



## The Gujarat Purchase Tax on Sugarcane Act, 1989

Act 11 of 1989

**Keyword(s):**

Factory, Owner, Sugar, Tribunal, Tax

Amendment appended: 3 of 2006

**DISCLAIMER:** This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.



# The Gujarat Government Gazette EXTRAORDINARY PUBLISHED BY AUTHORITY

Vol. XXX] THURSDAY, MARCH 9, 1989/PHALGUNA 18, 1910

Separate paging is given to this Part in order that it may be used as a Separate Compilation.

## PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

(First published, after having received the assent of the Governor in the President on the 8th March, 1989 is hereby published for general information.

R. M. MEHTA,  
Secretary to the Government of Gujarat,  
Legal Department.

### GUJARAT ACT NO. 11 OF 1989.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette" on the 9th March, 1989).

An Act to provide for levy and collection of a tax in the State of Gujarat on the purchase of sugarcane for use in the manufacture or production of sugar on the basis of weight of sugarcane.

It is hereby enacted in the Fortieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Purchase Tax on Sugarcane Act, 1989.

(2) It extends to the whole of the State of Gujarat.

Short title, extent and commencement.

(3) It shall be deemed to have come into force on the 1st October, 1967.

## Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Commissioner" means the person appointed to be the Commissioner of Purchase Tax (Sugarcane) under this Act ;

(b) "earlier law" means the Gujarat Sales Tax Act, 1969;

Guj I  
of 1970.

(c) "factory" means any premises (including the precincts thereof), wherein twenty or more workers are working and in which, or in any part of which, any manufacturing process connected with the production of sugar by means of vacuum pans is being carried on, or is ordinarily carried on, with or without the aid of power ;

(d) "licence" means a licence granted or renewed under this Act ;

(e) "owner" in relation to a factory or a unit means the person who or the authority which owns or has the ultimate control over the affairs of the factory or the unit, as the case may be, and shall, while the said affairs are entrusted to a Manager or Managing Director, or a Purchasing Agent, include such Manager, Managing Director, or Purchasing Agent ;

(f) "person" includes any company or association or body of individuals, whether incorporated or not and also a Hindu undivided family, a firm and a local authority;

(g) "prescribed" means prescribed by rules made under this Act ;

(h) "sugar" includes *khandsari* sugar and "sugar" and "*khandsari* sugar" shall have the meanings assigned to them in Chapter 17 of the Central Excise Tariff Act, 1955;

5 of 1955.

(i) "Tribunal" means the Tribunal constituted under section 28 of the Gujarat Sales Tax Act, 1969;

Guj. I of  
1970.

(j) "unit" means a unit engaged or ordinarily engaged in the manufacture or production of *khandsari* sugar and which is capable of handling or processing sugarcane juice produced with the aid of a crusher driven with or without the aid of power ;

(k) "tax" means the tax on the purchase of sugarcane and the additional tax payable under this Act ;

(l) words and expressions used in this Act, but not defined shall have the meanings respectively assigned to them in the Gujarat Sales Tax Act, 1969.

Guj. I of 1970.

Levy of  
purchase  
tax.

3. (1) There shall be levied and collected a tax on the purchase of sugarcane, such sugarcane being purchased for the use thereof in the manufacture or production of sugar in a factory or a unit.

(2) The tax under sub-section (1) shall be levied at such rate per kilogram of sugarcane purchased for the purpose aforesaid, as may be specified by the

State Government by notification in the *Official Gazette*, and different rates may be specified for sugarcane purchased for the manufacture or production of sugar in a factory and for the manufacture or production of *Khandsari* sugar in units, but in no case the rate or rates so specified shall exceed ten paise per kilogram of sugarcane so purchased.

(3) For the purpose of the levy of the tax as aforesaid, there shall be deducted from the gross weight of sugarcane so purchased, such proportion thereof representing the average weight of the tops of the sugarcane plant consisting of pith devoid of any sugar content and leaves and other trash usually present in sugarcane as may be prescribed; and the tax shall be levied only on the remaining weight of the sugarcane after such deduction has been made.

(4) The tax levied under this section shall be paid by the owner at such intervals and in such manner as is hereinafter provided.

4. (1) There shall be levied and collected from every owner liable to pay tax under section 3 an additional tax at the rate of twenty paise on every rupee of the tax so payable by him.

Levy of additional tax.

(2) Except as provided in sub-section (1), the provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the additional tax payable under sub-section (1), as they apply in relation to the tax payable by the owner under this Act.

5. Notwithstanding any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment :

Liability of firm.

Provided that, where any such partner retires from the firm he shall intimate the date of his retirement to the Commissioner by a notice in that behalf in writing and he shall be liable to pay the tax, penalty and interest (if any) remaining unpaid at the time of his retirement and any tax due up to the date of retirement though unassessed at that date :

Provided further that where no such intimation is given within forty-five days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

6. (1) Where an owner liable to pay tax under this Act, dies, then—

(a) if the business carried on by the owner is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax including any penalty and interest due from such owner under this Act or under the earlier law, and

(b) if the business carried on by the owner is discontinued, whether before or after his death, his legal representative shall be liable to pay out

Special provision regarding liability to pay tax in certain cases

of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax (including any penalty and interest) due from such owner under this Act or under the earlier law,

whether such tax (including any penalty and interest) has been assessed before his death but has remained unpaid or is assessed after his death.

(2) Where the owner, liable to pay tax under this Act, is a Hindu undivided family, and the joint family property is partitioned amongst the various members or groups of members, then each member or group of members shall be jointly and severally liable to pay the tax (including any penalty and interest) due from such owner under this Act or under the earlier law up to the time of the partition whether such tax (including any penalty and interest) has been assessed before partition but has remained unpaid or is assessed after partition.

(3) Where the owner, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person, who was a partner shall be jointly and severally liable to pay the extent to which he is liable under this Act the tax (including any penalty and interest) due from the firm under this Act or under the earlier law, up to the time of dissolution, whether such tax (including any penalty and interest) has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.

(4) Where the owner liable to pay tax under this Act transfers his business in whole or in part, by sale, lease, leave, or licence, hire or in any other manner whatsoever, the owner and the person to whom the business is transferred shall jointly and severally be liable to pay tax (including any penalty and interest) due from the owner under this Act or under the earlier law up to the time of such transfer, whether such tax (including any penalty and interest) has been assessed before such transfer but has remained unpaid or is assessed thereafter.

(5) Where the owner liable to pay tax under this Act,—

(a) is the guardian of a ward on whose behalf the business carried on by the guardian, or

(b) is a trustee who carries on the business under a trust for a beneficiary then, if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax (including any penalty and interest) due from the owner up to the time of the termination of the guardianship or trust, whether such tax (including any penalty and interest) has been assessed before the termination of the guardianship or trust but has remained unpaid or is assessed thereafter.

(6) Where a person becomes liable to pay tax in the manner described in clause (a) of sub-section (1) or in sub-section (4), then such person shall, notwithstanding anything contained in sub-section (4) of section 3, be liable to pay tax on the purchases of sugarcane made by him on and after the date of such succession or transfer and shall (unless he already holds a licence), within thirty days thereof apply for licence.

7. (1) Where it appears necessary to the authority to which an application for issue of licence is made, so to do for the proper realisation of the tax, interest and penalty payable under this Act, it may, by an order in writing and for the reasons to be recorded therein, impose as a condition for the issue of a licence a requirement that the owner shall furnish in the manner prescribed and within such time as may be specified in the order, such security as may be so specified for the aforesaid purpose.

Furnishing  
of security.

(2) Where it appears necessary to the authority referred to in sub-section (1) so to do for the proper realisation of tax, interest and penalty payable under this Act, it may, at any time, while any licence is in force, by an order in writing and for the reasons to be recorded therein, require the owner to whom such licence has been granted, to furnish in the prescribed manner and within such time as may be specified in the order such security or if the owner has already furnished any security in pursuance 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 owner shall be required to furnish any security under sub-section (1) or any security or additional security under sub-section (2) unless he has been given an opportunity of being heard.

(4) The authority referred to in sub-section (1), may by order and for good and sufficient cause, forfeit the whole or any part of the security furnished by the owner for realising any amount of tax, interest or penalty payable by the owner :

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

8. (1) For carrying out the purposes of this Act, the State Government shall appoint an officer to be called the Commissioner of Purchase Tax (Sugarcane).

Taxing  
and  
Licensing  
Authorities.

(2) To assist the Commissioner in execution of his functions under this Act the State Government may appoint Additional Commissioners of Purchase Tax (Sugarcane) (if any) and such number of—

- (a) Deputy Commissioners of Purchase Tax (Sugarcane),
- (b) Assistant Commissioners of Purchase Tax (Sugarcane),
- (c) Purchase Tax Officers (Sugarcane), and
- (d) other officers and persons,

and give them such designations (if any), as the State Government thinks necessary.

(3) The Commissioner shall have jurisdiction over the whole of the State of Gujarat, and an Additional Commissioner if any be appointed, shall have jurisdiction over the whole of the State or where the State Government so

directs over any local area thereof. All other officers shall have jurisdiction over the whole of the State or over such local areas as the State Government may specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act and an Additional Commissioner if any be appointed, shall, save as otherwise directed by the State Government, have and exercise within his jurisdiction all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act.

(5) A Deputy Commissioner shall have and exercise in the area within his jurisdiction all the powers and shall perform all the duties conferred or imposed on the Commissioner by or under this Act, but the Commissioner may by order published in the *Official Gazette*, direct that any Deputy Commissioner or all Deputy Commissioners generally shall not exercise such powers or perform such duties as are specified in the order and thereupon such Deputy Commissioner, or, as the case may be, all the Deputy Commissioners shall cease to exercise those powers and perform those duties. The Commissioner may in like manner revoke any such direction and thereupon the powers or duties exercisable or performable by such Deputy Commissioner or, as the case may be, all Deputy Commissioners before such direction was issued, shall be restored to him or them.

(6) Assistant Commissioners, Purchase Tax Officers and other officers shall within their jurisdiction exercise such of the powers and perform such of the duties of the Commissioner under this Act as the Commissioner may, subject to such conditions and restrictions as the State Government may by general or special order impose, by order in writing delegate to them either generally or as respects any particular matter or class of matters.

(7) The State Government may, subject to such restrictions and conditions (if any) as it may impose by notification in the *Official Gazette*, delegate to the Commissioner, the powers (not being powers relating to the appointment of Additional Commissioners or Deputy Commissioners), conferred on the State Government by sub-sections (2) and (3).

(8) All officers and persons appointed under sub-section (2) shall be subordinate to the Commissioner and the subordination of the officers (other than the Commissioner) and of persons amongst themselves shall be such as may be prescribed.

9. (1) Except under and in accordance with the conditions of a licence issued by the Commissioner, no person shall purchase sugarcane for the purpose of the use thereof in the manufacture or production of sugar in a factory or a unit.

(2) An application for a licence shall be in such form and made in such manner and shall be accompanied by such fee, not exceeding one hundred rupees, as may be prescribed.

Licence  
for  
purchasing  
sugarcane  
for use in  
manufacture  
or  
production  
of sugar.

(3) Subject to the other provisions of this section, the Commissioner shall, after due verification of any application received for a licence, issue the licence.

Provided that, the Commissioner may, after giving the applicant a reasonable opportunity of being heard, refuse to issue a licence to any person if the Commissioner has already cancelled, or refused to renew, a licence previously granted to such person.

(4) A licence issued under this section shall be subject to such conditions as may be prescribed, and shall be valid up to and inclusive of the 30th day of September next following and shall be subject to the other provisions of this section and on payment of such fee not exceeding twenty rupees, as may be prescribed, be renewable in the prescribed manner.

(5) If a licensee commits a breach of any of the conditions of his licence, the Commissioner may, after giving him a reasonable opportunity of being heard, cancel, or refuse to renew, his licence.

10. Save as otherwise provided in section 11, a licence shall be personal to the owner to whom it is granted, and shall not be transferable.

Non-  
trans-  
ferability  
of licence.

11. Where an owner—

- (a) effects a change in the name of his business, or
- (b) is a firm, and there is a change in the constitution of the firm without dissolution thereof, or
- (c) is a trustee of a trust, and there is change in the trustees thereof, or
- (d) is a guardian of a ward, and there is a change in the guardian, or
- (e) is a Hindu undivided family and the business of such family is converted into a partnership business with all or any of the coparceners as partners thereof,

Licence  
to continue  
in certain  
circum-  
stances.

then, merely by reason of any of the circumstances aforesaid, it shall not be necessary for the owner, or the firm with the changed constitution, or the new trustees, or new guardian or, as the case may be, the partnership of such partnership business, to apply for a fresh licence and on information being furnished in the manner required by section 12, the licence shall be amended accordingly.

12. If the owner liable to pay tax under this Act—

- (a) transfers his business, in whole or in part, by sale, lease, leave or licence, hire or in any other manner whatsoever, or otherwise disposes of his business or any part thereof, or effects or knows of any other change in the ownership of the business, or

Information  
to be  
furnished  
regarding  
changes in  
business,  
etc.



(b) discontinues his business or changes the place thereof or opens a new place of business, or

(c) changes the name of his business, or

(d) enters into a partnership or other association in regard to his business, he shall, within the prescribed time, inform the prescribed authority accordingly, and where any such owner dies, his executor, administrator or other legal representative, or where any such owner is a firm and there is a change in the constitution of the firm or the firm is dissolved, every person who was a partner there of, shall, in like manner, inform the said authority of such death, change in the constitution or, as the case may be, dissolution.

#### Returns.

13. (1) Every owner liable to pay tax under this Act shall, within thirty days after the end of every month to which the return relates, furnish, a return in the prescribed form to the Commissioner. Every such return shall show in kilograms the total quantity of sugarcane purchased by him for use in the manufacture or production of sugar in a factory or unit, as the case may be, during the preceding month, together with such further information, as may be prescribed.

(2) Every return shall be accompanied by a challan for payment on Government account into a Government Treasury of the full amount of tax leviable under section 3 for the period to which the return relates.

(3) Every return shall be verified in the manner prescribed.

(4) Where a return is furnished to the Commissioner without making payment of the full amount of tax leviable under section 3, the full amount or the remaining amount due, as the case may be, shall be paid by the owner on Government account into a Government Treasury by such date as may be specified in a notice issued by the Commissioner for this purpose, being a date not earlier than ten days of the service of the notice, and the challan for such payment shall be forwarded by him to the Commissioner within seven days from such specified date.

#### Assessment and collection of tax.

14. (1) On receipt of a return under section 13, the Commissioner shall assess the tax payable in respect of the period to which the return relates and if the amount has not already been paid as aforesaid, he shall cause a notice to be served upon the person concerned requiring him to pay the amount assessed, within ten days of the service of the notice.

(2) If the owner fails to furnish in due time the return referred to in section 13, the Commissioner shall, after giving him a reasonable opportunity of being heard, assess to the best of his judgement the amount of tax payable and the provisions of sub-section (1) in respect of notice shall apply as if such assessment has been made on the basis of a return furnished by such person.

15. Where in respect of any tax (including any penalty and interest) due from the owner under this Act or under the earlier law, any other person is liable for the payment thereof under any provisions of this Act or the earlier law, all the relevant provisions of this Act or, as the case may be, of the earlier law, shall, in respect of such liability, apply to such person also, as if he were the owner himself.

Applicability of the Act or earlier law to other persons liable to pay tax.

16. If the Commissioner has reason to believe that purchase of sugarcane chargeable to tax under this Act has not been assessed in respect of any period in an order of assessment made under section 14, then the Commissioner may,—

Reassessment.

(a) where he has reason to believe that the owner has concealed purchases, or any material particulars relating thereto, or has knowingly furnished incorrect returns, at any time within eight years, and

(b) in any other case, at any time within five years,

of the end of the period to which such transaction relates, serve on the owner liable to pay tax in respect of such transaction, a notice containing all or any of the requisitions which may be included in a notice and assess, not later than three years from the date of service of the notice, the amount of tax due from such dealer to the best of his judgement:

Provided that the amount of tax shall be assessed at the rate at which it would have been liable to tax had there been no escapement of assessment but after making deductions (if any) permitted from time to time by or under this Act:

Provided further that where in respect of such assessment, proceedings are pending in appeal or revision, the appropriate appellate or revisional authority under this Act may, on its own motion or on the report of the Commissioner after giving the owner concerned a reasonable opportunity of being heard, pass such order as it deems fit.

17. (1) If the owner fails, without reasonable cause, to furnish any return as required by sub-section (1) of section 13, the Commissioner may, after giving him a reasonable opportunity of being heard, by an order in writing, impose upon him by way of penalty, in addition to the amount of tax and interest, a sum not exceeding twice the amount of tax assessed under section 14.

Imposition of penalty, etc. in certain cases.

(2) If an owner does not, without cause, pay tax within the time he is required by or under the provisions of this Act to pay it, the Commissioner may, after giving him a reasonable opportunity of being heard, by an order in writing, impose upon him by way of penalty, in addition to the amount of tax and interest, a sum not exceeding two thousand rupees.

(3) The amount of any penalty imposed under this section shall be paid by the owner into a Government Treasury within ten days of the service of a notice by the Commissioner for this purpose.

(4) If while assessing the amount of tax due from the owner under section 14 it appears to the Commissioner that such owner—

- (a) has failed to apply for licence as required by section 9, or
- (b) has concealed the particulars of any transaction relating to the purchase of sugarcane or deliberately furnishes inaccurate particulars of any transaction liable to tax,

the Commissioner may impose upon the owner by way of penalty, in addition to any tax assessed under section 14, a sum of not exceeding one and half times the amount of tax.

(5) Where in the case of the owner the amount of tax—

- (a) assessed for any period under section 14, or
- (b) reassessed for any period under section 16,

exceeds the amount of tax already paid in accordance with the return under section 13 by the owner in respect of such period by more than twenty per cent. of the amount of tax so paid, the owner shall be deemed to have failed to pay the tax to the extent of the difference between the amount so assessed or reassessed as aforesaid and the amount paid.

(6) Where under sub-section (5) the owner is deemed to have failed to pay the tax to the extent mentioned in the said sub-section there shall be levied on such owner a penalty of such amount as is equivalent to the amount of simple interest for the period commencing on the date of expiry of the time specified for payment of tax under section 13 and ending on the date of assessment or, as the case may be, reassessment at the rate of twenty-four per cent. per annum on the amount of tax equivalent to such difference or any less amount remaining unpaid during such period :

Provided that where in assessing the amount of tax from any owner under section 14 in respect of any period, the time taken for making an order of assessment exceeds eighteen months from the date of expiry of the time prescribed for the payment of tax in accordance with the return under section 13, the Commissioner shall remit the amount of penalty payable by the owner for the period between the date of expiry of the said period of eighteen months and the date of payment of tax specified in the notice :

Provided further that where the Commissioner is satisfied that the difference between the amount payable as assessed or reassessed and the amount paid has taken place on account of some reasonable cause, he may remit the whole or part of the penalty payable in respect of any period by any owner or other person.

(7) Whenever any person fails, without reasonable cause, to furnish any information required by section 12, the Commissioner may, by an order in writing impose upon the owner or person liable to pay tax, by way of penalty a sum not exceeding two thousand rupees.

(8) If the Commissioner has reason to believe that any person is liable to a penalty under any of the provisions of this section, he shall serve on him a notice requiring him on a date and at a place specified in the notice to attend and to show cause why a penalty as provided in such provisions should not be imposed on him.

(9) The Commissioner shall thereupon hold an inquiry and shall make such order as he thinks fit.

18. (1) If the owner fails to submit the return as required by sub-section (1) of section 13 or to pay the full amount of tax as required by sub-section (2) of that section, he shall, in addition to the tax and the penalty (if any), pay simple interest on the amount due at the rate of two per cent. per month of the amount for each month from the date immediately following the last day for furnishing the return under sub-section (1) of section 13 up to the time the owner continues to make default in the payment of the amount due.

Interest payable by owner in certain cases.

*Explanation.*—For the purpose of this sub-section, where an owner fails to submit the return in due time, the amount of tax assessed under sub-section (2) of section 14 shall be deemed to be the amount of tax due from the owner under sub-section (2) of section 13.

(2) If the owner fails to pay the amount of tax assessed under section 14, by the date specified in the notice served upon him by the Commissioner for the purpose, he shall pay simple interest on the amount of tax or penalty due at the rate of two per cent. per month from the date immediately following the date specified in the notice up to the time the owner continues to make default in the payment of the amount due.

19. (1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest or to grant concession in case of double taxation or to redress an inequitable situation, remit by an order either generally or specially the whole or any part of the taxes payable in respect of any period by the owner.

Remission.

(2) The Commissioner may, in such circumstances and subject to such conditions and limits as may be prescribed, remit by an order the whole or any part of the tax payable, in respect of any period by the owner.

20. (1) In discharging their functions under this Act, the Tribunal and the Commissioner shall have all the powers of a civil court for the purpose of—

Powers of Tribunal and Commissioner.

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witnesses.

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

**Appeal.**

21. (1) An appeal from every original order passed under this Act or the rules made thereunder, shall lie—

(a) if the order is made by the Purchase Tax Officer, or any other officer subordinate thereto, to the Assistant Commissioner;

(b) if the order is made by an Assistant Commissioner, to the Commissioner;

(c) if the order is made by a Deputy Commissioner, Additional Commissioner or Commissioner, to the Tribunal.

(2) In the case of an order passed in appeal by an Assistant Commissioner, the second appeal shall lie at the option of the appellant, either to the Commissioner or to the Tribunal.

(3) Subject to the provisions of section 26, no appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against.

(4) No appeal against an order of assessment with or without penalty or against an order imposing penalty, shall ordinarily be entertained by an appellate authority, unless such appeal is accompanied by satisfactory proof of payment of tax with or without penalty or, as the case may be, of the payment of penalty in respect of which an appeal has been preferred :

Provided that an appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(a) without payment of tax with penalty (if any) or, as the case may be, of the penalty, or

(b) on proof of payment of such smaller sum as it may consider reasonable, or

(c) on the appellant furnishing in the prescribed manner, security for such amount as the appellate authority may direct.

(5) The Commissioner, on receipt of notice that an appeal against the order passed in appeal by the Assistant Commissioner has been preferred by the other party to the Tribunal, may, within thirty days of the receipt of the notice, file a memorandum of cross objections against any part of the order passed in appeal by the Assistant Commissioner and such memorandum shall be disposed of by the Tribunal as if it were an appeal.

(6) Subject to such rules of procedure as may be prescribed an appellate authority may pass such order on appeal as it deems just and proper.

(7) Every order passed in appeal under this section shall, subject to the provisions of sections 22 and 24, be final.

22. (1) Subject to the provisions of section 21 and to any rules which may be made in this behalf—

Revision.

(a) the Commissioner of his own motion within three years or on the application made to him within one year from the date of any order passed by any officer appointed under section 8 to assist him, may call for and examine the record of any such order and pass such order thereon as he thinks just and proper;

(b) the Tribunal, on application made to it against the order of the Commissioner (not being an order passed under sub-section (2) of section 21 in second appeal or under clause (a) in revision on an application) within four months from the date of communication of the order may call for and examine the record of any such order and pass such order thereon as it thinks just and proper.

(2) Where an appeal lies under section 21 and no appeal has been filed, no proceedings in revision under this section shall be entertained upon applications :

Provided that the proceedings in revision may be entertained upon the application where the applicant satisfies the Commissioner that he had sufficient cause for not preferring an appeal against the order in respect of which an application for revision is made.

(3) No order shall be passed under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

(4) Where the Commissioner or the Tribunal rejects any application for revision under this section, the Commissioner or, as the case may be, the Tribunal shall record the reasons for such rejection.

23. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, an appeal preferred under section 21, and an application for revision made under section 22, shall bear a court-fee stamp of such value as may be prescribed.

Court-fee on appeal and application for revision.

24. (1) Within ninety days from the date of the communication of the order of the Tribunal, passed in appeal or revision, being an order which affects the liability of any person to pay tax or penalty, or which affects the recovery from any person of any amount under section 29, that person, or the Commissioner, may by application in writing (accompanied, where the application is made by that person, by a fee of one hundred rupees) require the Tribunal to refer to the High Court any question of law arising out of such order; and where the Tribunal agrees, the Tribunal shall, as soon as may be, after the receipt of such application draw up a statement of the case and refer it to the High Court :

Statement of case to the High Court.

Provided that if in the exercise of its power under this sub-section, the Tribunal refuses to state the case which it has been required to do on the ground that no question of law arises, that person, or, as the case may be, the Commissioner may, within thirty days of such refusal either withdraw his application (and if he does so, any fee paid shall be refunded) or apply to the High Court against such refusal.

(2) If upon receipt of an application under sub-section (1), the High Court is not satisfied as to the correctness of the decision of the Tribunal, it may require the Tribunal to state the case and refer it; and accordingly on receipt of any such requisition, the Tribunal shall state the case and refer it to the High Court.

(3) If the High Court is not satisfied that the statements in the case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein, as the High Court may direct in that behalf.

(4) The High Court upon the hearing of any such case, shall decide the question of law raised thereby, and shall deliver its judgement thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgement under the seal of the court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(5) Where a reference is made to the High Court under this section, the costs including the disposal of the fee referred to in sub-section (1), shall be in the discretion of the Court.

(6) The payment of the amount of the tax, if any, due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of this Act.

25. In computing the period laid down under sections 21 and 22, the provisions of sections 4 and 12 of the Limitation Act, 1963 shall, so far as may be, apply.

26. An appellate authority may admit any appeal or permit the filing of a memorandum of cross objections under section 21 and the Tribunal may admit an application under section 22 or under section 24 after the period of limitation laid down in the said sections, if the appellant or the applicant satisfies the appellate authority or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or making the application, within such period.

27. (1) The Commissioner may at any time within two years from the date of communication of the order passed by him, to the person affected by such order, on his own motion, rectify any mistake of fact apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order ;

Application  
of sections  
4 and 12  
of Limita-  
tion Act.

Extension  
of period  
of limita-  
tion in cer-  
tain cases.

Rectifica-  
tion of  
mistakes

36 of  
1963.

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund, unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or an appellate authority under section 21 as they apply to the rectification of a mistake by the Commissioner.

(3) Where any such rectification has the effect of reducing the amount of the tax or penalty, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or penalty or reducing the amount of refund, the Commissioner shall recover the amount due from such person in the manner provided for in section 14.

28. Save as provided by section 24,—

(a) no civil court shall have jurisdiction to deal with or decide any question which the Tribunal, the Commissioner or any officer appointed to assist him is empowered to deal with or decide by or under this Act and no injunction shall be granted by any civil court in respect of any action taken in pursuance of any power by or under this Act.

(b) no assessment made and no order passed under this Act or the rules made thereunder by the Tribunal, the Commissioner or any officer appointed to assist him shall be called in question in any civil court.

29. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the owner at his last address known to the Commissioner, require—

(a) any person from whom any amount of money is due, or may become due, to the owner on whom notice has been served under section 14 or 17 or from whom interest is due under section 18, or

(b) any person who holds or may subsequently hold money for or on account of such owner,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice but not before the money becomes due or is held as aforesaid so much of the money as is sufficient to pay the amount due by the owner in respect of the arrears of tax, penalty and interest payable under this Act, or the whole of the money when it is equal to or less than that amount.

*Explanation.*—For the purpose of this section, the amount of money due to the owner from or money held for or on account of the owner by any person shall be calculated after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such owner to such person.

Bar of  
jurisdiction  
of civil  
courts.

Special  
mode of  
recovery.



(2) The Commissioner may, at any time or from time to time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the owner and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the owner after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged, or to the extent of the liability of the owner for tax, penalty and interest whichever is less.

(5) Where any person to whom a notice under this section is sent proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due or payable to the owner or that he does not hold any money for or on account of the owner then nothing contained in this section shall be deemed to require such person to pay any sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of the money which a person is required to pay to the Commissioner or for, which he is personally liable to the Commissioner under this section, shall, if it remains unpaid, be recoverable as an arrear of land revenue.

30. Any tax, penalty or interest recoverable under this Act and remaining unpaid may be recovered as an arrear of land revenue.

Tax, etc,  
remaining  
unpaid to  
be recover-  
ed as arrear  
of land  
revenue.

31. A notice under the provisions of this Act may be served by post, or by delivering it or tendering it to the person to whom it is addressed or his agent, or in such other manner as is prescribed.

Service of  
notice.

32. (1) Every owner liable to pay tax under this Act shall maintain regularly in the course of his business correct and complete books of accounts.

Accounts.

(2) If the Commissioner considers that the accounts kept are not sufficiently clear or intelligible to enable him to determine whether or not an owner is liable to pay tax, during any period, or are so kept as not to enable a proper scrutiny of returns furnished, the Commissioner may require such owner by notice in writing to keep such accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment and as he may, subject to anything that may be prescribed in that behalf, in writing direct

(3) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any owner, or by notification in the *Official Gazette*, direct all owners to maintain accounts and records showing such particulars regarding their purchases in such form, and in such manner, as may be specified by him.

33. (1) The Commissioner or other person authorised by him in this behalf, shall have access at all reasonable times to any factory, unit or place of business of any person liable to pay tax under this Act.

Bower to  
Inspect and  
take copies  
of records  
and  
accounts.

(2) The Commissioner or the person authorised as aforesaid may at any time with or without notice to such person examine his working records and accounts, and take copies of or extracts from any of the said records of accounts for purposes of testing the accuracy of any return or for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(3) Where the Commissioner or person authorised proposes to examine under sub-section (2) any record or account containing the description or formula of any trade process, the person liable to pay tax may give to the said authority, for transmission to the State Government, a written notice of objection and thereupon that authority shall seal up the record or account pending the orders of the State Government.

(4) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of account or other documents produced before him in any proceeding under this Act.

(5) If the Commissioner has reason to believe that any owner has evaded or is attempting to evade the payment of any tax due from him, he may for reasons to be recorded in writing, seize such accounts, registers or documents of the owner as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary, in connection with any proceeding under this Act or for prosecution.

(6) For the purposes of sub-section (2) or sub-section (5), the Commissioner may enter and search any place of business, factory or a unit of the owner or any other place where the Commissioner has reason to believe that the owner keeps or is for the time being keeping any accounts, registers, or documents of his business or stocks of goods relating to his business and may make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for, or relevant to, any proceeding under this Act, or for prosecution.

(7) The provision of the Code of Criminal Procedure, 1973 relating to searches shall apply, so far as may be, to a search made under sub-section (6).

34. (1) All such copies and extracts and all information acquired by the Commissioner or the person authorised as aforesaid from an inspection of any such factory, unit or place of business or from any return submitted under this Act, shall be treated as confidential.

Informa-  
tion Acqui-  
red to be  
treated  
confident

(2) If, save as provided in sub-section (3) the Commissioner or the person authorised as aforesaid discloses to any other person any information which is required to be treated as confidential, he shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Act.

Transfer to defraud revenue void.

35. Where, during the pendency of any proceedings under this Act, any owner liable to pay tax creates a charge on, or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his property in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the owner as a result of the completion of the said proceedings:

Provided that such charge or transfer shall not be void if made for valuable consideration and without notice of such proceeding.

Levy of fee on application for copies of orders, documents and of fee for making copies.

36. (1) On every application—

(a) for a certified or duplicate copy of a licence, or

(b) for a certified copy of an order of assessment or any other order passed or any document produced or filed in any proceeding under this Act,

there shall be paid such fee in court-fee stamps as may be prescribed,

(2) There shall be charged such fee in cash as may be prescribed for making and supplying a duplicate or certified copy of an order or document under this Act or the rules made thereunder and where any copy is required urgently, there shall be charged such extra fee as may be prescribed.

(3) Where an application is made for a copy of any order or document, the applicant may be required to deposit in accordance with the rules made in this behalf such amount as may be necessary to cover the amount of fee chargeable under sub-section (2).

Offences and penalties.

37. (1) Whoever—

(a) purchases sugarcane for use in the manufacture or production of sugar in a factory or a unit without obtaining a licence, or

(b) fails without sufficient cause to furnish any return as required by section 13, by the date and in the manner prescribed, or knowingly furnishes a false return, or

(c) knowingly produces false account, registers or documents or knowingly furnishes incorrect information, or

(d) obstructs any officer making an inspection or search under section 33 shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed by the Commissioner under the provisions of this Act.

38. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or the officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.*—For the purposes of this section,—

(a) "company" means a body corporate, and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

39. (1) No court shall take cognizance of any offence punishable under section 34, 37 or 43 or under any rules made under this Act except with the previous sanction of the Commissioner.

Cognizance of offences.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

40. (1) Subject to such conditions as may be prescribed, the Commissioner may authorize either generally or in respect of a particular case or class of cases any officer appointed under section 8 to assist him to investigate all or any of the offences, punishable under this Act.

Investigation of offences.

(2) Every officer so authorized shall, in 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.

Compound-  
ing of  
offences.

41. (1) The Commissioner may, either before or after the institution of proceedings for any offence punishable under section 37 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence a sum not exceeding two thousand rupees or double the amount of tax which would have been payable on the purchases of sugarcane to which the said offence relates, whichever is greater :

Provided that where, the offence relates only to a breach of any rule the sum for which the offence may be compounded shall not exceed two thousand rupees.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1) no further proceedings shall be taken against the accused person in respect of the same offence.

Power to  
collect  
statistics.

42. (1) If the State Government considers that for the purpose of the better administration of the Act, it is necessary so to do, it may by notification in the *Official Gazette*, direct that statistics be collected relating to any matter dealt with by or under this Act.

(2) Upon such direction being made, the State Government or any person authorised by it in this behalf may, by notification in the *Official Gazette* and by notice in any newspapers or in such other manner as in its or his opinion is best calculated to bring the notice to the attention of owners, call upon all owners to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom, or the authorities to which, such information or return shall be furnished, the particulars which they should contain, and the intervals at which such information or returns should be furnished shall be such as may be prescribed.

Disclosure  
of informa-  
tion by a  
public  
servant.

43. (1) All particulars contained in statement made or return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a Criminal Court), shall, save as provided in sub-section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any statement, return, account, documents or record or any part thereof, or to give evidence before it in respect thereof.

1 of 1872.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months, or with fine, or with both.

(3) Nothing contained in this section shall apply to the disclosure,—

(a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947, or this Act; or

XLV of  
1860.  
II of 1947.

(b) of any such particulars to the State Government or to any person acting in the execution of this Act, for the purposes of carrying out the object of this Act; or

(c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act, of any process for the service of any notice or the recovery of any demand; or

(d) of any such particulars to a civil court in any suit, to which the Government is a party, which relates to any matter arising out of any proceedings under this Act; or

(e) of any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act; or

(f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Sales Tax Department to any person or persons appointed as Commissioner under the Public Servants (Inquiries) Act, 1850, or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or

(g) of such facts to an officer of the Central Government or a State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or

(h) of any such particulars when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Bombay Stamp Act, 1958 or the Indian Stamp Act, 1899, to impound an insufficiently stamped document; or

(i) of any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with the tax proceeding against a legal practitioner, the sales tax practitioner or Chartered Accountant, to the authority empowered to take disciplinary action against members practising the profession of a legal practitioner, the sales tax practitioner or Chartered Accountant, as the case may be; or

(j) of any such particulars to the Director, Bureau of Economics and Statistics or any officer serving under him or to any person or persons authorised under sub-section (2) of section 42 as may be necessary for enabling the Director or such person or persons to work out the incidence of tax on sugarcane; or

(k) of any such particulars to an officer of the Central Government or a State Government for the purpose of investigation or prosecution under any law for the time being in force, as the State Government may direct in any specific case.

XXX.  
VII of  
1880

Bom.  
LX of  
1958.  
II of  
1899.

Appearance before any authority in proceedings.

44. (1) Any person who is entitled or required to attend before any authority in connection with any proceeding under this Act, may attend—

(a) by a person authorised by him in this behalf, being a relative or a person regularly employed by him, or

(b) by a legal practitioner or Chartered Accountant who is not disqualified by or under sub-section (2), or

(c) by a sales tax practitioner who possesses the prescribed qualifications and whose name is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order, from attending before any such authority, any legal practitioner, Chartered Accountant or the sales tax practitioner—

(i) who has been removed or dismissed from Government service, or

(ii) who being a legal practitioner or Chartered Accountant is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs, or

(iii) who being a sales tax practitioner is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the Tribunal to have the order cancelled.

(5) The order of the Commissioner shall not take effect until one month of the communication thereof or when an appeal is preferred until the appeal is decided.

(6) The Commissioner may at any time *suo motu* or on an application made to him in this behalf, revoke any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified.

45. The Commissioner and all officers and persons appointed under section 8 to assist the Commissioner and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV  
of 1989

Persons appointed under section 8 and members of Tribunal to be public servants.

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

Indemnity.

47. The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters namely :—

(a) the proportion of gross weight of sugarcane for the purposes of deduction under sub-section (3) of section 2;

(b) the manner in which the owner shall furnish security under sub-section (1) of section 7;

(c) the manner in which the owner may be required to furnish security or additional security under sub-section (2) of section 7;

(d) the subordination of officers (other than the Commissioner) and of persons amongst themselves under sub-section (3) of section 8;

(e) the form and manner in which an application for licence shall be made and fee, not exceeding one hundred rupees, with which it shall be accompanied under sub-section (2) of section 9;

(f) conditions subject to which a licence shall be issued and the fee, not exceeding twenty rupees, on payment of which it shall be renewable under sub-section (4) of section 9;

(g) the time within which an owner liable to pay the tax under this Act shall inform the prescribed authority about any of the matters referred to in clauses (a) to (f) of section 12;

(h) the form in which, and further information with which, the return shall be furnished under sub-section (1) of section 13;

(i) the manner in which every return shall be verified under sub-section (3) of section 13;

(j) the circumstances to which and conditions and limits subjects to which the Commissioner may remit the whole or any part of tax payable in respect of any period by the owner under sub-section (2) of section 19;

(k) the manner in which the appellant shall furnish security under clause (c) of the proviso to sub-section (4) of section 21;

(l) procedure subject to which an appellate authority may pass an order on appeal under sub-section (6) of section 21;

(m) the rules subject to which the Commissioner or the Tribunal shall exercise the power of revision under sub-section (1) of section 22;



(n) the value of a court-fee stamp which an appeal under section 21 and an application for revision under section 22 shall bear under section 23 ;

(o) the manner in which the Commissioner shall refund any amount due to a person under sub-section (3) of section 27 ;

(p) other manner in which a notice under the provisions of this Act may be served under section 31 ;

(q) rules subject to which the Commissioner may in writing direct an owner who is required by notice to keep accounts in such form or manner as in his opinion is necessary for the purpose of proper assessment under sub-section (2) of section 32 ;

(r) the conditions or restrictions subject to which the Commissioner may by notice in writing direct any owner or by notification in *Official Gazette*, all owners to maintain accounts and records and particular regarding their purchases in the form and the manner specified by him under sub-section (3) of section 32 ;

(s) the fee in court-fee stamps to be paid under sub-section (1) of section 36 on every application for the purpose specified in clauses (a) and (b) of that sub-section ;

(t) the fee to be charged for making and supplying a duplicate or certified copy of order or document and the extra fee to be charged for any copy required urgently under sub-section (2) of section 36 ;

(u) the rules under sub-section (3) of section 36 in accordance with which an applicant making an application for a copy of order or documents may be required to deposit an amount necessary to cover the amount of fee chargeable under sub-section (2) of that section ;

(v) conditions subject to which the Commissioner may authorise any officer appointed under section 8 for the purpose of section 40 ;

(w) the form in which, the person to whom, or the authorities to which the information or the return shall be furnished, the particulars which the information and return shall contain and the intervals at which such information or return shall be furnished under sub-section (2) of section 42 ;

(x) any other matter which is to be or may be prescribed under this Act.

(3) In making any rules under this section, the State Government may direct that a breach thereof shall, on conviction, be punished with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) The rules made under this section shall be subject to the condition of previous publication :

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with previous publication of any rule to be made under this section.

(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(6) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

48. Nothing in this Act or the rules made thereunder shall be deemed to impose or authorise the imposition of a tax on the purchase of sugarcane where such purchase takes place—

(a) (i) outside the State, or

(ii) in the course of the import of the sugarcane into the territory of India or the export thereof out of such territory, or

(b) in the course of inter-State trade or commerce,

and the provisions of this Act and the said rules shall be read and construed accordingly.

*Explanation.*—For the purpose of this section, whether a purchase takes place—

(i) outside the State, or

(ii) in the course of the import of the sugarcane into the territory of India, or export thereof out of such territory, or

(iii) in the course of inter-State trade or commerce,

LXX.  
IV of 1966.

shall be determined in accordance with the principles specified in section 3, 4 and 5 of the Central Sales Tax Act, 1956.

Guj. I of  
1970.

49. (1) Sections 18 and 19 of the Gujarat Sales Tax Act, 1969 are hereby repealed.

(2) Nothing in sub-section (1) shall affect—

(a) the previous operation of the sections so repealed, or anything duly done or suffered thereunder ;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the sections so repealed ;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the sections so repealed ; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability, penalty, forfeiture or punishment as aforesaid ;

Certain  
purchases  
not to be  
liable to  
tax.

Repeal of  
sections 18  
and 19 of  
Guj. I of  
1970 and  
savings.

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been enacted :

Provided that anything done or any action taken (including any appointment, notification, order, rule, regulation, form, notice or application made, issued or served, return furnished, licence granted, assessment or reassessment made, taxes paid, appeal filed or revision made) under or in relation to the sections so repealed shall, so far as it is not inconsistent with the provisions of this Act continue in force and be deemed to have been done or taken under the corresponding provisions of this Act unless and until it is superseded by anything done or any action taken under this Act.

Repeal and  
savings.

50. (1) The Gujarat Purchase Tax on Sugarcane Ordinance, 1988 is hereby repealed.

Guj. Ord.  
8 of 1988.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol : XLVII] THURSDAY, MARCH 2, 2006/PHALGUNA 11, 1927

Separate paging is given to this Part in order that it may be filed as a Separate Compilation

#### PART IV

Acts of the Gujarat Legislature and Ordinances promulgated  
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 2<sup>nd</sup> March, 2006 is hereby published for general information.

**S. S. PARMAR,**  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

#### GUJARAT ACT NO. 3 OF 2006.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 2<sup>nd</sup> March, 2006).

#### AN ACT

further to amend the Gujarat Purchase Tax on Sugarcane Act, 1989 and to validate the grant of deferment of payment of tax, and to waive the interest.

It is hereby enacted in the Fifty-seventh Year of the Republic of India, as follows:-

1. This Act may be called the Gujarat Purchase Tax on Sugarcane (Amendment and Validation) Act, 2006. **Short title.**

**Amendment  
of section 18  
of Guj. 11  
of 1989.**

2. In the Gujarat Purchase Tax on Sugarcane Act, 1989 (hereinafter referred to as "the principal Act"), in section 18, after sub-section (2), the following sub-section shall be and shall be deemed always to have been added, namely:-

"(3) Subject to such conditions as may impose, the State Government may in the public interest, by general or special order, waive the whole or any part of interest payable by the owner under this section."

**Amendment  
of  
section 19 of  
Guj. 11 of  
1989.**

3. In the principal Act, in section 19, in sub-section (1), the following words shall be and shall be deemed always to have been added at the end, namely:-

"or grant the deferment of payment of tax payable in respect of any period by the owner."

**Validation  
of remission  
of interest  
and  
deferred  
payment  
of tax.**

4. Any interest payable by the owner for any period has been waived or any deferment of payment of tax granted by any order of the State Government before the commencement of this Act shall be and shall be deemed always to have been validly waived or granted in accordance with law as if the provisions of sections 18 and 19 of the principal Act as amended by this Act had been in force at all material time when such interest was waived or the deferment of payment was granted.