

Rajasthan Tax on Luxuries (Tobacco and its Products) Act, 1994

RAJASTHAN

India

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Act 11 of 1994

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Rajasthan Tax on Luxuries (Tobacco and its Products) Act, 1994(Act No. 11 of 1994)Last Updated 22nd May, 2019Statement of Objects and Reasons - Amendment in the Rajasthan Tax on Luxuries (Tobacco and its Products) Act, 1994 (Act No. 7 of 2002). - The existing fifteen percent ceiling on tax rates under the Rajasthan Tax on Luxuries (Tobacco and its Products) Act, 1994 has to be revised to compensate the losses in respect of certain goods not to be taxed under the Sales Tax Act of the State. For this purpose sub-section (1) of Section 4 of the Act is sought to be amended to raise the above ceiling to twenty percent.[Received the Assent of the Governor on the 13th day of April, 1994; Assent first published in the Rajasthan Gazette Extraordinary, part IV- Ka, dated 15th April 1994]An Act to provide for the levy of tax on luxuries (tobacco and its products and for matters connected therewith and incidental thereto, in the State of Rajasthan.Be it enacted by the Rajasthan State Legislature in the forty - fifth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

(1)This Act may be called the Rajasthan Tax on Luxuries (Tobacco and its Products) Act, 1994.(2)It extends to the whole of the State of Rajasthan.(3)It shall come into force on such date as the State Government may by notification in the official Gazette, appoint.

2. Definitions.

(1)In this Act, unless the subject or context otherwise requires, -(a)"business" means the activity of supplying tobacco or its products by way of sale or otherwise, whether or not such activity is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such activity;(b)"luxuries" means tobacco and its products;(c)"receipt" in relation to a tobacconist means the amount of valuable consideration received or receivable by him for supply of tobacco or its products by way of sale or otherwise including any sum charged for anything done by him in respect

of tobacco or its products so sold at the time of or before the delivery thereof and the price of any primary or secondary packing;(d)"registered tobacconist" means a tobacconist registered under the provisions of this Act;(e)"rules" means the rules made under this Act;(f)"State" means the State of Rajasthan;(g)"tax" means the tax levied on the luxuries under this Act;(h)"tobacco" means unmanufactured and manufactured tobacco as described in the Notes and in the table in Chapter 24 of the Central Excise Tariff Act, 1985.Explanation. - For the purposes of this clause,(i)unmanufactured tobacco means unmanufactured tobacco having brand name;(ii)manufactured tobacco does not include Bidis;(i)"tobacconist" means, -(a)a manufacturer who supplies tobacco whether by way of sale or otherwise, and includes any person who for the purposes of business gets the manufacturing done from any other person, whether or not on job work basis; but does not include any person who manufactures tobacco only on job work basis;(b)any person who for the purposes of the business brings or causes to be brought tobacco in the State or to whom any tobacco is despatched from any place outside the State and who supplies such tobacco whether by way of sale or otherwise;(c)any person who supplies tobacco from a place within the State to any place outside the State, whether by way of sale or otherwise; and(d)any person who does not buy or otherwise obtains unmanufactured tobacco under a brand name but supplies whether by way of sale or otherwise such unmanufactured tobacco in a sealed container under a brand name.Explanation. - For the removal of doubts, it is hereby declared that, -(i)an agriculturist, who exclusively supplies unmanufactured tobacco grown on land cultivated by him personally, whether or not in a sealed container but not under a brand name;(ii)a person, who exclusively supplies unmanufactured tobacco whether or not in a sealed container but not under a brand name;(iii)a person, not being a person referred to in a sub-clause (c), who exclusively obtains tobacco whether by way of purchase or otherwise from a registered tobacconist;shall not be deemed to be a tobacconist for the purpose of this clause; and(j)"turnover of receipt" means the aggregate of the amounts of receipts of a tobacconist during a year in respect of supply of tobacco whether such supply is by way of sale or otherwise.(2)Words and expressions used but not defined in this Act shall have the meanings assigned to them under the [Rajasthan Sales Tax Act, 1994 (22 of 1995)] [Substituted by Rajasthan 8 of 1998, w.e.f 31-7-1998.].

3. Incidence of tax.

- (1) On or after commencement of this Act (hereinafter referred to as the "commencement date") every tobacconist whose turnover of receipts made:-(i)during the year ending on 31st March, 1994 or(ii)during any year commencing on 1st April Subsequent to the year mentioned in sub-clause (i),exceeds rupees fifty thousand shall be liable to get such registration as may be prescribed under this Act, and be liable to pay tax on turnover receipts.(2)Every tobacconist who is registered under this Act shall continue to be liable to pay tax until his registration is duly cancelled.

4. Levy of luxury tax on a tobacconist.

(1)Subject to the provisions of this Act and the rules made thereunder, there shall be levied on the turnover of receipts of a tobacconist a tax at such rate, not exceeding [twenty percent] [Substituted by Rajasthan 7 of 2002, w.e.f. 8-5-2002.], as may be notified by the State Government in the official Gazette.(2)Notwithstanding anything contained in sub - section (1), where a tobacconist proves to

the satisfaction of the assessing authority that tax on the tobacco or its products supplied by him by way of sale or otherwise has already been paid by any other person and produces a proof of such payment in support thereof he shall not be liable to pay tax under the Act.

5. Exemption from tax.

- Notwithstanding anything contained in this Act, where the State Government is of the opinion that it is necessary in the public interest so to do, it may, by notification in the official Gazette, exempt a tobacconist fully or partially, whether prospectively or retrospectively from tax payable by him under this Act.

6. offences and penalties.

- All provisions relating to offences, penalties and interest including the provisions of prosecution and compounding of offences, of the [Rajasthan Sales Tax Act, 1994 (22 of 1995)] [Substituted by Rajasthan 8 of 1998, w.e.f. 31-7-1998], shall mutatis mutandis apply to all acts or omissions of a tobacconist and all matters arising under this Act.

7. Applicability of the provisions of the [Rajasthan Sales Tax Act, 1994] [Substituted by Rajasthan 8 of 1998. w.e.f. 31-7-1998.] and the rules made thereunder.

- Subject to the provisions of this Act and the rules made thereunder, the authorities empowered to assess, reassess, collect and enforce payment of tax under the [Rajasthan Sales Tax Act, 1994] [Substituted by Rajasthan 8 of 1998, w.e.f. 31-7-1998.] shall assess, reassess, collect and enforce payment of tax or other sum including penalty or interest payable by a tobacconist under this Act as if the tax, penalty or interest were payable under the said Act, and for this purpose, they may exercise all or any of the powers assigned to them under the said Act and all the provisions under the said Act and the rules made thereunder for the time being in force including the provisions relating to registration, returns, advance payment of tax, provisional assessments, assessments, recovery of tax, penalties, interest, prosecution, compounding of offences, appeals, revisions, and other incidental and miscellaneous matters shall, mutatis mutandis apply.

8. Bar to certain proceedings.

- No civil Court or any other authority shall stay any proceedings purported to be initiated or already initiated under this Act, and no assessment made and no order passed by any officer or any authority under this Act, shall be called in question, except as provided in this Act.

9. Power to make rules.

(1)The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.(2)All rules made under this Act shall be laid as soon as may be after they are so

made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or two successive sessions and if before the expiry of the session in which they are so laid or in the session immediately following, the House of the State Legislature make any modification in any of such rules or resolves that any such rule should not be made, such rules shall have effect thereafter 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 thereunder. Notifications [Notification Dated 26-3-1999 Published In Rajasthan General Gazette Part IV - C(II) Extraordinary, Dated 26-3-1999, P.515(171)] S.O.466. - In exercise of the powers conferred by section 4 of the Rajasthan Tax on Luxuries (Tobacco and its Products), 1994 (Rajasthan Act No. 11 of 1994), the State Government being of the opinion that it is expedient in the public interest so to do, hereby provides that the rate of tax payable by a tobacconist in respect of cigarettes, cheroots, cigars and cigarillos, shall be 7% of such turnover. Note. - The above rate has been enhanced to 8% vide Notification dated 29-3-2001, Published in Rajasthan G. Gazette pt. IV - C(II) Extraordinary, dated 29-3-2001, p.604. [Notification dated 3-1-2001, Published in Rajasthan General Gazette part IV-C(II) Extraordinary, dated 6-1-2001. p. 393(4)] S.O.307. - In exercise of the powers conferred by section 4 of the Rajasthan Tax on Luxuries (Tobacco and its Products), 1994 (Rajasthan Act No. 11 of 1994), the State Government being of the opinion that it is expedient in the public interest so to do, hereby provides that the rate of tax payable by a tobacconist in respect of Jarda-mixed pan masala including gutka and churi shall be 8%.