



The Maharashtra Sales Tax on the Transfer of Property in Goods Involve in
the Execution of the Works Contracts Act, 1985

Act 19 of 1985

Keyword(s):

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

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MAHARASHTRA ACT No. XIX OF 1985.¹

[THE MAHARASHTRA SALES TAX ON THE TRANSFER OF PROPERTY IN GOODS INVOLVED IN THE EXECUTION OF WORKS CONTRACTS 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. 24 of 1986 (1-10-1986).*

An Act to levy and collect the tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts in the State of Maharashtra.

WHEREAS, it is expedient to levy and collect the tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts 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 property in goods involved in the execution of Works Contracts 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 valuable consideration, commission, remuneration or otherwise, transfers property in goods involved in the execution of works contract and includes the State Government and the Central Government which so transfer such property in goods, and any society, club, or association of persons which so transfers the property in goods to its members;

(5) “goods” means every kind of property (whether as goods or in some other form) involved in the execution a works contract;

(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;

(10) “sale” means a transfer of property in goods involved in the execution of works contract, 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.

¹ For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1985, Part V, Extraordinary, page 252.

* This indicates the date of commencement.

† This Act came into force on 1st October 1986, vide G.N., F.D., No. WCA. 1086/CR-63-A/Taxation-1, dated the 19th September 1986.

Explanation.—For the purposes of this clause, the transfer of property in goods involved in the execution of a works contract shall be deemed to have taken place in the State of Maharashtra, if the goods so transferred are within that State, at the time of their use, application or appropriation for the execution of the works contract, irrespective of the place where the agreement for works contract is made, and whether the consent of the other party, is prior or subsequent to such use, application or appropriation;

(11) "sale price" means the amount of valuable consideration received or receivable for the transfer of property in goods involved in the execution of a works contract;

(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 sales" means the aggregate of the amounts of sale price received or receivable by a dealer in respect of any transfer of goods involved in the execution of any works contract, whether executed fully or partly during a given year, and includes any advance received by a dealer as a part of sale price;

(16) "works contract" means a contract for carrying out any of the works specified in the Schedule and includes a contract or sub-contract whether executed fully or partly or abandoned or terminated before completion, and also includes a sub-contract for any such works;

(17) "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

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

(i) works contract commenced or continued for execution on or after the appointed day, whether such contract was entered into prior to the appointed day or on or after the appointed day;

(ii) works contract execution of which has commenced prior to the appointed day, to the extent of the sale price received or receivable in respect of such contract on or after the appointed day, irrespective of the extent of work already carried out prior to the appointed day.

Levy of tax. 4. There shall be levied a tax on the turnover of sales in respect of the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract 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 time, after deducting from such turnover, the turnover of sales of a dealer registered under this Act in respect of sub-contract executed separately for work which forms part of works contract¹; and different rates may be specified for different works contracts:]

¹ These words were added by Mah. 24 of 1986, s. 2.

Provided that, no such deduction shall be allowed, unless the dealer claiming the deduction produces a bill or cash memorandum of the sub-contractor containing a certificate that his registration certificate was in force on the date of the sale of goods by him. Such certificate shall be signed by the dealer who is the sub-contractor or a person duly authorised by him in this behalf :

Provided further that, where the turnover of the dealer claiming deduction in any year is not sufficient to cover the deduction, it shall be allowed to the extent of the turnover of the dealer in that year, and the balance shall be carried forward to the following year.

Explanation.—For the purpose of this section, the deduction shall be computed separately in relation to each work contract.

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

(i) the year ending on the 31st day of March ¹[1986], or

(ii) the year commencing on the 1st day of April ¹[1986]

has exceeded or exceeds the limits of rupees five lakhs, 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 rupees five lakhs 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 five lakhs 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 taken 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 five lakhs.

- (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 the tax already levied or leviable shall, until his turnover of sales again first exceeds the limits of rupees five lakhs, cease :

Provided that, where the dealer becomes liable to pay tax again in the same year in which he cease 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 a works contract.

Liability
of dealer.

Sales tax
payable by
dealer.

CHAPTER III

REGISTRATION

7. (1) No dealer who becomes liable to pay tax under this Act shall execute or continue to execute a works contract, unless he possesses a valid certificate of registration as provided by this Act :

Provided that, it shall be lawful for the dealer to execute or continue to execute a works contract if the dealer has applied for registration within the prescribed time.

Certificate
of
registration.

¹ These figures were substituted for the figures " 1985 " by Mah. 24 of 1986, s. 3.

(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.

(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, transfers or otherwise disposes of his activity of execution of works contract or the turnover of sales of a Registered dealer has during any year not exceeded the limit of rupees five lakhs 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, transferred or otherwise disposed of the activity of execution of works contract and has failed to apply under sub-section (6) for cancellation of certificate of registration, 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 said activity has been discontinued, transferred or otherwise disposed of :

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 whether 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 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 interest, 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*,