

The Goa Daman and Diu Barge (Taxation on Goods) Act, 1985

(Act No. 22 of 1985)

AN

ACT

to provide for levy of tax on goods carried in barges in inland waters of the Union Territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-sixth Year of the Republic of India as follows: -

1. Short title, extent and commencement - (1) This Act may be called the Goa, Daman and Diu Barge (Taxation on Goods) Act, 1985.

(2) It extends to the whole of the Union Territory of Goa Daman and Diu.

(3) It shall be deemed to have come into force from the 1st day of July, 1978.

2. Definitions. - In this Act, unless the context otherwise requires, -

(1) "barge" means every description of water craft, mechanically propelled and which is used or capable of being used as a means of transport of goods;

(2) "Government" means the Government of Goa, Daman and Diu;

(3) "goods" include minerals and anything carried by a barge except living persons, but does not include personal luggage of crew travelling in the barge and the equipment ordinarily used with the barge;

(4) "month" means a calendar month;

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

(6) "registered owner" means a person in whose name a barge is registered under any law for the time being in force;

(7) "tax" means the tax referred to in section 3;

(8) "Tax Officer" means such officer as the Government may, by notification in the Official Gazette, appoint to be the Tax Officer for the whole of the Union territory of Goa, Daman and Diu, or for any area or areas thereof for the purposes of this Act and the Government may appoint more than one officer as Tax Officer for the whole of the Union territory of Goa, Daman and Diu or, for any area thereof.

3. Levy of tax on Goods. -On and from the date of commencement of this Act, there shall be levied and paid to the Government on the goods transported by barges, through such inland waterways or canals as may be notified by the Government, a tax at the rate of ^{[1][2]}€one rupee per tonne' or part thereof of the goods:

Provided that no tax shall be payable under this Act on goods belonging to the Government or Central Government.

4. Submission of returns, - (1) In respect of every barge owned by him, the registered owner or his representative shall deliver or cause to be delivered to the Tax Officer or to such prescribed officer as the Tax Officer may specify, a monthly return in the prescribed form and manner.

(2) When any return is received by a prescribed officer, he shall forward it to the Tax Officer within the prescribed period and in the prescribed manner.

5. Tax to be paid every month into Government Treasury. - The tax payable during any month in accordance with the returns submitted under section 4 shall be paid into the Government treasury by the registered owner or his representative and the receipt evidencing such payment forwarded to the Tax Officer on or before such date or dates of the month immediately succeeding as may be prescribed.

6. Procedure where no returns are submitted, etc. - In the following cases, that is to say, _

(a) where no returns have been submitted by the registered owner or his representative in respect of any barge for any month or portion thereof; or

(b) where the returns submitted by the registered owner or his representative in respect of any barge for any month or portion thereof appear to the Tax Officer to be incorrect or incomplete, the Tax Officer shall, after giving the registered owner a reasonable opportunity in case (a) of making his representation, if any, and in case (b) of establishing the correctness and completeness of the returns submitted by him or through his representative, determine the sum payable to the Government by the registered owner by way of tax during such month or portion thereof:

Provided that the sum so determined shall not exceed the maximum tax which would have been payable to the Government if the barge had carried its full complement of goods during such month or portion thereof.

7. Taxes escaping assessment, - If for any reason, the whole or any portion of the tax leviable under this Act for any month has escaped assessment, the Tax Officer may, at any time within three years from the expiry of that month, assess the tax which had escaped assessment, after issuing a notice to the registered owner and making such enquiry as the officer may consider necessary.

8. Penalty for non-payment of tax. - Where the whole or any portion of tax payable to the Government in respect of any barge for any month or portion thereof in pursuance of sections 5, 6 and 7 has not been paid, in time, the Tax Officer may, levy in addition to the tax so payable, a penalty not exceeding fifty per cent of the, maximum tax which would have been payable to the, Government if the barge had carried its full complement of goods during such month or portion thereof.

9. Recovery of tax, etc. - (1) In the cases referred to in section 6, 7 and 8, the Tax Officer shall serve on the registered owner a notice of demand in the

manner prescribed, for the sums payable to the Government and the sums specified in such notice may be recovered from the registered owner as arrears of land revenue.

(2) Where the sums specified in the notice of demand are not paid within fifteen days from the date on which the notice was served on the registered owner, the barge in respect of which the tax is due and its accessories may be distrained and sold under the appropriate law relating to the recovery of arrears of land revenue, whether or not such barge is in the possession or control of the registered owner:

Provided that no distraint shall be made in pursuance of this sub-section except at the instance or with the consent of the Government or such officer as may be authorized by the Government in this behalf:

Provided further that no such distraint shall be made in pursuance of this sub-section unless the amount of tax due in respect of any barge exceeds five thousand rupees.

(3) Distraints under sub-section (2) may also be made by such officers or Class of officers as the Government may, by general or special order, direct and the officer making any such distraint shall forward the proceedings thereof together with the distrained articles to the Collector for further action under, sub-section (2).

10. Appeal against demand. - (1) Any registered owner objecting to a notice of demand served on him under section 9 may, within thirty days of the service thereof appeal to the prescribed authority:

Provided that no appeal shall be entertained unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due;

(2) The prescribed authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as it thinks fit.

11. Maintenance of accounts and registers. - Every registered owner shall keep and maintain accounts and registers in such forms as may be prescribed in respect of barges and the goods transported therein.

12. Power to order production of accounts. - The authority prescribed under sub-section (1) of section 10, the Tax Officer or any officer empowered in this behalf by the Government may, by order, require any registered owner to produce such accounts, registers and documents, and to furnish such information relating to the barge or the goods transported as may be specified in the order.

13. Powers of entry and inspection, - (1) Any officer authorised by the Government in this behalf may at all reasonable times enter into, inspect and search any barge or any place ordinarily used by the registered owner for keeping such barge or keeping accounts of his business for the purposes of seeing or verifying whether the provisions of this Act or any rules made there under are being complied with.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

14. Composition of tax, - (1) The Tax Officer may on an application made by the registered owner or his representative and subject to such conditions as may be prescribed, permit him to compound the tax assessable on him under this Act, by paying in lieu thereof, as fees an amount equivalent to the tax leviable on ninety percent of the assessed quantity of goods to be transported by a barge.

(2) The permission granted under sub-section (1) shall be in force for the period for which it is granted and in respect of that period, the provisions of this Act regarding submission of returns, accounts or other documents, the assessment to tax or any other matter incidental thereto shall not apply in relation to the grantee.

15. Drawback, set off, refund, etc., - (1) The Tax Officer may, subject to such circumstances and conditions as may be prescribed, drawback, set off or

refund the whole or any part of the tax levied and collected under this Act to the registered owner, regard being had to the nature of the goods carried, the destination to which, and the purposes for which the goods are carried and such other factors as may be specified.

(2) The Tax Officer shall refund to the registered owner, in such manner as may be prescribed, the amount of tax and penalty, if any, paid by such registered owner in excess of the amount due from him. The refund may be either by cash payment or at the option of the registered owner, by deduction of such excess from the amount of tax and penalty, if any, due in respect of any other period:

Provided that, the Tax Officer shall first apply such excess towards the recovery of any amount due in respect of which a notice under section 9 has been served on the registered owner, and shall then refund the balance, if any.

16. Offences, penalties and competent Court.-

(1) Any person who -

(a) being a registered owner, submits or allows to be submitted an incorrect or incomplete return under section 4 or fails to submit a return as required under that section; or

(b) being a registered owner, fraudulently evades or allows to be evaded, the payment of any tax due from him; or

(c) being a registered owner, fraudulently makes or allows to be made any wrong entry in, or fraudulently omits or allows to be omitted any entry from any statement submitted, or any accounts or register maintained by him ; or

(d) willfully acts in contravention of any of the provisions of this Act or any rules made thereunder or any lawful orders passed in accordance therewith; shall on conviction, be punishable with fine which may extend to five hundred rupees, and if the Magistrate so directs in his order, the person convicted shall pay in addition as if it were a fine, such specified amount as the Magistrate

may determine to be the amount which the person convicted had evaded to pay.

(2) No offence punishable under this Act shall be inquired into or tried by any court inferior to that of Judicial Magistrate of the First Class.

17. Offences by companies. - (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 liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or 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 other officer of the company, such director, manager, secretary or other officer, as the case may be, shall be deemed to be guilty of that offence and shall also 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;

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

18. Composition of offences. - (1) The Tax Officer may, either before or after the institution of proceedings for any offence punishable under section 16, accept from any person charged with such offence by way of composition of the offence, where the offence charged consists of the evasion of the tax, a sum of

money not exceeding double the amount of the tax so recoverable, and in other cases, a sum of money not exceeding two hundred and fifty rupees.

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

19. Officers to be public servants. - All officers acting under this Act shall be deemed to be public servants, within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Prevention of Corruption Act, 1947 (Central Act 2 of 1947).

20. Bar of certain proceedings. - (1) No prosecution or other proceedings shall be instituted in a criminal Court without the previous sanction of the Government against any officer or servant of the Government, for any act done or purported to be done under this Act or the rules made thereunder.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceedings, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

21. Limitation for suits and prosecutions. -No suit or other proceedings shall be instituted against the Government and no suit, prosecution or other proceedings shall be instituted against any officer or servant of the Government in respect of any act done or purported to be done under this Act, unless the suit, prosecution or other proceedings is instituted within one year from the date of the act complained of.

22. Power to make rules, - (1) The Government may by notification in the Official Gazette and subject to the condition of previous publication make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for, -

(a) the prescribed officer to receive monthly returns and the period within which and the manner in which such officer shall forward the returns to the Tax Officer under section 4;

(b) the manner of serving notice of demand under section 9;

(c) the authority to which an appeal may be preferred under sub-section (1) of section 10;

(d) the maintenance of accounts and registers and the submission of returns and statements by the registered owners under section 11;

(e) the circumstances and conditions subject to which the Tax Officer can draw back, Set off or refund the whole or part of the tax under section 15;

(f) any other matter which is required to be prescribed under this Act.

M. RAGHUCHANDER.

Law Secretary to the Government of Goa,
Daman and Diu,
Law Department (Legal Affairs Branch).

Secretariat,

Panaji-Goa,

Dated:- 29th October, 1985.

[1] Substituted vide notification no.7-17-93/LA dated 15/10/1993, published in the official gazette Sr. I No.30 dated 21/10/1993.

[2] Substituted vide notification no.7/5/2012-LA dated 23/08/2012, published in the extraordinary official gazette Sr. I No.21 dated 23/08/2012.