



The Maharashtra Sales Tax on the Transfer of the Right to Use any Goods for
any Purpose Act, 1985

Act 18 of 1985

Keyword(s):

Bombay Sales Tax Act, Dealer, Goods, Person, Sale, Sale Price, Tax, Turnover

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MAHARASHTRA ACT No. XVIII OF 1985.¹

[THE MAHARASHTRA SALES TAX ON THE TRANSFER OF THE RIGHT TO USE ANY GOODS FOR ANY PURPOSE ACT, 1985.]

[This Act received the assent of the Governor on the 12th August 1985; assent was first published in the Maharashtra Government Gazette, Part IV, Extraordinary, on the 14th August 1985.]

Amended by Mah. 23 of 1986 (1-10-1986)*.

An Act to levy and collect the tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration on the State of Maharashtra.

WHEREAS it is expedient to levy and collect the tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration in the State of Maharashtra; It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Maharashtra Sales Tax on the Transfer of the Right to use any Goods for any purpose Act, 1985. Short title, extent and commencement.

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

(3) It shall come into force on such date† as the State Government may, by notification in the *Official Gazette*, appoint.

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

Definitions.

(1) “appointed day” means the date of commencement of this Act;

(2) “Bombay Sales Tax Act” means the Bombay Sales Tax Act, 1959;

(3) “Commissioner” means the person appointed to be the Commissioner of Sales Tax under the Bombay Sales Tax Act;

(4) “dealer” means any person who whether for commission, remuneration or otherwise transfer the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and includes the State Government or the Central Government which so transfers the right to use such goods and also any society, club or association of persons which transfers the right to use such goods to its members.

Explanation.—In respect of the transfer of the right to use cinematographic films or video cassettes, the person who transfers such right to the exhibitor or user and from whom exhibitor or user derives the right to make such use shall be deemed to be the dealer under this clause;

(5) “goods” means all kinds of moveable property (not being newspapers, or actionable claims or money, or stocks, shares or securities);

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

(7) “prescribed” means prescribed by rules;

(8) “registered dealer” means a dealer registered under section 7;

(9) “rules” means rules made under this Act;

¹ For statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1985, Part V, Extraordinary, page 232.

* This indicates the date of commencement.

† This Act came into force on 1-10-1986 vide G.N., F.D., No. RUG. 1086/CR-64-A/Taxation-1,

(10) "sale" means the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or any other valuable consideration, and the word "sell" with all its grammatical variations and cognate expressions, shall be construed accordingly.

Explanation.—For the purposes of this clause, the transfer of the right to use any such goods shall be deemed to have taken place in the State of Maharashtra,¹[if the goods are in the State of Maharashtra at the time of their use] irrespective of the place where the agreement for such transfer of the right to use such goods is made, and whether the assent of the party is prior or subsequent to such transfer of the right to use any such goods;

(11) "sale price" means the amount of valuable consideration received or² receivable for the transfer of the right to use any goods for any purpose (whether or not for a specified period);

(12) "Schedule" means the Schedule appended to this Act;

(13) "State" means the State of Maharashtra;

(14) "tax" means a tax payable under this Act;

(15) "turnover of sale" means the aggregate of the amount of sale price received or receivable during a year by a dealer in respect of the transfer of the right to use any goods³[specified in the Schedule] and includes any advance received by dealer as a part of sale price;

(16) "year",—

(a) means the financial year;

(b) in relation to any particular registered dealer for the purposes of this Act (except sections 5 and 7) means the year by reference to which the accounts of that dealer are ordinarily maintained in his books, but the dealer may by written declaration made by him in this behalf opt for the financial year :

Provided that, where an option has once been exercised by a registered dealer, he shall not, except with the consent of the Commissioner and upon such conditions as the Commissioner may determine, make any variation in respect thereof.

CHAPTER II

INCIDENCE AND LEVY OF TAX

3. Subject to the provisions contained in this Act and the rules made thereunder, Incidence of tax. a tax shall be leviable on the turnover of sales in respect of—

(i) the transfer of the right to use any goods agreed to before the appointed day but the right to use is exercised on or after the appointed day;

(ii) the transfer of right to use any goods agreed to prior to the appointed day, and wherein the right to use has been continued after the appointed day, to the extent of the sale price received or receivable in respect of such use on or after the appointed day; and

(iii) the transfer of right to use any goods agreed to on or after the appointed day.

4. There shall be levied a tax on the turnover of sales in respect of the transfer Levy of tax. of the right to use goods specified in the Schedule, at such rate not exceeding fifteen paise in the rupee, as the State Government may, by notification in the *Official Gazette*, specify from time to time³; and different rates may be specified for different goods specified in the Schedule.]

¹ These words were inserted by Mah. 23 of 1986, s. 2(a).

² These words were inserted, *ibid.*, s. 2(b).

³ These words were added, *ibid.*, s. 3.

5. (1) Every dealer whose turnover of all sales made during—

- (i) the year ending on the 31st day of March ¹[1986],
- (ii) the year commencing on the 1st day of April ¹[1986],

has exceeded or exceeds the limit of fifty thousand rupees shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act on the turnover of sales on or after the appointed day:

Provided that, a dealer to whom clause (ii) applies and whose turnover of all sales exceeds the limit of fifty thousand rupees after the appointed day shall not be liable to pay tax in respect of sales which take place upto the time when his turnover of sales as computed from the 1st day of April ¹[1986] first exceeds such limit.

(2) Every dealer whose turnover of sales during any year commencing on the 1st day of April, being a year subsequent to the years mentioned in sub-section (1) first exceeds the limits of rupees fifty thousand shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date :

Provided that, a dealer shall not be liable to pay tax in respect of such of the sales as take place during the period commencing on the 1st day of April of the said year upto the time when his turnover of sales as computed from the 1st day of April of the said year first exceeds the limit of rupees fifty thousand.

(3) Every dealer who becomes liable to pay tax under this Act shall continue to be so liable until his registration certificate is duly cancelled and upon such cancellation his liability to pay tax other than tax already levied or leviable shall, until his turnover of sales again first exceeds the limit of rupees fifty thousand, cease :

Provided that, where the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of sales which take place during the period commencing on the date of cessation of liability to tax and ending on the day on which his turnover of sales first exceeds such limit, no tax shall be payable.

6. Subject to the provisions of this Act and the rules made thereunder, there shall be paid by every dealer who is liable to pay tax under this Act, the tax leviable in accordance with section 4 on the turnover of sales in respect of the transfer of the right to use goods specified in the Schedule. Sales tax payable by dealer.

CHAPTER III

REGISTRATION

7. (1) No dealer who becomes liable to pay tax under this Act shall sell any goods unless he possesses a valid certificate of registration as provided by this Act: Certificate of registration.

Provided that it shall be lawful for the dealer to sell or continue to sell any goods if the dealer has applied for such registration within the prescribed time.

(2) Every dealer required to possess a certificate of registration shall apply in such manner, and to such authority, as may be prescribed.

(3) If the authority, after such inquiry as it deems fit, is satisfied that an application for registration is in order, it shall register the applicant and issue to him a certificate of registration in the prescribed form.

(4) The authority may, after considering any information furnished or otherwise called for or received under any provisions of this Act, amend from time to time the certificate of registration.

¹ These figures were substituted for the figures "1985" by Mah. 23 of 1986, s. 4.

(5) If any person upon an application made by him has been registered as a dealer under this section, and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax on his sales made from the date on which his registration certificate took effect until it is cancelled notwithstanding that he may not be liable to pay tax under section 5.

(6) Where a registered dealer discontinues sales, or the turnover of sales of registered dealer has during any year not exceeded the limit of fifty thousand rupees and the dealer applies in the prescribed manner for cancellation of his registration certificate, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.

(7) Where the Commissioner is satisfied that any registered dealer has discontinued sale and has failed to apply under sub-section (6) for cancellation of registration certificate, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the registered dealer has discontinued sale :

Provided that, the cancellation of certificate of registration on an application of the dealer or otherwise shall not affect the liability of the dealer to pay tax (including any penalty) due for any period upto the date of cancellation where such tax (including any penalty) is assessed before or after the date of cancellation.

CHAPTER IV

CERTAIN PROVISIONS OF THE BOMBAY SALES TAX ACT APPLICABLE

Authorities under Bombay Sales Tax Act empowered to assess, re-assess, etc. tax under this Act. 8. (1) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the Bombay Sales Tax Act shall assess, re-assess, collect and enforce payment of tax including any penalty payable by a dealer under this Act as if the tax or penalty payable by such a dealer under this Act is a tax or penalty payable under the Bombay Sales Tax Act and for this purpose they may exercise all or any of the powers they have under the Bombay Sales Tax Act, and the provisions of the Bombay Sales Tax Act relating to returns, assessment, advance payment of tax, rectification, collection, forfeiture, registration of the transferee of any dealer liable to pay tax under this Act, imposition of the tax liability of a dealer on the transferee of, or successor to, such dealer, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, special mode of recovery of tax, appeals, revisions, references, refunds, rebates, penalties, charging or payment of interests, compounding of offences, and the treatment of documents furnished by a dealer as confidential, shall, *mutatis mutandis*, apply accordingly.

(2) All the provisions relating to offences and penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence) of the Bombay Sales Tax Act shall *mutatis mutandis* apply in relation to the assessment, re-assessment, collection and the enforcement of payment of the tax required to be collected under this Act or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax payable under this Act were the tax payable under the Bombay Sales Tax Act.

CHAPTER V

MISCELLANEOUS AND RULES

9. The State Government may, from time to time, by notification in the *Official Gazette*, amend the Schedule by inserting any entry in respect of the transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and thereupon the Schedule shall stand amended accordingly for the purpose of levy of tax under this Act.

10. (1) The State Government may make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the power to make rules under sub-section (1) the rules may provide for—

(a) the time within which a dealer shall apply for registration under sub-section (1) of section 7;