

THE BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1958.

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SCHEDULE.

BOMBAY ACT No. LXVI OF 1958.¹

[THE BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1958.]

[3rd September 1958.]

Adapted and modified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

Amended by Mah. 51 of 1965.

" " " 8 of 1971.

An Act to provide for a uniform law for the levy and collection of tax on the sale²[or purchase] of motor spirit in the State of Bombay.

WHEREAS it is expedient to provide for a uniform law for the levy and collection of a tax on the sale³[or purchase] of motor spirit in the State of Bombay ; It is hereby enacted in the Ninth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Sales of Motor Spirit Taxation Act, 1958. Short title, extent and commencement.

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

(3) It shall come into force on such date⁵ as the State Government may, by notification in the *Official Gazette*, appoint.

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

(a) "Collector" means the Collector appointed under section 3, and includes an Additional Collector appointed under that section ; Definitions.

(b) "consumer" means any person who purchases motor spirit for the purpose of consumption, and not for the purpose of resale ;

(c) "importer" means a person who carries on the trade of importing motor spirit into the [State of Maharashtra] ;

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

(e) "manufacturer" includes a trader preparing any kind of motor spirit by admixture of one or more kinds of motor spirits with or without other petroleum products or alcohol ;

(f) "motor spirit" means—

(i) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle or vessel or any kind of aircraft ; and

(ii) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated), which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid ; but does not include such form of inflammable hydro-carbon material as the State Government may by notification in the *Official Gazette* specify in this behalf ;

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

⁴(ga) "purchase price" means the amount of valuable consideration paid or payable by a person for any purchase made including any sum charged for anything done by the seller in respect of the motor spirit at the time of or before delivery thereof, other than the cost of insurance for transit, when such cost is separately charged ;]

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1958, Part V, Extra., pages 58-59.

² These words were inserted by Mah. 8 of 1971, s. 2.

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

⁴ These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁵ 1st day of October 1958 (*vide* G. N., F. D., No. MST.1058-G-1(i), dated 15th September 1958).

⁶ Clause (ga) was inserted by Mah. 8 of 1971, s. 4(a).

(h) "retail sale" means a sale of motor spirit for the purpose of consumption by the persons by whom, or on whose behalf, it is purchased ;

(i) "retail trader" means a trader who sells motor spirit for the purpose of consumption by the person by whom or on whose behalf it is purchased ;

(j) "sale" means a sale of motor spirit made within the ¹[State of Maharashtra] for cash or deferred payment or other valuable consideration, and includes any supply by a society or club or an association to its members on payment of a price or of fees or subscription, but does not include a mortgage, hypothecation, charge or pledge ; and the words "sell", "buy" and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly ;

Explanation.—For the purposes of this clause a sale within the ¹[State of Maharashtra] includes a sale determined to be within the ¹[State of Maharashtra] in accordance with the principles specified in sub-section (2) of section 4 of the Central Sales Tax Act, 1956 ;

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of 1956.

²(ja) "sale price" means the amount of valuable consideration paid or payable to a trader for any sale made including any sum charged for anything done by the trader in respect of the motor spirit at the time of or before delivery thereof, other than the cost of insurance for transit, when such cost is separately charged ;]

(k) "trader" means a person who carries on the trade or business of buying or selling motor spirit, and includes—

(i) a manufacturer,

(ii) an importer, and

(iii) a broker or commission agent working in connection with such business ; and the words "trade" or "trading" shall be construed accordingly ;

³(l) "Tribunal" means the Tribunal constituted under section 21 of the Bombay Sales Tax Act, 1959 and discharging the functions of the Tribunal under this Act ;]

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(m) "wholesale trader" means a trader whose sales of motor spirit include any sales other than retail sales.

CHAPTER II.

TAXING AUTHORITIES AND TRIBUNAL.

Taxing
authority.

3. (1) For carrying out the purposes of this Act, the State Government may appoint—

(a) a person to be the Collector of Motor Spirit Sales Tax for the whole of the ¹[State of Maharashtra] ;

(b) one or more persons to be Additional Collectors of Motor Spirit Sales Tax ;

(c) such other persons to assist the Collector as the State Government thinks fit.

(2) A person appointed under clause (b) or clause (c) of sub-section (1) shall, within the limits of such area as the State Government may specify to be within his jurisdiction, exercise such powers and perform such duties as may be conferred or imposed on him by or under this Act.

Tribunal.

⁴4. The Tribunal constituted under section 21 of the Bombay Sales Tax Act, Bom. 1959, shall also be the Tribunal for the purposes of hearing appeals and revision ^{LI} of applications and discharging other functions of the Tribunal under this Act, and ¹⁹⁵⁹ accordingly, the provisions of section 21 of that Act (including any regulations made thereunder with such modifications, if any, therein as circumstances may require) and other provisions relating to the Tribunal under that Act shall also apply to and in relation to such Tribunal, for the purposes of this Act.]

¹ These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

² Clause (ja) was inserted by Mah. 8 of 1971, s. 4(b).

³ Clause (l) was substituted, *ibid.*, s. 4(c).

⁴ Section 4 was substituted, *ibid.*, s. 5.

CHAPTER III.

LEVY OF TAX AND UTILISATION OF THE PROCEEDS OF TAX.

5. (1) There shall be levied and collected a tax on the sale ¹[or purchase] of motor spirit at such stage, as may be prescribed :

Levy and collection of tax.

Provided that such tax shall not be levied on any sale ²[or purchase] at more than one stage.

(2) Subject to the provisions of section 6, the tax under sub-section (1) shall be levied for the prescribed period, in the prescribed manner, and at such rate or rates ³[not exceeding 30 per cent.] ⁴[of the sale price, or of the purchase price, as the case may be, of such motor spirit]) as may be prescribed, and different rates may be prescribed for different kinds of motor spirit.

(3) If any tax payable under sub-section (1) is not paid within the prescribed period, the Collector may in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid which the Collector may think it reasonable to recover.

6. (1) Where accounts are kept and maintained, and statements submitted in the manner, and for the period, prescribed by section 13, the tax leviable under section 5 shall be assessed by the Collector on the sales ⁵[or purchases] as disclosed in such accounts and statements.

Assessment of tax.

(2) Where no such accounts are kept and maintained, or where no such statements are submitted, or where the Collector has reasonable ground for believing that the accounts or statements are false or incorrect, the Collector shall make the assessment to the best of his judgment.

7. Where tax is levied and collected under section 5 on the sale of motor spirit to a wholesale trader, and such motor spirit is then exported outside the ⁶[State of Maharashtra] the wholesale trader shall, upon an application made in this behalf and subject to such conditions as may be prescribed, be entitled to a refund of the tax in respect of the sale to him of the motor spirit.

Government may grant refund of tax in certain cases.

7A. (1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class of sales or purchases from payment of the whole or any part of the tax payable under the provisions of this Act and such exemption shall take effect from the date of publication of the notification in the *Official Gazette* or such other date as may be mentioned therein.

Exemption.

(2) When any specified class of sales or purchases is exempt from the payment of tax under sub-section (1) and if there be a breach of the conditions subject to which such exemption was granted, the seller or purchaser responsible for such breach shall be liable to pay tax on such sales or purchases as if no such exemption had been granted notwithstanding that he may not be liable to pay tax under section 5.

(3) If the Collector has reason to believe that any person is liable to pay tax under sub-section (2), the Collector shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.]

¹ These words were inserted by Mah. 8 of 1971, s. 6(a)(i).

² These words were inserted, *ibid.*, s. 6(a)(ii).

³ This was substituted for the words and figures "not exceeding 20 per cent." by Mah. 51 of 1965, s. 5(a).

⁴ These words were substituted for the words "of the value of the sales of such motor spirit" by Mah. 8 of 1971, s. 6(b).

⁵ These words were inserted, *ibid.*, s. 7.

⁶ These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

⁷ Section 7-A was inserted by Mah. 8 of 1971, s. 8.

Utilisation of proceeds of tax.

8. (1) The proceeds of the tax and penalties, other than fine, recovered under this Act, shall first be credited to the Consolidated Fund of the State.

(2) After deducting from the said proceeds, such sum as the State Government may determine in this behalf, but not exceeding 50 per cent. thereof, the remaining amount shall be entered in and transferred to the State Road Fund referred to in section 11 of the Bombay Motor Vehicles Tax Act, 1958 and shall, subject to the provisions of that section, be expended in the manner and for the purpose stated therein.

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(3) The amount transferred to the State Road Fund under sub-section (2) shall be charged on the Consolidated Fund of the State.

CHAPTER IV.

LICENSING OF TRADERS.

Trader to take out licence.

9. (1) Every trader shall obtain a licence from the Collector for carrying on his trade.

(2) Where a trader has more than one place of business, whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such place of business :

Provided that a trader who is a hawker may obtain only one licence, whatever may be the area of his operation.

(3) Every trader shall get his licence renewed before the date on which it expires.

Expiry and renewal of licence.

10. (1) Every licence shall be in such form, and subject to such conditions, as may be prescribed and shall expire on the last day of the year for which it was granted, and may be renewed from year to year :

Provided that in the case of any licence given to a manufacturer or importer, the conditions of such licence may provide that the holder of the licence shall not sell motor spirit except to a wholesale trader or a consumer.

(2) The Collector may impose for the grant or renewal of every licence such fees not exceeding Rs. 2, as may be prescribed.

Explanation.—In this section “year” means a financial year.

No trader to carry on business without licence.

11. No trader shall carry on business in the sale or purchase of motor spirit without, or otherwise than in accordance with the conditions of, a licence.

Suspension or cancellation of licence.

12. (1) Subject to such conditions as may be prescribed, the Collector may suspend or cancel a licence—

(a) if any tax payable under section 5 is not duly paid by the holder of such licence ; or

(b) if there is any breach of any of the conditions subject to which the licence is granted ; or

(c) if the holder of such licence contravenes any of the provisions of this Act or the rules made thereunder.

(2) If the licence is suspended or cancelled for any reason, the licensee shall not be entitled to any compensation for such suspension or cancellation, or to the refund of any fee paid in respect thereof.

CHAPTER V.

LIABILITY TO KEEP ACCOUNTS, TO SUBMIT STATEMENTS AND POWERS OF INSPECTION AND SEARCH.

13. (1) Every trader shall keep and maintain accounts, in the form prescribed, of motor spirit manufactured or imported, sold or purchased, by him, and shall submit to the officer authorised in this behalf by the Collector statements in such form, and for such periods, as may be prescribed :

Traders to keep accounts and submit statements.

[Provided that, where a trader has more than one place of business, the Collector may, subject to such terms and conditions as may be prescribed, permit such trader to submit a consolidated statement relating to all or any of his places of business to such officer as the Collector may direct.]

(2) Every trader required to furnish any statement under sub-section (1) shall, before the date by which such statement is submitted, pay into a Government Treasury or the Reserve Bank of India on Government account the full amount of the tax stated in such statement to be due from him under this Act, and shall furnish along with such statement a receipt from the treasury or Bank, as the case may be, showing the payment of such amount of the tax.

14. (1) The Collector may, for the purposes of this Act, at all reasonable times—

(a) require any person, to whom section 9 applies, to produce before him accounts, registers or other documents or to furnish any other information, or
(b) inspect the accounts, registers and other documents and the stocks of any motor spirit manufactured, stored, or kept in any shop, warehouse or place of business of any such person, or
(c) enter and search any building, vessel, vehicle, or place in which he has reason to believe that any motor spirit is stored or kept for the purpose of sale or manufacture [or export].

Production and inspection of accounts and documents and search of premises.

(2) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers, or other documents of such person as may be necessary and shall grant a receipt for the same and retain the same only for so long as may be necessary for examination thereof, or for a prosecution.

CHAPTER VI.

APPEALS AND REVISION.

15. Save as is provided by section 21, no assessment made and no order passed under this Act or the rules made thereunder by the Collector or any person appointed under section 3 to assist him shall be called in question in any civil court, and save as is provided by sections 16 and 17 no appeal or application for revision shall lie against any such assessment or order.

Bar to certain proceedings.

16. (1) Within sixty days from the making of an order of assessment either with or without penalty, or the passing of any other order, under this Act, any person may, in the prescribed manner, appeal to the prescribed authority against such order.

Appeal.

(2) No appeal against an order of assessment, with or without penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred :

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

(a) without payment of the tax or penalty, if any, but on furnishing in the prescribed manner security for such amount of the tax and penalty as it may direct ; or

¹ This proviso was added by Mah. 5† of 1965, s. 5(b).

² These words were inserted by Mah. 8 of 1971, s. 9.

(b) on proof of payment of such smaller sum, with or without security in the like manner for such amount of the tax and penalty which remains unpaid as it may direct.

(3) Subject to such rules of procedure as may be prescribed, the said authority may pass such orders on the appeal as such authority may think just and proper.

(4) Every order passed in appeal under this section shall, subject to the provisions of sections 17, 21 and 22 be final.

Revision.

17. (1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules made thereunder, by a person appointed under section 3 to assist him and, subject thereto the Tribunal may, upon application, revise any order passed by the Collector :

Provided that no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order :

Provided further that before rejecting any application for the revision of any such order the Collector or the Tribunal, as the case may be, shall record reasons for such rejection.

(2) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

(3) Where a person could have appealed under section 16, and no appeal has been filed by him, no proceedings in revision under this section shall be entertained upon the application of such person.

Court fee on appeal and application.

18. Notwithstanding anything contained in the Court-fees Act, 1870 or in any other law relating to the levy of Court fees in any part of the State and appeal preferred under section 16, and an application for revision made under section 17 shall bear a Court-fee stamp of such value as may be prescribed.

Application of sections 4 and 12 of Limitation Act, IX of 1908.

19. In computing the period laid down under sections 16 and 17 the provisions of IX of sections 4 and 12 of the Indian Limitation Act, 1908, shall so far as may be, apply.

Extension of period of limitation in certain cases.

20. The prescribed authority may admit any appeal under section 16 and the Collector and the Tribunal may admit an application under section 17, after the period of limitation laid down in the said sections if the appellant or the applicant as the case may be, satisfies the prescribed authority, the Collector or, as the case may be, the Tribunal that he had sufficient cause for not preferring the appeal, or making the application, within such period.

Statement of case to High Court.

21. (1) Within ninety days from the passing by the Tribunal of any order under sub-section (3) of section 16 or sub-section (1) of section 17 affecting any liability of any person to pay tax, such person or the Collector, may by application in writing accompanied where the application is made by any person (other than the Collector), 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 it shall draw up a statement of the case and refer it to the High Court.

(2) If, for reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within thirty days of such refusal, either—

- (a) withdraw his application, or
- (b) apply to the High Court against such refusal.

and in the case of withdrawal under clause (a), the fee, if any, paid under sub-section (1) shall be refunded to him.

(3) If upon the receipt of an application under clause (b) of sub-section (2) the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a 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.

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

(6) 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.

(7) The payment of the amount, if any, of the tax 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 the result of such reference the excess tax paid shall be refunded.

22. (1) The Collector may at any time within two years from the date of any Rectification order passed by him, on his own motion, rectify any mistake 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 :

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 Collector has given notice in writing to such person of his intention so to do 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 the prescribed authority under section 16 as they apply to the rectification of a mistake by the Collector.

(3) Where any such rectification has the effect of reducing the amount of the tax the Collector 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 reducing the amount of the refund, the Collector shall recover the amount due from such person in the manner provided in section 37.

CHAPTER VII.

OFFENCES, PENALTIES AND PROCEDURE.

23. Whoever contravenes the provisions of section 11 shall, on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Penalty for failure to keep accounts or submit returns.

24. If any trader liable under section 13 to keep accounts or to submit statements fails without sufficient cause, to keep or submit the same in the manner and at the period prescribed or keeps false accounts or submits false statements, he shall, on conviction, be punished with fine which may extend to one thousand rupees and in the case of a continuing failure with an additional fine which may extend to fifty rupees for every day during which such failure continues, after conviction for the first such failure.

Penalty for failure to comply with requirements of section 14 or obstructing officer in discharge of duties.

25. Whoever—

(a) fails to comply with any requirement, made of him under sub-section (1) of section 14, or

(b) produces false accounts registers or documents, or knowingly furnishes false information, or

(c) obstructs any officer making an inspection, search or seizure under the said section, or

(d) aids or abets any person in the commission of any act specified in clause (a), (b) or (c) of this section

shall, on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Power of entry and search.

26. Any officer specially empowered by the State Government in this behalf may enter and search, at any time, by day, or by night any building, vessel, vehicle or place in which he has reason to believe that motor spirit is kept for the purpose of sale contrary to the provisions of this Act or any rules made thereunder.

Searches how made.

27. All searches made under section 26 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. v of 1898.

Power of investigation

28. (1) Every officer not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence. v of 1898.

Offences to be bailable.

29. All offences punishable under this Act shall be bailable.

Power to compound offences.

30. (1) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made thereunder by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed

(i) a sum equal to double the amount of the tax payable under section 5 in respect of any sales conducted ¹[or purchases made] by such person ; or

(ii) two thousand rupees whichever is greater.

(2) On the payment of such sum of money to the Collector the accused person shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

Jurisdiction to try offences.

31. No Magistrate, below the rank of a Presidency Magistrate in Greater Bombay or a Magistrate of the Second Class elsewhere, shall try an offence under this Act.

¹ These words were inserted by Mah. 8 of 1971, S. 10

CHAPTER VIII.

MISCELLANEOUS.

32. Subject to the general or special orders of the State Government, the Collector may delegate any of the powers conferred upon him by or under this Act to any person appointed to assist him under section 3.

Delegation of power by Collector.

33. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers to be public servants.

34. (1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protection of persons acting in good faith and limitation of suits and prosecutions.

(2) No suit shall be instituted against the ¹[State of Maharashtra] and no prosecution or suit shall be instituted against any officer of the Government in respect of anything, done or intended to be done, under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

35. The State Government may, by rules made in this behalf, exempt any class of traders from all or any of the provisions of this Act.

Power of Government to exempt certain traders from the Act.

36. (1) The State Government may, for the purposes of carrying out the provisions of this Act, make rules.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing provision, the State Government may make rules for the following matters :—

* * * * *

(b) the stage at which, the rate or rates and the period for which and the manner in which, the tax shall be levied and collected under section 5 ;

(c) the conditions subject to which a wholesale trader shall be entitled to refund under section 7 ;

(d) the form and conditions of the licence under section 10 and the fee for the grant or renewal thereof ;

(e) the conditions subject to which a licence may be suspended or cancelled under section 12 ;

(f) the form of accounts to be maintained, and of statements to be submitted and the period at which such statements are to be submitted ²[and the terms and conditions subject to which a consolidated statement may be submitted] under section 13 ;

(g) the manner in which, and the authority to which, appeals against any order under this Act may be preferred ; the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision, under sections 16 and 17 ;

(h) the value of the court-fee stamp which an appeal or application for revision shall bear under section 18 ;

(i) the rank of officer empowered to investigate offences under section 28 ;

(j) the conditions subject to which any class of traders may be exempted from all or any of the provisions of the Act under section 35.

¹ These words were substituted for the words " State of Bombay " by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

² Clause (a) was deleted by Mah. 8 of 1971, s. 11(a).

³ These words were inserted by Mah. 51 of 1965, s. 5(c).

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of
1860.

(3) Any rule made under this section may provide that any person contravening any such rule shall be liable, on conviction, to be punished with a fine which may extend to one thousand rupees and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after 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 the previous publication of any rule to be made under this section¹ * * * *

[(5) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification, in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.]

Taxes, licence fees and penalties to be recoverable as arrears of land revenue.

37. All sums payable as taxes, fees or penalties other than fines, under this Act shall if not paid within the prescribed period or as the case may be, before such date as the Collector may direct, be recoverable as an arrear of land revenue.

Certain sales not to be liable to tax.

38. Nothing in this Act or the rules made thereunder shall be deemed to impose or authorise the imposition of a tax on any sale or purchase of motor spirit where such sale or purchase takes place—

(a) outside the [State of Maharashtra], or

(b) in the course of the import of such motor spirit into the territory of India or the export of the goods out of such territory, or

(c) 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 sale or purchase takes place—

(i) outside the [State of Maharashtra], or

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

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

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

LXXIV
of
1956.

¹ The words "and the rule so made shall be laid on the table of both the Houses of the State Legislature" were deleted by Mah. 8 of 1971, s. 11(b).

² Sub-Section (5) was added, *ibid*, s. 11(c).

³ These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

39. The following laws, that is to say—

Bom.
VI of
1946.

(a) the Bombay Sales of Motor Spirit Taxation Act, 1946,

Hyd. Reg.
o. XXIV
of 1358 F.

(b) the Hyderabad Motor Spirit Taxation Regulation, 1358 Fasli.

u. Ord.
XIV of
1948.

(c) the Saurashtra Sales of Motor Spirit Taxation Ordinance, 1948,

Bom. VI
of
1946.

(d) The Bombay Sales of Motor Spirit Taxation Act, 1946, as applied to the Kutch area of the State of Bombay,

are hereby repealed, and the enactments specified in column 1 of the Schedule shall be amended to the extent and in the manner, specified in column 2 thereof :

Provided that the repeal of the Acts, Regulation and Ordinance aforesaid and the amendments to the enactments in the Schedule, shall not be deemed to affect—

(i) any right, title, obligation or liability already acquired, accrued or incurred or anything done or suffered before the commencement of this Act,

(ii) any legal proceeding or remedy in respect of such right, title, obligation or liability, or

(iii) the levy, assessment, collection, or refund, of any tax, or the imposition or recovery of any penalty, which may have become payable before the commencement of this Act,

under any Act, Regulation or Ordinance repealed or enactments amended ; and any such proceeding may be instituted, continued or disposed of, and any such remedy may be enforced, and any such tax may be levied, assessed or collected, or refund thereof made, and any such penalty may be imposed or recovered, as if this Act had not been passed ; and any licence or registration certificate issued or renewed under any of the laws repealed or enactments amended, and in force immediately before the commencement of this Act, or in respect of which an application for renewal thereof is made within the time (if any) required by or under any of the laws repealed or enactments amended, shall be deemed to be a licence issued or renewed under this Act, and shall as such continue in force for a period of six months or until a new licence is duly obtained under this Act, whichever is earlier :

Provided further that a registration certificate or other similar document issued under any enactments amended (other than the Central Provinces and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938) to a trader dealing in any motor spirit the sale of which was not liable to tax under any Act, Regulation or Ordinance repealed but which is liable to tax under this Act, shall be deemed to be a licence for the purposes of this Act, and shall as such continue in force for a period of six months or until a new licence is duly obtained under this Act, whichever is earlier.

SCHEDULE.

ENACTMENTS AMENDED

(See section 39)

Enactments.	Extent of amendments.
1	2
1. The Central Provinces and Berar Sales of Motor Spirit and Lubricants Taxation Act, 1938 (Act No. XIV of 1938).	<p>(1) In the long title and the preamble, the words "motor spirit and" shall be deleted.</p> <p>(2) In sub-section (1) of section 1 the words "Motor Spirit and" shall be deleted.</p> <p>(3) In section 2, (i) in clause (b), the words and figures "but does not include motor spirit as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958", shall be added at the end ; (ii) clause (c) shall be deleted ; (iii) in clauses (e) and (f), the words "motor spirit or" shall be deleted.</p> <p>(4) In section 3, in sub-section (1), the words "motor spirit and" shall be deleted.</p> <p>(5) In section 10, in clause (b) of sub-section (1), the words "motor spirit or" shall be deleted.</p> <p>(6) In section 11, the words "motor spirit or" where they occur at two places, shall be deleted.</p> <p>(7) In section 20, the words "motor spirit or" shall be deleted.</p> <p>(8) In section 26, in clause (e) of sub-section (2), the words "motor spirit and" shall be deleted.</p>
2. The Bombay Sales Tax Act, 1953 (Bom. III of 1953)	<p>In Schedule A, for entry 35 relating to motor spirit, the following shall be substituted, namely :—</p> <p>" 35. Motor spirit as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958."</p>
3. The Hyderabad General Sales Tax Act, 1950 (XIV of 1950).	<p>In Schedule I, for entry 16 the following entry shall be substituted, namely :—</p> <p>" 16. Motor spirit as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958."</p>

SCHEDULE—*contd.*ENACTMENTS AMENDED—*contd.*(See section 39)—*contd.*

Enactments.	Extent of amendments.															
1	2															
<p>4. The Central Provinces and Berar Sales Tax Act, 1947 (No. XXI of 1947).</p> <p>Bom. LXVI of 1958.</p>	<p>In Schedule II,—</p> <p>(1) in entry 30, the words " Motor Spirit and " shall be deleted ;</p> <p>(2) after entry 30, the following entry shall be inserted, namely :—</p> <table style="margin-left: 40px;"> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">" 30A</td> <td>Motor Spirit as defined</td> <td>...</td> </tr> <tr> <td></td> <td>in the Bombay Sales</td> <td></td> </tr> <tr> <td></td> <td>of Motor Spirit Taxa-</td> <td></td> </tr> <tr> <td></td> <td>tion Act, 1958."</td> <td></td> </tr> </table>	1	2	3	" 30A	Motor Spirit as defined	...		in the Bombay Sales			of Motor Spirit Taxa-			tion Act, 1958."	
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" 30A	Motor Spirit as defined	...														
	in the Bombay Sales															
	of Motor Spirit Taxa-															
	tion Act, 1958."															
<p>5. The Saurashtra Sales Tax Ordinance, 1950 (No. XVIII of 1950).</p> <p>Bom. LXVI of 1958.</p>	<p>In Schedule II,—</p> <p>(1) in entry 36A, the words " including Motor Spirit " shall be deleted ;</p> <p>(2) after entry 36A, the following entry shall be inserted, namely :—</p> <table style="margin-left: 40px;"> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">2</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">" 36B</td> <td>Motor Spirit as defined</td> <td></td> </tr> <tr> <td></td> <td>in the Bombay Sales</td> <td></td> </tr> <tr> <td></td> <td>of Motor Spirit Taxa-</td> <td></td> </tr> <tr> <td></td> <td>tion Act, 1958."</td> <td></td> </tr> </table>	1	2	3	" 36B	Motor Spirit as defined			in the Bombay Sales			of Motor Spirit Taxa-			tion Act, 1958."	
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	in the Bombay Sales															
	of Motor Spirit Taxa-															
	tion Act, 1958."															
<p>6. The Central Provinces and Berar Sales Tax Act, 1947 (No. XXI of 1947), as applied to the Kutch area of the State of Bombay.</p> <p>Bom. LXVI of 1958.</p>	<p>In the Schedule, for entry 34, the following shall be substituted, namely :—</p> <p>" 34: Motor Spirit as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958."</p>															