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**COLLECTION OF ENTERTAINMENTS DUTY ON CABLE  
TELEVISION (INCLUDING ENTERTAINMENTS DUTY  
LEVIABLE ON DIRECT-TO-HOME (DTH) BROADCASTING  
SERVICE) BY WAY OF PUBLIC AUCTION RULES, 2002**

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The following draft of the rules which the Government of Maharashtra proposes to issue in exercise of the powers conferred by section 7 of the Bombay Environment Duty Act, 1923 (Bom. 1 of 1923), is hereby published as required by sub-section (3) of the said section 7, for the information of all persons likely to be effected thereby; and notice is hereby given that the said draft will be taken into consideration by the Government of Maharashtra on or after 16th October, 2002. Any objections or suggestions which may be received by the Principal Secretary (Revenue) to the Government of Maharashtra, Revenue and Forest Department,

Mantralaya, Mumbai-400 032 from any person with respect to the said draft on or before aforesaid date, will be considered by the Government.

**1. Short title :-**

These Rules may be called "The Collection of Entertainments Duty on Cable Television (including entertainments duty leviable on Direct-to-Home (DTH) Broadcasting Service) by way of Public Auction Rules, 2002.

**2. Definitions :-**

(1) In these Rules,

(a) "Act" means the Bombay Entertainments Duty Act, 1923 (Bom. I of 1923);

(b) "Agent" means a person appointed for collection of entertainment duty on cable television including entertainment duty on DTH Broadcasting Service;

(c) "Cable operator" means a person registered as a Cable Operator under section 3 of the Central Act;

(d) "Central Act" means a Cable Television Networks (Regulation) Act, 1995 (Act No. 7 of 1995);

(e) "Government" means the Government of Maharashtra in the Department of Revenue and Forests;

(f) "Person" means a person as defined in the Central Act;

(g) "Territorial Unit" means ordinarily a district or a Municipal Corporation or a Municipal Council or a designated area of a Municipal Corporation or of a Municipal Council or any other area of a district as may be declared by the Government or the Collector from time to time;

(h) "Upset price" means a notional aggregate of the entertainment duty leviable on all the cable connections and the duty leviable on Direct-to-Home broadcasting service in a territorial unit.

(2) Words and expressions used in these rules but not defined shall have the meanings respectively assigned to them in the Bombay Entertainment Duty Act, 1923.

**3. Determination of upset price :-**

The Government may, by general or special order determine upset

price for every territorial unit.

#### **4. Collection of entertainment Duty :-**

(1) The Government may, lease by public auction the collection of the entertainment duty leviable on the cable television including duty leviable on Direct to Home (DTH) Broadcasting Service 4-E of the Act or appoint an agent for collection of the duty.

(2) For the purpose of leasing the collection of entertainment duty for a territorial unit tenders shall be invited by the concerned Collector, the concerned Divisional Commissioner and by the Government.

(3) The form of offer to be submitted by the bidder and the terms and conditions of the tender document shall be such as may be specified by general or special order by the Government from time to time.

(4) The period of lease contract shall be one year may be further extended for one year at a time. The total period of lease shall not exceed three years.

#### **5. Eligibility of a Bidder :-**

Every person who,

(a) is not less than twenty-one years of age (in case of an individual).

(b) produces Income Tax Clearance Certificate.

(c) produces Solvency Certificate issued by the Collector, of the value of not less than the upset price fixed for territorial unit;

Explanation. For the purposes of these rules, solvency in respect of a company or partnership firm or corporate body means aggregate of the assests of the Directors and the capital assests of the company or body as the case may be and in case of a partnership firm the assets of all the partners;

(d) produce Solvency Certificates issued by the Collector, of two guarantors, who are the residents of the State of Maharashtra and who shall give an irrevocable Bank guarantee given by the Nationalised Bank, of the value to be finalised not less than the value of the upset price fixed for a territorial unit;

(e) has an office registered in the State of Maharashtra;

(f) is not convicted of an offence under the provisions of the Act or the Central Act or under any other law;

(g) is not in arrears of entertainments duty at the time of making an application. Explanation. A company or a partnership firm or body corporate shall be disqualified for making any application as a Bidder, if-

(1) any director of such company or partner of such partnership firm or body corporate is convicted; of an offence under provisions of the Act or the Central Act or under any other law or.

(2) any director of such company or body corporate or partner of such partnership firm is in arrears of entertainment duty.

## **6. Conditions of offer :-**

(1) An offer of the contract amount shall not be less than the upset price.

(2) A bidder shall not submit more than one offer. If he submits more than one offer, only the highest offer shall be considered. No representation in this regard shall be entertained.

(3) A person signing the offer may sign in his personal or, as the case may be, in the capacity of the sole proprietor of the Firm or Concern or as a Secretary or Manager or Managing Director of a Limited Company. In all cases of bidder other than the individuals or proprietary concerns, attested copy of the partnership deed and in absence of the express provision in the said deed, the authorisation of the firm in favour of the person signing the offer and the names of the partners or the names of all the Directors shall be furnished along with the offer. The offer shall be accompanied by a certificate (bearing seal of the company) that the person signing the offer is empowered to do so behalf of the company and also accompanied by a copy of Memorandum and Articles of the Association of the company.

(4) The Government may reject any offer without giving any reason therefor.

## **7. Earnest money :-**

(1) The bidder shall pay alongwith the tender, a sum which shall be equal to 10 per cent, of the upset price, by way of earnest money by a crossed demand draft or a pay order drawn in favour of the

concerned Collector, issued by any Nationalised Bank. The said amount of earnest money shall not carry any interest whatsoever.

(2) The sum of earnest money shall remain with the Collector for the period required to take a decision regarding acceptance of the tender or thirty days from the date of opening of the tenders, whichever is earlier.

(3) In the event of his tender being accepted, subject to the provisions of sub-clause (4) below, the said amount of earnest money shall be appropriated towards the amount of security deposit payable by the bidder under general conditions of Contract.

(4) If, after submitting the tender, the bidder withdraws his offer, or modifies the same or if after the acceptance of his tender, the bidder fails or neglects to deposit the balance amount of security deposit, the Government shall forfeit the full amount of the earnest money deposited by the bidder.

(5) In the event of his tender not being accepted, the amount of earnest money deposited by the bidder shall, unless forfeited under the provisions of sub-clause (4) above, be referred to him.

#### **8. Acceptance of offer :-**

(1) The term and conditions of the agreement to be entered into by the Government with the successful bidder shall be such as may be specified by general or special order by the Government from time to time.

(2) The Principal Secretary (Revenue), Revenue and Forests Department, Mantralaya, Mumbai-400 032 or his nominee or the Collector of the concerned district on behalf of the Government of Maharashtra and the Agent appointed under these rules shall be the parties to the contract.

#### **9. Security Deposit :-**

The Collector shall require the successful bidder to deposit 25 per cent, of the amount of contract, being Security Deposit before entering into an agreement, by way of a crossed demand draft or a pay order drawn in favour of the Government, issued by any Nationalised Bank.

#### **10. Rates of entertainment duty :-**

(1) The agent may himself or through any other person authorised

by the concerned collector collect the entertainment duty on Cable Television in the territorial unit at the rates specified in sub-section (4) and as the case may be entertainment duty on Direct to Home (DTH) Broadcasting Service at the rates specified in sub-section (15) of section 3 of the Act.

(2) The Agent shall comply with all the provisions of the Act, rules, regulations or administrative orders issued by the Government in respect of collection of the duty and matters incidental thereto.

**11. Mode of remittance of entertainments duty to the government :-**

(1) The agent shall remit within 15 days of every calendar month 1 /12th of the contract amount to the Collector failing which the agent shall be liable to pay interest at the rate specified in section 9-B of the Act.

(2) If in any calender month the amount of the duty collected by the agent is less than the amount of installment specified, then the agent shall forthwith remit to the Government, the shortfall in the collection of the duty alongwith interest leviable as aforesaid.

**12. Sub-letting :-**

(1) The Collector shall terminate the contract and forfeit the entire amount of security deposit, if the agent enters into partnership or sublets or transfers or assigns the contract or any part thereof in any manner whatsoever without prior approval of the Government, after giving him an opportunity of being heard.

(2) If the agent fails to remit the specified instalment to the Government for three consecutive calendar months, then the Security Deposit shall be liable to be forfeited to the Government without any notice to the agent.

**13. Services of employees -of the Government :-**

In case the agent is required to utilise temporarily the services of any employee(s) of the Government for the purpose of collection of the duty, the agent shall pay in advance every month to the Collector, the amount equal to the salary of such employee(s).

Explanation. For the purpose of this rule, "salary" means basic pay plus any other allowances as are admissible under the Maharashtra Civil Services Rules, 1981.

**14. Prosecution :-**

The Collector after assessing the cable operator under section 4-B of the Act and on his satisfaction that prima facie case of evasion has been made out on the basis of the reports made by the agent or his officers, shall file prosecution against the defaulted cable operator.

**15. Supply of information to the agent :-**

The Collector at the time of entering into the agreement shall supply free of cost the information regarding the cable operators in the territorial unit.

**16. Supervision, Inspection and Accounts :-**

(1) The Collector or any officer appointed in this behalf, shall exercise such rights, authority, control and supervision over the work of collection of the duty, carried out by the agent with a view to ensure that the work of collection of the duty is carried out smoothly, efficiently and without any hindrance to or harassment to the public at large.

(2) The officers authorised under sub-rule (1) shall exercise all the powers conferred under section 8 of the said act to inspect receipt books, registers and accounts maintained by the agent.

(3) The Collector any of his officer shall ordinarily not interfere with the working of the agent in his work of collection of entertainment duty.

(4) The agent may appoint a person for collection of the entertainment duty, who shall be authorised by the Collector by issuing an order under section 10 of the Act to perform the duties and discharge the functions of the Entertainment Duty Inspector and Entertainment Duty Officer under the Act and these rules, except the powers conferred upon the Collector under sections 4-B, 5, 5-A, sub-section (2) of section 7, section 9 and section 9-A of the Act.

(5) The Agent shall keep monthly accounts of the number of cable connections and the entertainment duty collected and names of the cable operators and submit a copy thereof alongwith the installment in the next month to the collector or any officer appointed on his behalf.

**17. Rebate :-**

The Agent shall not be entitled to any compensation, rebate or reduction in the rates fixed in lease contract amount on the grounds of closure or strike by the Cable Operators or decrease in the cable connections in the territorial unit to for any other reasons.

**18. Application of rules to agents :-**

If on inviting the tenders, it is not possible for the Government to lease the collection of entertainment duty, for the reasons mentioned sub-rule (4) of rule 7 or for any other reason, the Government may call for fresh tenders and if no tender is received for a second time, or no bidder found eligible, then without following the process the Government may appoint a suitable agent for the upset price determined for such lease contract. The provisions of the rules (5) to (14) above shall be applicable in respect of the agents so appointed by the Government.

Provided that, in case, in any district, if the lease backs out at any time during the period of lease contract, the Government shall call for fresh tenders for the remaining period of lease contract, after determining the proportionate upset price of the lease.

Provided further that, if no tender is received for the second time or no bidder found eligible, then without following the process the Government may appoint an agent for the upset price so determined for the remaining period of contract.

**19. Settlement of dispute :-**

(1) In the event of any question, dispute or difference in respect of the lease arises, the same shall be referred to the sole arbitration of the Principal Secretary (Revenue) of Revenue and Forests Department or any officer authorised by him.

(2) The Award of the arbitrator shall be final and binding on both the parties. Where such Arbitrator, to whom the matter is originally referred is unable to act for any reason, the Principal Secretary (Revenue) of Revenue and Forests Department, shall appoint another person to act as Arbitrator.

(3) The arbitration proceedings shall be carried out as per the Arbitration and Conciliation Act, 1996 and the rules made thereunder.

(4) The arbitrator shall make the assessment of costs, interest and incidental expenses in the proceeding for the Award.



