

Rajasthan Land Tax Act, 1985

6 of 1985

[31 July 1985]

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PREAMBLE

An Act to provide for the imposition of the tax on land in areas other than Urban areas in the State of Rajasthan and the matters incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Thirty-Sixth year of the Republic of India as Follows: -

CHAPTER 1 PRELIMINARY

1. Short title and commencement :-

(1) This Act may be called the Rajasthan Land Tax Act, 1985.

(2) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "annual value" means, in the case of land held or used in a year-

¹(i) for excavating, extracting, removing or utilising any ore or mineral, the amount calculated at such rate not exceeding twenty-five thousand rupees per hectare of land as may be notified by the State Government with reference to different classes of ores or minerals concerned];

(ii) for growing, collecting or receiving a forest or horticultural produce, 50% of the sale price of such produce of the year where such produce is sold during the year or of the average market price of such produce where such produce is not sold during the year;

(iii) for the industrial or commercial purpose, 2% of the prevailing market value of such land on the first day of April where the year begins on that day and on the first day of April immediately preceding the year where the year begins on a day other than the first day of April;

(iv) for any other purpose, 1% of the prevailing market value of the land on the first day of April where the year begins on that day and on the first day of April immediately preceding the year where the year begins on a day other than the first day of April;

- (b) "Appellate Authority" means the Officer appointed as such by the State Government for any area by Notification in the Official Gazette;
- (c) "Assessing Authority" means the Officer appointed as such by the State Government for any area by Notification in the Official Gazette to make determination of annual value and assessment of tax under this Act;
- (d) "dead rent" means the minimum guaranteed amount of royalty payable yearly by the lessee under the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957) and the rules made thereunder or under an agreement for a mining lease;
- "Director" means the Officer appointed by the State Government to be the Director of Land Tax;
- (e) "forest produce" includes small timber, firewood, char-coal, bamboos, edible and non-edible oil seeds, barks flowers, fruits, leaves, grass, gum, tanning material and other minor forest products;
- (f) "land" means land held or used for-
- (i) excavating, extracting, removing or utilising any ore or mineral;
 - (ii) growing, collecting or receiving any forest or horticultural product;
 - (iii) any industrial or commercial purpose; or
 - (iv) any other purpose
- but shall not include a land held or used exclusively for agricultural or residential purpose or a land situate in an urban area or in a notified area declared as such under Sec. 313 of the Rajasthan Municipalities Act, 1959 (Rajasthan Act 38 of 1959) or an abadi land as defined in cl. (b) of Sec. 103 of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act 15 of 1956);
- (h) "land holder" means a person who holds or uses land as its owner, tenant, lessee, licensee, grantee or under any rights or contract or in any other capacity,
- (i) "prescribed" means prescribed by the rules made under this Act;
- (j) "royalty" means the charge payable by the lessee to the State Government in respect of any ore or mineral excavated, extracted, removed or utilised from any land under the Mines and Minerals (Regulation and Development) Act, 1957 (Central Act 67 of 1957) and the rules made thereunder;
- (k) "tax" means the tax on land payable under this Act;
- (1) "urban area" means the urban area as defined in the Rajasthan Lands and Buildings Tax Act, 1964 (Rajasthan Act 18 of 1964); and

(m) "year" means the twelve months ending on the thirty-first day of March, or, if the accounts of a land holder have been made upto a date within the said twelve months in respect of a year ending on .any date other than the thirty first days of March, then, the year ending on the date up to which his accounts have so been made up.

1. Substituted by Raj. Act No. 5 of 1992, Pub. in Raj. Govt. Gaz., Exty., Part 4(A), dated 1.4.1992.

3. Incidence of tax :-

Every land holder shall be liable to pay tax under this Act on the annual value of the land for every year or, as the case may be, part thereof during which such land is held or used by him.

4. Exemptions :-

(1) No tax shall be payable under this Act on the land-

(a) owned by-

(i) the Central Government; or

(ii) the State Government or a local authority except where such land or a right connected therewith is leased out or otherwise given for its use to any person on payment or without payment; or

(b) held or used-

(i) as a wakf property;

(ii) by the Devasthan Department of the State Government;

(iii) for public worship or public purpose;

(iv) for purposes connected with the disposal of dead bodies;

(v) by a educational institution solely for purposes of education; or

(vi) for public parks public libraries or public museums.

(2) The State Government may, on being satisfied that it is necessary or expedient so to do in public interest, exempt, by Notification in the Official Gazette, any land or land-holder or class of lands or land-holders from the tax on such conditions as may be specified.

5. Rate of Tax :-

The tax payable by a land-holder shall be assessed at such rate, not exceeding ¹[XXX] the annual value, as may be specified by the State Government from time to time by notification in the Official Gazette and different rates may be specified for lands held or used

for different purposes.

1. Expression 50% omitted by Raj. Act No. 5 of 1992, Pub. in Raj. Govt. Gaz., Ext., Part 4(A), dated 1.4.1992.

CHAPTER 2 REGISTRATION, RETURNS AND ASSESSMENT

6. Registration of land-holders :-

(1) Every land-holder becoming liable to pay tax on or after the commencement of this Act shall, within 90 days of such commencement or, as the case may be, of his so becoming liable, make an application in the prescribed form to the Assessing Authority having jurisdiction and shall also make payment of fifty rupees as registration fee to the State Government.

(2) The Assessing Authority shall, on being satisfied that the land-holder making application and payment of registration fee may be registered, issue a certificate of registration to such land-holder in the form prescribed.

(3) The Assessing Authority may, upon information received from any person or upon his own knowledge, issue notice to any person to show cause as to why he may not be required to make application for registration.

7. Returns :-

(1) Every land-holder registered under Sec. 6 shall file with the Assessing Authority having jurisdiction returns for the prescribed period in such form and manner and within such time as may be prescribed and shall also pay tax on that part of the annual value estimated and disclosed in the return which is proportionate to the period covered by such return:

Provided that the said time may, on an application being made by the land-holder and for sufficient reasons, be extended by a period not exceeding thirty days by the Assessing Authority:

Provided further that the State Government, may by Notification in the Official Gazette, require any land-holder or class of land-holders to pay tax at intervals shorter than those prescribed under this sub-section and in such a case tax shall be deposited at such intervals.

(2) Every return shall be accompanied by a treasury receipt or receipt of any Schedule Bank authorised to receive money on behalf of the State Government showing the deposit of the amount

of tax calculated by the land-holder for the prescribed period.

(3) On the discovery of any error or omission, a revised return for a prescribed period may be filed by a land-holder before the expiry of the time prescribed for filing of the next return.

(4) The amount of tax paid by a land-holder under sub-sec. (1) shall be provisional and subject to adjustment at the time of assessment.

8. Provisional Assessment :-

Where a land holder-

(a) fails to file prescribed return; or

(b) fails to deposit the amount of tax for any period; or

(c) files incorrect return; or

(d) evades or avoids the payment of tax for any period-

the Assessing Authority may, after such enquiry as he considers necessary, proceed to provisionally assess to the best of his judgment the amount of tax payable by such land-holder for such period.

9. Assessment :-

(1) After all the returns relating to a year have become due, the Assessing Authority shall, with regard to every land-holder liable to pay tax for such year or part thereof, proceed to determine the annual value and assess the amount of tax.

(2) Where the returns filed by a land-holder appear to disclose the annual value correctly, the Assessing Authority may determine the annual value and assess the tax accordingly.

(3) The Assessing Authority may, on being satisfied-

(a) that no returns have been filed; or

(b) that returns showing incorrect annual value or the amount of tax have been filed; or

(c) that there are reasons to make enquiry-

fix a date and require the land-holder to appear before him on such date and produce books of accounts and other evidence for assessment of tax.

(4) The Assessing Authority may issue summons to any person requiring him to appear for being examined or to produce any document in his possession for assessment of tax with regard to any land-holder.

(5) After recording the oral evidence, if any, and examining the books of accounts and other documents produced before him and

making such enquiry as he considers necessary, the Assessing Authority may-

- (a) determine the annual value and assess the tax as disclosed by the land-holder; or
- (b) refuse to accept the annual value as disclosed by the land-holder and make determination of annual value and assessment of tax to the best of his judgment.

10. Payment and recovery of tax, penalty, interest or fee :-

(1) The Assessing Authority shall, after assessing the amount of tax, whether under Sec. 8 or Sec. 9 or, as the case may be, Sec. 12, cause a demand notice to be served on the land-holder. Such notice shall specify the amount of tax payable by the land-holder and shall contain such particulars as may be prescribed. .

(2) The amount of tax as specified in the demand notice referred to in sub-sec. (1) shall be payable by the land-holder within the time specified by such Authority or, where no such time is specified, within 30 days of the receipt of such notice.

(3) In default of the payment of tax payable under sub-sec. (2), the amount of tax shall be recoverable as an arrear of land revenue,

(4) Notwithstanding anything contained in any other law for the time being in force, or any custom, usage or contract or any decree or order of a Court or authority, the tax shall be a first charge upon the land.

(5) Where the land-holder is himself not the occupier of the land and makes a default in the payment of tax, such tax may be recovered from the occupier out of the rent or other sum which may fall due to the land-holder. The occupier shall be entitled to deduct the amount so paid from the amount of rent or other sum payable from time to time by him to the land-holder.

(6) Any penalty, interest or fees payable under this Act shall be deemed to be tax for the purpose of collection and recovery under this Act.

11. Interest on failure to pay tax :-

(1) Where a land-holder liable to pay tax fails to make advance payment of the amount of tax at the time of filing prescribed returns or to make payment of the amount of tax assessed by the Assessing Authority, he shall be liable to pay interest on the amount of tax payable by him at the rate of 15 per cent per annum

from the date on which payment of the amount of tax became due upto the date of payment of such amount.

(2) Where the amount of tax payable by a land-holder is reduced in appeal by the Appellate Authority, the amount of interest shall be calculated on such reduced amount and the excess amount of interest, if any, paid by the land-holder shall be refunded to him by the Assessing Authority.

12. Assessment of tax on escaped annual value :-

(1) The Assessing Authority may, on having reason to believe or suspect that the whole or part of the annual value of a land has escaped assessment to tax, issue a notice to the land-holder directing him to appear and show cause as to why determination of the annual value and assessment of tax so escaped be not made:

Provided that no such notice shall be issued after the expiry of five years from the close of the year in regard to which the annual value is believed or suspected to have escaped:

Provided further that the period during which the proceedings were stayed by the orders of a competent Court shall be excluded from the said period of five years.

(2) After affording reasonable opportunity of being heard to the land-holder and making such enquiry as may be considered necessary, the Assessing Authority may either vacate the notice issued under sub-sec. (1) or proceed to assess or re-assess the tax.

Explanation.-Nothing in this section shall be deemed to prevent the Assessing Authority from making an assessment to the best of his judgment.

13. Transfer of land :-

(1) Whenever the title or rights in land of any person liable to pay tax are transferred, such person shall, within ninety days from the date of transfer, give notice of such transfer to the Assessing Authority in such form and manner as may be prescribed.

(2) In the event of death of the person liable to pay tax, the legal representatives of the deceased shall, within ninety days, of such death, give notice of such death to the Assessing Authority in such form and manner as may be prescribed.

(3) A person, making a transfer, as mentioned in sub-sec. (1) without giving notice to the Assessing Authority, shall continue to be liable to pay tax until he gives such notice or until the transfer is recorded by the Assessing Authority in his records.

Nothing, however, shall affect the liability of the transferee with regard to the payment of tax.

CHAPTER 3 APPEALS, REVISION, REVIEW AND REFUND

14. Appeals :-

(1) A land-holder aggrieved by an assessment of tax made by the Assessing Authority may, within sixty days of the receipt of notice of demand relating to the amount of tax, present an appeal before the Appellate Authority:

Provided that no appeal shall be entertained under this sub-section unless it is accompanied by a satisfactory proof of the payment of tax or other amounts admitted by the appellant to be due from him:

Provided further that the Appellate Authority may admit an appeal after the said period of sixty days if it is satisfied that the appellant has sufficient cause for not presenting the appeal within the said period.

(2) The Appellate Authority may after giving reasonable opportunity of being heard to the land holder presenting appeal and to the Assessing Authority, confirm vary, amend or set aside the order of assessment and may maintain reduce or enhance the amount of tax, interest or penalty.

(3) The Assessing Authority may be directed by the Appellate Authority to make further enquiry and send report with regard to the assessment of the amount of tax under appeal.

(4) The Appellate Authority may remand a case for a fresh assessment to the Assessing Authority with such directions as it may consider necessary and the Assessing Authority shall make a fresh assessment in accordance with such directions.

(5) The amount of tax as assessed by the Assessing Authority shall, subject to the provisions contained in Sec. 25, be paid by the land-holder in accordance with the order against which the appeal has been presented and the payment of such amount shall not be stayed by the Appellate Authority.

15. Revision :-

The Board of Revenue may, on an application being filed before it within 30 days of the date of order made by the Appellate Authority or of its own motion, call for the records of any proceedings under this Act and revise any order of the Appellate

Authority or make such orders as it may think fit.

16. Review :-

An order made under this Act may, for rectifying an error or mistake apparent on the face of the record or for other sufficient reasons, be reviewed by the Authority which made such order:

Provided that no order shall be reviewed which has the effect of increasing the tax without giving a reasonable opportunity of being heard to the land-holder.

17. Refund :-

The amount of tax, interest or penalty paid in excess by a land holder shall be refunded to him or adjusted towards any other demand existing against him under this Act.

CHAPTER 4 ACCOUNTS, PENALTY, ENTRY AND SEIZURE

18. Maintenance of accounts :-

(1) Every land-holder liable to pay tax shall maintain books of accounts and keep proper accounts in regard to his business or land on the basis of which annual value is to be determined and tax is to be assessed under this Act.

(2) The books of accounts maintained by a land-holder shall, on being so directed by the Assessing Authority, Appellate Authority or the Revising Authority, be produced by the land-holder or the person having the custody of such accounts for being examined by such Authority.

19. Offences and penalties :-

Where a land-holder-

(a) fails to obtain registration within the time prescribed under Sec. 6;

(b) omits or fails to file prescribed returns within the time prescribed under Sec. 7;

(c) furnished deliberately incorrect returns or conceals material particulars therein; or

(d) acts in contravention of any provision of this Act or the rules made thereunder, -

he shall be, after being afforded by the Assessing Authority a reasonable opportunity of being heard, liable to pay, in addition to

tax, such penalty as may be imposed by such Authority:.

Provided that the amount of penalty shall, in the cases falling under cl. (a) or (b) or (d), not exceed one thousand rupees and in the cases falling under cl. (c) shall not exceed double the amount of tax which would have been avoided if the return filed by the land holder had been accepted as correct.

20. Production of documents and power of entry and seizure :-

(1) The Assessing Authority may direct a land-holder or any other person having the custody of books of accounts, registers or other documents relating to a land or its annual value to produce such books, registers or documents before it.

(2) The Assessing Authority or any other Officer specially authorised by the State Government in this behalf may enter into or upon any land or building for its inspection or inquiry into the annual value of the land and may, for reasons to be recorded in writing, also seize any books of accounts, registers and documents kept or maintained thereby a land-holder liable to pay tax.

CHAPTER 5 MISCELLANEOUS

21. Survey of lands :-

(1) An Officer specially authorised in this behalf by the State Government shall carry out survey of all lands in the area specified in the order so authorising him and, if such lands have already been surveyed, carry out re-survey of such lands for the purposes of this Act.

(2) The survey or re-survey shall be carried out in accordance with the rules made by the State Government in this behalf.

22. Indemnity :-

No suit, prosecution or other legal proceeding shall lie against any Authority or Officer acting under the provisions of this Act or the rules made thereunder for anything done in good faith.

23. Bar to certain proceedings :-

Save as otherwise provided in this Act, no orders made, actions taken and proceedings initiated under this Act shall be called into question in any Civil Court or any other Court or tribunal or before

any Authority.

24. Powers of the State Government :-

(1) For carrying out the purposes of this Act, the State Government may appoint such number of Officers with appropriate designations as it may consider necessary.

(2) The State Government may, by Notification in the Official Gazette, empower any Officer of the State Government (including any Officer of any local authority) to exercise such powers, discharge such duties and perform such functions under this Act, in respect of such class of persons or class of lands or such areas as may be specified.

25. Power of stay by Director :-

Where an appeal has been presented by a land holder under Sec. 14, the Director may, on an application in writing from the land-holder, stay the recovery of the disputed amount of tax, penalty or interest or any part thereof during the pendency of appeal if the land-holder furnishes sufficient security to the satisfaction of the Assessing Authority in such form and in such manner as maybe prescribed:

Provided that where the recovery of an amount of tax, penalty or interest or a part thereof is stayed, such amount shall be recoverable with interest calculated at the rate prescribed in Sec. 11 on the amount ultimately found due from the date on which such amount first became due.

26. Power to make rules :-

(1) The State Government may, from time to time, make rules for the purpose of carrying into effect the provisions of this Act.

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

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) compelling the submission of returns and the production of documents and enforcing the attendance of persons and examining them on oath or affirmation;

(c) prescribing fees for the purposes of filing appeals and revisions;

(d) the value of Court fee stamps required for applications and other proceedings under this Act;

- (e) the appointment, duties and powers of Officers appointed for the purpose of enforcing the provisions of this Act;
- (f) generally regulating the procedure to be followed and the forms to be adopted in the proceedings under this Act; and
- (g) the recovery of tax, penalty, interest or fee payable under this Act.

(3) All rules made under this Act shall be laid, as soon as may be after they are so made, before the House of the State Legislature while it is in session for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect.