

The Punjab Textiles and Sugar (Existing Stocks) Purchase Tax and Miscellaneous Provisions Act, 1958

PUNJAB

India

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Rule

THE-PUNJAB-TEXTILES-AND-SUGAR-EXISTING-STOCKS-PURCHASE of 1958

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The Punjab Textiles and Sugar (Existing Stocks) Purchase Tax and Miscellaneous Provisions Act, 1958 Received the assent of the Governor of Punjab on the 18th April, 1958, and was first published for general information in the Punjab government Gazette (Extraordinary) dated the 19th April, 1958. An Act to provide for the levy of purchase tax on stocks to textiles and sugar held by dealers and for abolition of tax on sales of certain goods and of vend fees on tobacco. Be it enacted by the Legislature of the State of Punjab in the Ninth Year of the Republic of India as follows: -

1. Short title, extend and commencement.

(1) This Act may be called the Punjab Textiles and Sugar (Existing Stocks) Purchase Tax and Miscellaneous Provisions Act, 1958. (2) It extend to the whole of the State of Punjab. (3) Sub-section (1) of section 13 and sub-section (2) of section 18 shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 24th March, 1958.

2. Definitions.

- In this Act, unless the context otherwise requires :- (a) 'Chargeable goods' mean the stocks (not being stocks purchased outside the State of Punjab or in the course of import into the territory of India) held by a dealer immediately before the 14th December, 1957, of - (1) Sugar; or (2) any variety of cotton, woollen or silken textiles, including rayon, article silk or nylon, whether manufactured by

handloom, powerloom or otherwise, but not including -(i) Cloth woven on handlooms out of handspun yarn when sold by persons dealing exclusively in such cloth, and (ii) pure silk cloth; (b) 'dealer' means a person who holds chargeable goods and was registered, immediately before the 14th December, 1957, as a dealer under the East Punjab General Sales Tax Act, 1948; (c) 'purchase' means a transaction made before the 14th December, 1957, and involving acquisition of the chargeable goods by the dealer from another person, in the course of trade or business, for cash or for deferred payment (including payment in instalments) or other valuable consideration, but does not include any acquisition under a mortgage, hypothecation, charge or pledge; (d) 'purchase value' means the total amount set out in the bill or invoice in respect of the purchase of chargeable goods (or if there is no such bill or invoice, the total amount charged by the seller as the consideration for the sale of chargeable goods, whether such consideration be cash or deferred payment or any other thing or value), including any sums charged by the seller, whatever be the description, name or object thereof; (e) all other words and expressions used, but not defined in this Act, shall have the meaning assigned to them in the East Punjab General Sales Tax Act, 1948.

3. Levy of tax on purchases of chargeable goods.

(1) There shall be levied and paid a tax, to be called purchase tax, on purchases of all chargeable goods made by a dealer. (2) The tax shall be levied and paid at the rate of three rupees and thirteen naya paise on every one hundred rupees of the purchase value of the chargeable goods: Provided that in respect of purchases of woollen or silk cloth other than pure silk cloth, the rate of tax shall be six rupees and twenty-five naya paise for every one hundred rupees of the purchase value thereof: Provided further that the Commissioner may accept from a dealer such lumpsum by way of composition of the tax payable under this Act as he may deem fit and permit payment thereof by instalments.

4. Furnishing returning by dealers.

- Every dealer shall, within a period of fifteen days from the 14th December, 1957, furnish to the assessing authority, a return of the chargeable goods in the prescribed form and manner.

5. Provisional payment of tax.

- Every dealer, who has furnished a return under section 4, shall, within a period of three months from the 14th December, 1957, deposit in a lump sum the amount of tax due from him as calculated on the basis of his return, into a Government treasury or the State Bank of India and shall, within fifteen days of such deposit, send to the assessing authority a receipt of the treasury or the Bank, as the case may be, showing payment of the tax: Provided that the assessing authority may, on the application of the dealer and for sufficient cause, permit the payment of the tax in such instalments and within such period as he may fix.

6. Assessment of tax.

(1) If the assessing authority is satisfied without requiring the presence of a dealer or the production by him of any evidence that the return furnished by him is correct and complete, he shall assess the amount of tax due from the dealer on the basis of such return. (2) If the assessing authority is not satisfied without requiring the presence of the dealer or production of evidence that the return furnished by him is correct and complete, he shall serve on such dealer a notice requiring him on a date and at a place specified therein, either to attend in person or to produce or cause to be produced any evidence on which such dealer may rely in support of such return. (3) On the date specified in the notice or as soon thereafter as may be, the assessing authority shall, after taking such evidence as the dealer may produce, and such other evidence as the assessing authority may require on specified points, assess the amount of tax due from the dealer. (4) If a dealer, who furnished the return, fails to comply with the terms of notice issued under sub-section (2), the assessing authority shall proceed to assess to the best of his judgment the amount of the tax due from the dealer. (5) If a dealer does not furnish the return required by section 4, the assessing authority may, after giving the dealer a reasonable opportunity of being heard, proceed to assess to the best of his judgment the amount of tax, if any, due from the dealer. (6) Any assessment made under this section shall be without prejudice to any prosecution instituted for an offence under this Act.

7. Payment of tax.

(1) Where no tax has been deposited by a dealer under section 5, or the tax deposited is less than the tax assessed on him, the dealer shall deposit the amount assessed on him or the excess amount, as the case may be, in a Government treasury or the State Bank of India, before such date as may be specified in a notice issued by the assessing authority for this purpose and that date to be so specified shall be not less than thirty days from the date of service of such notice : Provided that the assessing authority may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due by instalments. (2) The amount of tax which remains unpaid after the date specified in the notice or the extended date, if any, shall be recoverable as arrears of land revenue.

8. Power to reassess tax and rectify mistakes.

(1) If in consequence of definite information which has come into his possession, the assessing authority discovers that any purchase of chargeable goods by a dealer has been under-assessed or has escaped assessment, the assessing authority may, at any time not later than the 13th December, 1958, and after giving the dealer a reasonable opportunity in the prescribed manner of being heard, proceed to reassess the tax which has been under-assessed or has escaped assessment. (2) Any assessing authority may at any time, within one year from the date of order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record

9. Refund.

- The assessing authority shall, in the prescribed manner, refund to a dealer applying in this behalf any amount of tax paid by such dealer in excess of the amount due from him under this Act by a refund voucher.

10. Production and inspection of accounts and documents.

(1)The assessing authority or an officer authorised in writing by the assessing authority may require any dealer to produce before him any accounts or documents or to furnish any information relating to the purchases of chargeable goods, as may be necessary for purposes of assessment. In case of default the assessing authority may draw such inference against the dealer as the assessing authority may deem fit.(2)All accounts, registers and documents relating to purchases of chargeable goods, and all such goods kept in any place of business or ware- house of any dealer shall at all reasonable times be open to inspection by the assessing authority and that authority may countersign any or all of such accounts, registers and documents.(3)For the purposes of sub-section (2), the assessing authority may enter any place of business or ware-house of any dealer :Provided that there powers shall not be exercisable by any officer below the rank of an Excise and Taxation Officer.

11. Tax payable by transferee or legal represent.

- When after the 14th December, 1957, the ownership of the business of a dealer is transferred, or the dealer dies, any tax remaining unpaid at the time of transfer or death shall be payable by the transferee or the legal representative of the dealer, as the case may be, as if he was the dealer.

12. Bar of jurisdiction of civil courts.

- No assessment made and no order passed under this Act, or the rules made thereunder, by any authority shall be called in question in any civil court.

13. Offences and penalties.

(1)If any dealer -(a)fails, without sufficient cause, to furnish the return as required by section 4 or submits a false return ; or(b)fails, without sufficient cause, to pay the amount of tax as required by section 5; or(c)refuses to comply with any requirement made of him under section 10; or(d)knowingly produces incorrect accounts, registers or documents or knowingly furnishes incorrect information ;he shall be punishable with fine which may extend to one thousand rupees.(2)No court shall take cognizance of any offence under this Act or under the rules made thereunder except with the previous sanction of the Commissioner and on a complaint in writing by the assessing authority and no court inferior to that of a Magistrate of the first class shall try any such offence.

14. Appeal.

(1) Any dealer aggrieved by any notice issued under subsection (1) of section 7 or by any order passed by the assessing authority under this Act may appeal to the appellate authority within sixty days from the date of receiving such notice or order and the appellate authority may pass such orders in relation thereto as it may think fit. (2) No appeal shall be entertained unless the appellate authority is satisfied that the amount of tax assessed has been paid by the dealers : Provided that such authority may, if satisfied that the dealer is unable to pay the tax assessed, for reasons to be recorded in writing, entertain an appeal without the tax having been paid.

15. Revision.

(1) The commissioner may, of his own motion or on application made to him, call for the record of any proceeding which is pending before, or has been disposed of by any assessing or appellate authority, for the purpose of satisfying himself as to the legality or propriety of such proceeding or of any order made therein and may pass such orders in relation thereto as he may think fit. (2) The Commissioner may, after giving notice to the parties concerned, review his own order. (3) The Financial Commissioner may, at any time, call for the record of any case decided under the preceding sub-sections and if, in his opinion, the final order contains an erroneous decision on an important question of a law, he may pass such order in the case as he may think fit. (4) No order shall be made under this section which adversely affects the right of a dealer without giving such dealer a reasonable opportunity of being heard.

16. Authorities empowered to assess and enforce tax and hear appeals, revisions, etc.

- The authorities for the time being empowered to assess and enforce payment of the tax under the East Punjab General Sales Tax Act, 1948, or to hear appeals and revisions or review their own orders under the aforesaid Act, shall, subject to the provisions of this Act, assess and enforce payment of the tax payable by a dealer under this Act and hear appeals and revisions or review their own orders in the same manner as the tax under the aforesaid Act is assessed and paid or appeals or revisions are heard or orders are reviewed; and for such purposes they may exercise all or any of the powers they have under the aforesaid Act and the provisions of the aforesaid Act, including provisions relating to the manner of service of notices, compounding of offences, the manner of preferring appeals, the procedure for and other matters (including fees), incidental to the disposal of appeals and applications for revisions and review, shall apply accordingly.

17. Indemnity.

- No suit, prosecution or other legal proceeding shall lie against any officer or servant of the State Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

18. Returns etc. to be confidential.

(1) All particulars contained in any return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings, under this Act other than proceedings before a Criminal Court, shall, save as provided in sub-section (3), be treated as confidential. (2) If, save as provided in sub-section (3), any officer of the State government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine. (3) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1) for the purposes of a prosecution under the Indian Penal Code in respect of any such return, accounts, document or evidence, or for the purposes of a prosecution under this Act or for departmental use of the officials of the Income Tax Department of the government of India or Government Departments of others States of the Union of India.

19. Power to make rules.

(1) The State Government may make rules for carrying 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 form and manner in which the returns under section 4 shall be furnished; (b) the manner of giving a reasonable opportunity of being heard under sub-section (1) of section 8; (c) the conditions subject to which any clerical or arithmetical mistakes may be rectified in orders passed by the assessing authority; (d) the manner of allowing refunds under section 9.

20. Amendment of East Punjab Act No. XLVI of 1948.

- The East Punjab General Sales Tax Act, 1948, shall, as from the 14th December, 1957 be amended in manner hereinafter specified, namely :- (a) in Schedule 'A' to the said Act, for entry No. 15, the following shall be substituted, namely :- "15. Pure Silk Cloth." (b) in Schedule 'B' to the said Act - (i) in entry No. 30, the words "when sold by persons dealing exclusively in such cloth" occurring in column 2, shall be omitted and for the words "cloth woven on handlooms out of hand-spun yarn", occurring in column 1, the following words shall be substituted, namely :- "All varieties of cotton, woollen or silken textiles, including rayon, artificial silk or nylon, whether manufactured by handloom or powerloom or otherwise but not including pure silk cloth", (ii) in entry No. 51, for the words "manufactured tobacco as defined in the Punjab Tobacco Vend Fees Act, 1954", occurring in column 1, the words, "Tobacco whether curred, uncurred or manufactured and all its product including biris, cigarettes, Cigars" shall be substituted; (iii) after entry No. 61, the following new entry shall be added, namely :- "62. Sugar."

21. Repeal of Punjab Act No. XII of 1954.

- As from the 14th December, 1957, the Punjab Tobacco Vend Fees Act, 1954, shall stand repealed : Provided that no person shall be entitled to refund of any fee paid by him in respect of the licence issued under the Act so repealed or compensation in lieu thereof.

22. Validation.

- Everything done and every action taken (including every order, notification and rules made) in exercise of the powers conferred by or under the Punjab Textile and Sugar (Existing Stocks) Purchase Tax and Miscellaneous Provisions ordinance, 1957 (Punjab Ordinance No. 9 of 1957) are, notwithstanding the expiry of that Ordinance, hereby validated and shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or such action was taken.