply with and order under sub-section (2) or with the provisions of sub-section (4) sub-or section (6) the Commissioner or any person appointed to assist him under subsection (1) of section 3, may after affording the dealer a reasonable opportunity of being heard, order the rejection of the application for registration, or if the dealer is already registered under this Act, cancel his registration certificate, as the case may be. In the event of rejection of application for registration, or cancellation of the certificate of registration as the case may be, the dealer shall be deemed to have failed to apply for registration.

#### CHAPTER 5

MAINTENANCE OF ACCOUNTS, INSPECTION OF BUSINESS PREMISES AND ACCOUNTS AND ESTABLISHMENT OF CHECK-POSTS

### **9. Maintenance Of Accounts :-**

(1) Every registered dealer or other dealer on whom a notice has been served to furnish returns shall keep a true account of his business and if the assessing authority considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns furnished by him, he may require such dealer by notice in writing to keep such accounts as he may, subject to anything that may be prescribed in that behalf, in

writing, direct.

(2) Every dealer liable to pay tax or other dealer on whom a notice has been served to furnish returns shall-

(a) in respect of tobacco supplied by him or on his behalf in any one transaction exceeding one hundred rupees in value or such other higher value, as the Government may, by notification, specify, issue to the recipient of tobacco an invoice showing such particulars as may be prescribed;

(b) preserve a carbon copy of such invoice, cash memorandum or bill for a period of not less than five years from the end of year in which the cash memorandum or bill is prepared or for a period of not less than three years from the date of the final assessment order for that year, whichever is later: Provided that the Government may, by notification, exempt any class of registered dealers from the provisions of this sub-section.

#### **10. Power To Record Statement :-**

The Commissioner or any person appointed to assist him under sub-section (1) of section 3, shall have the statement of any person connected with the business during the course of inspection or checking and to use the same for the purpose of determining the liability of the dealer under this Act.

#### **11. Production And Inspection Of Books, Documents And Accounts :-**

(1) The Commissioner or any person appointed to assist him under sub-section (1) of section 3 not below the rank of an Assistant Excise and Taxation Officer may, for the purpose of this Act, require any dealer to produce before him any book, document or account relating to his business and may inspect, examine and copy the same and make such enquiries from such dealer relating to his business, as may be necessary:

Provided that the books, documents and accounts of a period of more than five years prior to the year in which assessment is made shall not be so required except in cases where some proceedings under this Act are pending.

(2) Every registered dealer shall-

(a) maintain day to day accounts of his business;

(b) maintain a list of his account books, display it along with his registration certificate and furnish a copy of such list to the assessing authority;



(c) Produce, if so required, account books of his business before the assessing authority for authentication in the prescribed manner;

(d) Retain his account books at the place of his business, unless removed there from by an official for inspection, by any official agency or by auditor or for any other reason which may be considered to be satisfactory by the assessing authority.

(3) If any officer referred to in sub-section (1) has reasonable grounds for believing that any dealer is trying to evade liability for tax or other dues under this Act and that anything necessary for the purpose of an investigation into his liability may be found in any books, account, register or document, he may, seize the book, account, register or document shall forthwith grant a receipt for the same and shall,-

(a) in the case of book, account, register or document which was being used at the time of seizing, within a period of sixty days from the date of seizure; and

(b) in any other case, within a period one hundred eighty days from the date of seizure; return it to the dealer or the person from whose custody it was seized after examination or after having such copies or extracts taken there from as may be considered necessary:

Provided that the dealer or the aforesaid person gives a receipt in writing for the book, account, register or document returned to him, such officer may, before returning the book, account, register or document affix his signatures and his official seal at one or more places thereon, and in such case, the dealer or the aforesaid person will be required to mention in the receipt given by him the number of places where the signatures and seal of such officer have been affixed on each book, accounts, register or document:

Provided further that the seized book, account, register or document may be retained for a longer period if so required:

Provided further that if the seized book, account, register or document may be retained for a longer period if so required:

Provided further that if the seized book, account, register or document is retained by any authority either than the Commissioner for more than the aforesaid period, the reasons for doing so shall be recorded in writing and the approval of the Commissioner obtained by the authority so retaining them.

(4) For the purposes of sub-section (2) or sub-section (3), the officer, referred to in sub-section (1), assisted by such person as he may consider necessary, may enter and search any office, shop, go down, goods carrier or any other place of business of the dealer or

any building, dwelling house or place where such officer, has reasons to believe that the dealer uses, or is, for the time being, using, for the purpose of business or keeps, or is, for the time being, keeping, any books, accounts, registers, documents or tobacco relating to his business:

Provided that no entry or search in a dwelling house shall be made-

- (i) after sun-set and before sun-rise;
- (ii) by an officer below the rank of an Excise and Taxation Officer;
- (iii) without obtaining the sanction of the Deputy Commissioner or Sub-Divisional Officer (Civil) within whose jurisdiction such house is situated.

(5) The power conferred by sub-section (4) shall include the power,-

- (i) to search the person or the dealer and his agent and employees present at the time of inspection and to open and search any box or to receptacle in which any books, accounts, registers or other relevant documents or tobacco or cash or the cash receipts of the dealer may be contained; and
- (ii) to make a note of inventory of any such cash or tobacco found as a result of such search.

(6) Any officer referred to in sub-section (1) shall have the power to impose a penalty between twenty and forty percent of the value of the tobacco which is found in any office shop, go down, or any other place of business or any building or place of the dealer or vessel or goods carrier but not accounted for by the dealer or the person incharge of the vessel or goods carrier in his books, account, registers and other documents;

Provided that no penalty shall be imposed unless the person concerned has been given a reasonable opportunity of being heard,

(7) The officer imposing the penalty under sub-section (6) shall direct the person concerned to pay the amount of penalty within such time and manner as may be prescribed. He may, in the case of failure of the person concerned to pay the penalty as directed, require him to furnish an adequate security to his satisfaction in the manner prescribed to ensure the payment of the penalty and in case such person fails to furnish the security, the amount of penalty shall immediately become payable and shall be recovered as arrears of land revenue.

## **12. Establishment Of Check-Pots Or Barriers And Inspecting Of Tobacco In Transit :-**

(1) If with a view to preventing or checking evasion of tax under this Act in any place or places in the State, the Government, considers it necessary so to do, it may, by notification, direct the establishment of a check-post or the erection of barrier or both, at such place or places, as may be notified.

(2) The owner or person incharge of the tobacco and when the tobacco is carried by a goods carrier, the driver or any other person incharge of the goods carrier shall carry with him a goods carrier record, a trip sheet or log-book, along with a challan, as may be prescribed and invoice in respect of the tobacco meant for the purposes of supply and are carried by him in the goods carrier and produce the same before an officer incharge of a check-post or barrier or any other officer of the department not below the rank of an Assistant Excise and Taxation Officer or such other officer, as the Government may, by notification, appoint, for checking the goods carrier at any other place.

(3) At every check post or barrier or at any other place when so required by any officer referred to in sub-section (2) in this behalf, the owner or person incharge of the tobacco shall stop and the driver or any other person incharge of the goods carrier, entering or leaving the limits of the State, shall stop the goods carrier and keep it stationary, as long as may reasonably be necessary, and allow the officer incharge of the check-post or barrier or the officer as aforesaid to examine the tobacco carried by him or in the goods carrier, by breaking open the package, or packages, if necessary, and inspect all records relating to the tobacco carried which are in the possession of such owner or person incharge of the tobacco or the driver or other person incharge of the goods carrier, who shall also furnish such other information, as may be required by the aforesaid officer, who if considered necessary may also search the goods carrier and the driver or other person incharge of the goods carrier or of the tobacco.

(4) The owner or person incharge of the tobacco or goods carrier, entering or leaving the limits of the state shall furnish a copy of goods receipt, documents as referred to in sub-section (2), or a declaration containing such particulars in such form obtained from such authority, in the manner as may be prescribed, of the tobacco carried by him or in such carrier, as the case may be, before the officer-in-charge of the check-post or barrier and shall produce the copy of the said goods receipt, documents, or declaration duly verified and returned to him by the officer-in-charge of the check-post or barrier before any other officer as mentioned in sub-section

(2):

Provided that where the owner or person incharge of the tobacco or the driver or other person incharge of the goods carrier bound for any place outside the State passes through the State, such owner or person incharge of the tobacco or the driver or other person incharge of such carrier shall, in the prescribed manner, furnish, in duplicate, to the Officer-in-charge of the check-post or barrier of his entry into the State a declaration in the prescribed form and obtain from him a copy thereof duly verified. The Owner or person incharge of the tobacco carried or the driver or other person incharge of the goods carrier shall deliver within twenty-four hours the said copy to the officer-in-charge of the check-post or barrier at the point of his exit from the State, failing which he shall be liable to pay a penalty, to be imposed by the Officer-in-charge of the check-post or barrier of the entry, not exceeding two thousand rupees or twenty per centum of the value of the tobacco, which is greater:

Provided further that no penalty shall be imposed unless the person concerned has been given a reasonable opportunity of being heard: Provided further that where the owner or person incharge of the tobacco or the driver or other person incharge of the goods carrier bound, from a place inside the State to any other place inside the State, has to pass through another State, such owner or person or the driver or other person shall furnish, in duplicate to the officer-incharge of the check-post or barrier of his exit from the State, a declaration in the prescribed form and obtain from him a copy thereof duly verified and shall deliver the same to the Officer-in-charge of the check-post or barrier of his entry into the State within twenty-four hours of his exit from the previous barrier or check-post in the State, failing which he shall be liable to pay a penalty to be imposed by the officer-in-charge of the check-post or barrier of his exit, not exceeding two thousand rupees or forty per-centum of the value of the tobacco, which ever is greater, unless he explains the time taken in excess to the satisfaction of the officer-in-charge of the exit barrier or check-post.

(5) If the officer in-charge of the check-post or barrier or other officer as mentioned in sub-section (2) has reasons to suspect that the tobacco under transport is not covered by proper and genuine documents as mentioned in sub-section (2) or sub-section (4), as the case may be, or that the person transporting the tobacco is attempting to evade payment of the tax due under this Act, he may, for reasons to be recorded in writing, and after hearing the

said person, order the unloading and detention of the tobacco, and shall allow the same to be transported only on the owner of tobacco or his representative or the driver or other person incharge of the goods carrier on behalf of the owner of the tobacco furnishing to his satisfaction a security, in the prescribed form and manner, for an amount between twenty an forty per centum of the value of tobacco:

Provided that such officer may, if he deems fit, having regard to the nature of the carrier or the tobacco and other relevant matters, allow such tobacco to be transported, on the owner of the tobacco or his representative or the driver or other person incharge of the goods carrier, executing in a prescribed manner, a bond with or without sureties for securing the amount due as security:

Provided further that such officer may, if he deems fit, having regard to the nature of the tobacco and the goods carrier, and other relevant matters, handover the tobacco on superlative to any person for safe custody, on payment of such charges for the custody, as may be prescribed which shall be recovered from the owner of the tobacco. The person to whom the tobacco is handed over on superlative shall not had over the same to anybody except with the written permission of such officer otherwise the value of the tobacco shall be recoverable as arrears of land revenue from him;

Provided further that where any tobacco is detained, a report shall be made immediately and in any case within twenty-four hours of the detention of the tobacco by the officer detaining the tobacco to the officer incharge of the district seeking the letters permission for the detention of the tobacco for a period exceeding twenty-four hours as and when so required and if no intimation to the contrary is received from the latter, the former may assume that his proposal has been accepted.

(6) The officer detaining the goods shall record the statement, if any, given by the owner of the tobacco or his representative or the driver or other person incharge of the goods carrier and shall require him to produce proper and genuine documents as referred to in subsection (2) or sub-section (4), as the case may be, if after the enquiry, such officer finds that there has been an attempt to evade the tax due under this Act, he shall, by order, impose on the owner of the tobacco and in case the owner is not forthcoming or his identity is not disclosed by the person incharge of the tobacco or the driver or person incharge of the goods carrier, in which tobacco is being carried, on the person incharge of the tobacco or

the good carrier or the driver, a penalty between twenty and forty percent of the value of the tobacco and in case he finds otherwise, he shall order the release of the tobacco:

Provided that no penalty shall be imposed unless the owner of the tobacco or his representative or person incharge of the tobacco or the goods carrier or the driver has been given a reasonable opportunity of being heard.

(7) If the owner of the tobacco or his representative or the driver or other person incharge of the goods carrier does not furnish security or execute the bond as required by sub-section (5) within ten days from the date of detaining the tobacco or goods carrier, the officer referred to in that sub-section may order further detention of the goods, and in the event of the owner of the goods not paying the penalty imposed under sub-section (6) within twenty days from the date of the order imposing the penalty, the tobacco detained shall be liable to be sold for the realization of the penalty in the manner provided in subsection (9).

(8) When any tobacco is detained under sub-section (7), the officer detaining the tobacco shall issue to the owner of the tobacco, if present or, if the owner of the tobacco is not present to his representative or the driver or other person incharge of the goods carrier, a receipt specifying the description and quantity of the tobacco so detained and obtain an acknowledgement from such person or, if such person refuses to give an acknowledgement, record the fact of refusal in the presence of the two witnesses.

(9) The goods detained under sub-section (7) shall be sold, by the officer who imposed the penalty, by public auction in the manner prescribed, and the sale proceeds shall be deposited in the Government treasury.

(10) If the tobacco detained is of a perishable nature, or subject to speedy and natural decay, or when the expenses of keeping them in custody are likely to exceed its value, the officer-in-charge of the check-post or barrier or any other officer empowered under subsection (2), as the case may be, shall immediately sell such tobacco or otherwise dispose it of and deposit the sale proceeds, or the amount obtained by the disposal otherwise than by way of sale, in the Government treasury.

(11) If the order of imposition of penalty under sub-section (6) or of detention of tobacco under sub-section (7) is in the mean-time set aside or modified in appeal or other proceedings, the officer detaining the tobacco and imposing the penalty, as the case may be, shall also pass consequential orders for giving effect to the

order in such appeal or other proceedings as the case may be.

(12) Where the detained tobacco is sold or otherwise disposed of under this section, the owner thereof shall be liable to pay the expenses and other incidental charges incurred in detaining and disposing of the same.

(13) If the sale proceeds of any tobacco sold or the amount obtained on the disposal of any tobacco otherwise than by ways of sale under the provisions hereinbefore contained exceeds the penalty imposed in respect of such tobacco, such excess amount after deducting the expenses and incidental charges referred to in subsection (12) shall be returned by the officer who conducted the sale or otherwise disposed of the tobacco, to the owner of the tobacco.

(14) At every station of transport of goods, bus stand or any other station or place of loading or unloading of goods, other than a post office, when so required by the Commissioner or any person appointed to assist him under sub-section (1) of section 3, the owner or person incharge of the tobacco or the driver or other person incharge of the goods carrier shall produce for examination, transport receipt and all other documents and account books concerning the tobacco carried, transported, loaded, unloaded, consigned or received for transport, to be maintained by him in the prescribed manner and the Commissioner or the person so appointed shall have for the purpose of examining that such transport receipts and documents and account books are in respect of the tobacco carried, transported, loaded, unloaded or consigned or received for transport, the power to break open any package or packages of goods. If the Commissioner or the person so appointed is satisfied that it is necessary for the purposes of investigation or verification, he may seize the transport receipts documents or account books believed by him to be relating to supply of tobacco so produced for examination or found lying at such a station or transport of goods, bus stand or any other station or place of loading or unloading of goods. The officer seizing the transport receipts, documents or account books shall forthwith grant a receipt for the same and shall return to the person from whose custody these were seized after examination or completion of investigation or verification within a period of one hundred and eighty days. Where the transport receipts, documents or account books so seized are required to be retained beyond the aforesaid period, the authority so retaining them shall record the reasons, in writing and shall obtain the approval of the Commissioner for so doing.

(15) Except in accordance with such conditions, as may be prescribed with a view to ensuring that there is no evasion of tax imposed by or under this Act,-

(a) no driver or person-in-charge of a goods carrier or any person-in-charge of a place of loading or unloading of goods, other than a post office, shall accept any consignment of tobacco for transport or give delivery of any consignment of such tobacco;

(b) no dealer or any person-in-charge of a carrier of goods acting on behalf of a dealer, shall take delivery of, or transport from any station of transport of goods, bus stand or any other station or place of loading or unloading of goods, airport or any other place, whether of similar nature or otherwise other than a post office, any consignment of tobacco referred to above.

### **13. Power To Inspect Tobacco Delivered To A Carrier Of Bailer :-**

When a carrier or bailer to whom tobacco is delivered for transmission, before delivery is taken from him, keeps the said tobacco in any office, shop, go down vessel, receptacle, vehicle or any other place, the Commissioner or any person appointed under sub-section (1) of section 3, to assist him shall have power to enter into and search such office, shop, go down, vessel, receptacle vehicle or other place and to examination or inspection and shall produce the documents relating to supply of such other documents as may be required regarding the tobacco and give his name and address and the name and address of the carrier of the bailer and of the consignor and the consignee.

Explanation - For the purpose of this section and section 12 where tobacco is delivered to a carrier or other bailer for transmission, the movement of the tobacco shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailer.

#### **CHAPTER 6**

#### **OFFENCES AND PENALTIES**

### **14. Investigation Of Offences :-**

( 1 ) The Commissioner may, subject to such conditions and restrictions, as he may specify, authorise wither generally or in respect of any particular case or class of cases any person appointed to assist him under sub-section (1) of section 3, to investigate all or any of the offences punishable under this Act.



(2) Every person so authorised, shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973, upon an officer-in-charge of a police station for the investigation of a cognizable offence.

#### **15. Failure To Furnish Returns :-**

If a dealer fails, without sufficient cause, to comply with the requirements of the provisions relating to filing of returns, the Commissioner or any person appointed to assist him under subsection (1) of section 3, may, after giving such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty a sum calculated to a rate which shall not be less than five rupees or more than ten rupees for every day during which the default continues.

#### **16. Failure To Pay The Tax Due According To Returns :-**

If any dealer fails to pay the tax due according to the returns in time, the Commissioner or any other person appointed to assist him under sub-section (1) of section 3, may after affording to the dealer a reasonable opportunity of being heard, impose a penalty not exceeding one and half times the amount of tax to which he is assessed or is liable to be assessed.

#### **17. Failure To Maintain Correct Accounts, And To Furnish Correct Returns :-**

If a dealer has maintained false or incorrect accounts or documents with a view to suppressing his turnover, or has concealed any particulars of his receipts or has furnished to or produced before Failure to maintain correct accounts and to furnish correct any authority under this Act or the rules made there under any account, return, document of information which is false or incorrect in any material particulars, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, a sum not less than twice and not more than three times the amount of tax which would have been avoided on the basis of aforesaid circumstances and where no tax is payable, a sum not less than on hundred rupees and not exceeding one thousand rupees.

## **18. Prohibition Against Collection Of Tax In Certain Cases :-**

(1) No person shall collect any sum by way of tax in respect of any receipts on which no tax is payable under this Act.

(2) No person, who is not a registered dealer and liable to pay tax in respect of any receipts, shall collect on them any sum by way of tax from any other person and no registered dealer shall collect any amount by way of tax in excess of the amount of tax payable by him.

(3) If any person, not being a dealer liable to pay tax, collects any sum by way of tax, or being a registered dealer collects any amount by way of tax in excess of the tax payable by him or otherwise collects tax in contravention of the provisions of sub-section (1) and (2), he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount not exceeding five hundred rupees, or double the amount so collected, whichever is greater.

(4) If the Commissioner or any person appointed to assist him under subsection (1) of section 3, in the course of any proceedings under this Act or otherwise, has reasons to believe that any person has become liable to pay penalty under subsection (3), he shall serve on such person a notice in the prescribed form requiring him to show cause why a penalty as provided in sub-section (3) should not be imposed on him.

(5) The Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall thereupon hold an enquiry and shall make such order as he thinks fit.

## **19. Late Payment Of Tax, Interest Or Penalty :-**

If the tax assessed, interest charged, or penalty imposed under this Act except the penalty imposed under this section or any installment thereof is not paid by any dealer within the time specified therefore in the order of assessment or in the order permitting payment in installment, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after giving such dealer an opportunity of being heard, impose on him a penalty not exceeding twenty-five per centum of the amount due from him.

## **20. Other Offences :-**

(1) Whosoever, contravenes, or fails to comply with, any of the

provisions of this Act or the rules made there under, or any order or direction made or given there under, shall, if no other penalty is provided under this Act for such contravention or failure, be liable to imposition of a penalty, not exceeding two thousand rupees and where such contravention or failure is a continuing one, to a daily penalty not exceeding fifty rupees during the period of the continuance of the contravention or failure.

(2) An officer-in-charge of a check-post or barrier or any other officer not below the rank of an Assistant Excise and Taxation Officer appointed under sub-section (1) of section 3 or such other officer as the Government may, by notification, appoint, may after affording to the person concerned a reasonable opportunity of being heard impose the penalty mentioned in sub-section (1):  
Provided that the officer-in-charge of a check-post or a barrier shall exercise such powers only at such check-post or barrier.

#### CHAPTER 7

#### MISCELLANEOUS

### **21. Interest :-**

There shall be charged, levied and paid simple interest at the rate of two per centum per month on any outstanding sum of tax or penalty due under this Act except the penalty imposed under section 19 from the day such sum first becomes due to the day it is paid notwithstanding any order of permitting payment by installment of stay of recovery if the outstanding sum is ultimately found due against the dealer:

Provided that for the purpose of calculation of interest, a period of fifteen day or more shall be deemed to be one month and the amount of fifty rupees or more shall be deemed to be one hundred rupees and a period of less than fifteen days and an amount of less than fifty rupees shall be ignored.

### **22. Payment Of Lump Sum In Lieu Of Tax :-**

The Government may, in the public interest and subject to such conditions, as it may deem fit, accept from any class of dealers, in lieu of the tax payable under this Act, for any period, by way of composition, a lump sum to be determined by the Government and to be paid at such intervals and in such manner, as may be prescribed, and thereupon during the period such composition remains in force, the provisions of this Act and the rules made there under relating to the filing of returns and the maintenance of

accounts by such dealers shall not apply to them.

### **23. Machinery To Assess Reassess, Collect And Enforce Payment Of Tax, Interest And Penalty :-**

Subject to the other provisions of this Act and the rules made there under, the authorities for the time being empowered to assess, reassess, collect and enforce payment of any tax, interest or penalty under the Haryana General Sales Tax Act, 1973, shall assess, reassess, collect and enforce payment of tax, interest or penalty, payable by a dealer under this Act as if the tax, interest or penalty payable by such dealer under this Act is a tax, interest or penalty payable under the Haryana General Sales Tax Act, 1973, and for this Act as if the tax, interest or penalty payable by such dealer under this Act is a tax, interest or penalty payable under the Haryana General Sales Tax Act, 1973, and for this purpose they may exercise all or any of the powers they have under the Haryana General Sales Tax Act, 1973, and the provisions of that Act including provisions relating to returns, provisional assessment, advance payment of tax, registration of the transferee of any business, imposition of tax liability of a person carrying on business on the transferee, of or successor to such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firms or partition of such family recovery of tax from third parties or in case of death of owner, from legal heirs, appeals, revisions, reviews, references, refunds, power to take evidence on oath, power to determine as to who is dealer, power to call for information from banking companies, post offices or any dealer or person, power to transfer proceeding, delegation of powers, permitting assesses to attend through authorised agents, furnishing of information regarding change of business, imposition of tax liability of a person carrying on business on the transferor of such business in the event of his failure to furnish information, making transfer or property to defraud revenue void, rounding off tax and treatment of documents furnished by a dealer as confidential, shall apply accordingly.

### **24. Bar Of Certain Proceedings :-**

(1) No assessment made and no order passed, under this Act or the rules made there under, by the Tribunal or the Commissioner or any person appointed under sub-section (1) of section 3 to assist the Commissioner, shall be called in question in any civil court.

(2) No injunction shall be granted by any court other than the High Court or any State or the Supreme Court of India in respect of any assessment made or any proceedings initiated, or in respect of any action taken, or to be taken, in pursuance of any provisions of this Act or the rules made there under.

## **25. Power To Make Rules :-**

(1) The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) in particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the manner of furnishing the returns, proof of payment of tax and the supply of tobacco outside the State as provided under section 5;

(b) the form and manner in which certificate under section 7 is to be furnished. The authority to which application for registration shall be made, the form and manner for the grant or renewal of the application, the fees for registration or renewal and the procedure for the payment of fees for grant or renewal of certificate, other matters incidental to the registration of dealers, grant or renewal of certificates of registration and the form of such certificate and the conditions for the grant of certificates;

(c) the validity of certificate of registration, refusal or renewal under sub-section (4) of section 7;

(d) the manner to amend or cancel the registration certificate under subsections (5) and (6) of section 7;

(e) the manner in which the security is to be obtained and the conditions of furnishing such security, the conditions for the issuing certificate of registration as required under subsection (1) of section 8;

(f) requiring the dealer to furnish additional security and to make up the deficiency where the security already furnished is rendered insufficient under sub-sections (2), (4) and (6) of section 8;

(g) the manner to issue cash memorandum, bill or invoice in a transaction exceeding hundred rupees in value or such higher value as may be required under items (a) and (b) of subsection (2) of section 9;

(h) the particulars of cash memorandum, bill as required under item (b) of sub-section (2) of section 9;

(i) the production of account books of the business before assessing authority for authentication under item of section 11;

- (j) the time to pay the amount of penalty under sub section (7) of section 11;
- (k) the particulars of the challan referred to in sub-section (2) of section 12, form of declaration, the authority from whom such declaration can be obtained, and the manner of furnishing the declaration in the case of non-validity of from the prescribed authority, particulars of declaration referred to in sub-section (4) of section 12;
- (l) the manner of executing a bond with or without sureties for securing the amount due as security as provided under the proviso to subsection (5) of section 12;
- (m) the manner of handing over the tobacco at superdari to any person for safe custody as required under the second proviso to sub-section (5) of section 12;
- (n) the manner of sale by auction of the detained goods under sub-section (9) of section 12;
- (o) the conditions of loading or unloading of goods and acceptance of any consignment of tobacco for transport under sub-section (14) of section 12;
- (p) the manner to serve a notice for imposition of penalty as required in sub-section (4) of section 18;
- (q) the manner and interval to pay a lump sum in lieu of the tax payable, by way of composition, under section 22; and
- (r) any other matter for which provision in the opinion of the Government is necessary for giving effect to the purposes of this Act.

## **26. Repeal :-**

The Haryana Tax on Luxuries Ordinance, 1994 (Ordinance No. 3 of 1994), shall be repealed.