

# **The Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002**

MAHARASHTRA

India

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### **Act 4 of 2003**

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The Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002 Maharashtra Act No. 4 of 2003 For Statement of Objects and Reasons, See Maharashtra Government Gazette, dated the 12th December, 2002, Part V-A, Extraordinary, page 340. (This Act received the assent of the Governor on the 7th January 2003; assent was first published in the Maharashtra Government Gazette, Part IV, on the 8th January 2003.) An Act to provide for levy and collection of tax on entry of certain goods into local areas in the State of Maharashtra and for the matters connected therewith or incidental thereto. Whereas both Houses of the State Legislature were not in session; And Whereas Shri Chunnilal Karsandas Thakker, discharging the functions of the Governor of Maharashtra, was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law to provide for the levy and collection of tax on entry of certain goods into local areas in the State of Maharashtra and for the matters connected therewith or incidental thereto; and therefore, promulgated the Maharashtra Tax on the Entry of Goods into Local Areas Ordinance, 2002, on the 1st October 2002; And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature, with the incorporation of some modifications; it is hereby enacted in the Fifty-third Year of the Republic of India as follows:-

## **Chapter I Preliminary**

### **1. Short title, extent and commencement.**

(1) This Act may be called the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2002. (2) It extends to the whole of the State of Maharashtra. (3) It shall be deemed to have come into force on the 1st October 2002.

## 2. Definitions.

(1) In this Act, unless the context otherwise requires, - (a) "assessing authority" means, - (i) in the case of an importer who is a dealer registered or, as the case may be, liable to be registered under the Sales Tax Act, [the registering authority under the Value Added Tax Act;] [These words were substituted for the words 'the assessing authority under the Sales Tax Act' by Maharashtra 32 of 2006 section 33(1), (w.e.f. 20.6.2006).] and (ii) in the case of an importer other than the said dealer, the officer, in charge of the check-post, through which the goods enter the local area, or [the registering authority under the Value Added Tax Act;] [These words were substituted for the words 'the assessing authority under the Sales Tax Act' by Maharashtra 32 of 2006, Section 33(1), (w.e.f. 20.6.2006).] having jurisdiction in the area in which such importer ordinarily resides or uses, consumes or sells the goods; (b) "entry of goods" with all its grammatical variations and cognate expressions means entry of goods into a local area from any place outside the State, for consumption, use or sale therein; (c) "General Sales Tax Act" means any Sales Tax Law in force in any State which provides for the levy of taxes on the sale or purchase of goods generally or on any specified goods expressly mentioned in that behalf or any class of transactions expressly specified in that behalf; (d) "goods vehicle" means any motor vehicle constructed or adapted for the carriage of goods and shall include any other motor vehicle not so constructed or adapted, when used for the carriage of goods solely or in addition to passengers; (e) "the Government" means the Government of Maharashtra; (f) "import", with all its grammatical variations and cognate expressions means bringing or causing to be brought or receiving any goods into a local area from a place outside the State; (g) "importer", in relation to any goods, means, - (i) a person who imports any goods whether on his own account or on account of a principal or any other person, into a local area for consumption, use or sale therein; (ii) any owner of the goods at the time of the import of such goods into a local area; (h) "local area" means the area for the time being included within the limits of, - (i) the Municipal Corporation of Brihan Mumbai, established under the Mumbai Municipal Corporation Act; (ii) a Municipal Corporation, established under the Bombay Provincial Municipal Corporations Act, 1949; (iii) the Corporation of the City of Nagpur, established under the City of Nagpur Corporation Act, 1948; (iv) a Zilla Parishad, established under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961; (v) a Cantonment Board, established under the Cantonments Act, 1924: Provided that, the areas within the limits of the Poona Cantonment Board and the Kirkee Cantonment Board, the Aurangabad Cantonment Board and the Ahmednagar Cantonment Board shall be deemed to be included in the limits of the Municipal Corporation of the City of Pune, the Municipal Corporation of City of Aurangabad and the Ahmednagar Municipal Council, respectively. Explanation. - For the purposes of sub-clause (iv), the local area within the limits of District for a Zilla Parishad is established under the provisions of the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961, shall, notwithstanding anything contained in sub-section (1) of section 4 of that Act, be deemed to be included in the limits of every 'A' Class, 'B' Class, 'C' Class Municipal Councils, established under the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 and a Village Panchayat established under the Bombay Village Panchayats Act, 1958, falling within the area of such district; (i) "prescribed" means prescribed by the rules made under this Act; in (j) [\* \* \*] [Clause (j) was deleted by Maharashtra 32 of 2006, Section 2(b), (w.e.f. 20.6.2006). Substituted clause (j) reads as follows. - (j) 'the Sales Tax Act' means the Bombay Sales Tax Act, 1959 and includes the Bombay Sales Tax Rules,

1959;]](k)"Schedule" means the Schedule appended to this Act;(l)"State" means the State of Maharashtra;(m)"tax" means the tax payable under this Act;[(m-1) "Value Added Tax Act" means the Maharashtra Value Added Tax Act, 2002 and includes the Maharashtra Value Added Tax Rules, 2005;] [Clause (m-1) was inserted by Maharashtra 32 of 2006, Section 33(c), (w.e.f. 20.6.2006).](n)"Value of the goods" means the purchase value of the imported goods, that is to say, the purchase price at which the goods have been purchased inclusive of the cost of transportation, packing, forwarding and handling charges, commission, insurance, taxes, duties and the like excluding octroi or entry tax paid under any other law for the time being in force or if such goods are not purchased by the importer, the value of the goods as recorded in the documents accompanying the goods or the value of the goods as may be determined by the assessing authority having regard to the price at which goods of a like description and quality are ordinarily sold in the absence of any document.(2)Words and expressions used but not defined in this Act but defined in the [the Value Added Tax Act or the Maharashtra Value added Tax Rules, 2005] [These words and figures were substituted for the words and figures 'Sales Tax Act or the Bombay Sales Tax Rules, 1959' by Maharashtra 32 of 2006 Section 33(2) (w.e.f. 20.6.2006).] shall have the meanings respectively assigned to them under that Act or those Rules.

## Chapter II

## Registration, Levy of Tax and Establishment of Check Posts

### 3. Levy of tax.

(1)There shall be levied and collected a tax on the entry of the goods specified in column (2) of the Schedule, into any local area for consumption, use or sale therein, at the rates respectively specified against each of them in column (3) thereof and different rates may be specified in respect of different goods or different classes of goods or different categories of persons in the local area. The tax shall be levied on the value of the goods as defined in clause (n) of sub-section (1) of section 2. The State Government may, by notification in the Official Gazette, from time to time, add, modify or delete the entries in the said Schedule and on such notification being issued, the Schedule shall stand amended accordingly:Provided that, the rate of tax to be specified by the Government in respect of any commodity shall not exceed the rate specified for that commodity under the [the Value Added Tax Act] [These words were substituted for the words and figures 'Sales Tax Act, the Bombay Sales of Motor Spirit Taxation Act, 1958' by Maharashtra 32 of 2006 Section 34(a), (w.e.f. 20.6.2006).] or as the case may be, the Maharashtra Purchase Tax on Sugarcane Act, 1962:Provided further that, the tax payable by the importer under this Act shall be reduced by the amount of tax paid, if any, under the law relating to General Sales Tax in force in the Union Territory or the State, in which the goods are purchased, by the importer:Provided also that, no tax shall be levied and collected on specified goods entering into a local area for the purpose of such process as may be prescribed, and if such processed goods are sent out of the State.Explanation. - No tax shall be levied under this Act on entry of any fuel or other consumables contained in the fuel tank fitted to the vehicle for its own consumption while entering into any local area.(2)Notwithstanding anything contained in sub-section (1) there shall also be levied a tax in addition to the tax leviable in accordance with sub-section (1) on the entry of Petrol and High Speed Diesel Oil in any local area for

consumption, use or sale therein at the rate of one rupee per litre.(3)Any importer who is not liable for registration under this Act or rules made thereunder, shall not be liable to pay tax under this Act and any importer who during the course of any year becomes liable for registration under this Act shall not be required to pay the tax on any entry of goods effected by him into a local area immediately before the time he becomes so liable for registration.(4)The tax levied under sub-section (1) or (2) shall be payable by the importer in such manner and within such time as may be prescribed.(5)Notwithstanding anything contained in sub-section (1) or (2), no tax shall be levied on the specified goods, imported by a dealer registered under the [Value Added Tax Act] [These words were substituted for the words 'Sales Tax Act' by Maharashtra 32 of 2006, Section 34(b), (w.e.f. 20.6.2006).] who brings such goods into any local area for the purpose of resale in the State or sale in the course of inter-State trade or commerce or export out of the territory of India:Provided that, if any such dealer, after importing the specified goods for the purpose of resale in the State or sale in the course of inter-State trade or commerce or export out of the territory of India, consumes such goods in any form or deals with such goods in any other manner except reselling the same, he shall inform the assessing authority before the 25th day of the month, succeeding the month in which such goods are so consumed or dealt with and pay the tax, which would have been otherwise leviable under sub-section (1) or (2):[Provided further that, a sale in the course of inter-State trade or commerce or resale in the State shall not include a sale to which clause (b) of section 3 or, as the case may be sub-section (2) of section 6 of the Central Sales Tax Act, 1956, applies.] [This proviso was added by Maharashtra 13 of 2004, Section 59.](6)If any dealer having imported the specified goods for the ostensible purpose of resale or, as the case may be, sale, deals with such goods in any other manner or consumes the same and does not inform the assessing authority as provided in sub-section (5) or does not pay the tax as required under sub-section (5) within the specified period, the assessing authority shall assess the amount of tax which the dealer is liable to pay under sub-section (1) or (2) and also levy penalty equal to the amount of tax due.(7)The tax levied and collected under sub-section (1) and (2) shall be in addition to the tax levied and collected as octroi or entry tax by authority including the local authority, specified in sub-clauses (i) to (v) in clause (h) of sub-section (1) of section 2 in the State.

#### 4. Registration.

(1)(a)Every importer, who is liable to pay tax under this Act, shall, if he is a dealer registered or liable for registration under the Sales Tax Act, within such time as may be prescribed for the purpose, make an application in the prescribed form for registration under this Act to the assessing authority.(b)An importer, other than a dealer covered by clause (a) shall, if the value of the specified goods imported by him at any time in a financial year exceeds rupees ten thousand, within such time and in such form as may be prescribed, make an application for registration under this Act to the assessing authority.(2)The authority to whom an application is made under sub-section (1) on being satisfied that the application is in conformity with the provision of this Act and the rules made thereunder, shall register the applicant and grant the applicant a certificate of registration, in the prescribed form.(3)A registered importer may apply, in the prescribed manner, to the assessing authority for the cancellation of his registration and the said authority shall on being satisfied that the applicant has,-(a)ceased to be an importer; or(b)transferred the business in accordance with the provisions of sub-section (4) of section 19 of the Sales Tax Act, or(c)effected changes in the

ownership of the said business, or(d)disposed off the business wholly, or(e)discontinued any additional place of business, or(f)shifted the place of business outside the local area, cancel the certificate of registration and such cancellation shall take effect from the first day of the month succeeding the month in which the order of cancellation is passed.

## **5. Setting up of check posts.**

(1)The State Government may, by notification in the Official Gazette, establish a check-post at the entry point of every local area specifying in such notification also the officer who shall be in-charge of such check-post and his area of jurisdiction.(2)The Officer-in-charge of the check-post may require any person in-charge of a goods vehicle carrying the specified goods to stop the vehicle for checking, for such reasonable time as may be necessary.(3)The Officer-in-charge of the check post may inspect the goods being carried in the goods vehicle and the documents pertaining to the goods carried by the said person to ascertain whether any specified goods are being carried in the vehicle and whether they are being imported for the purpose of consumption, use or sale within the local area.

## **Chapter III**

### **Tax Authorities, Returns, Assessments, Payments, Recovery and Refund of Tax, Appeals, Review and Revisions**

## **6. Levy and collection of tax, penalties and interest.**

(1)Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, [review] [This word was substituted for 're-assess' by Maharashtra 32 of 2006, Section 35(1)(a), w.e.f. 20-6-2006.] collect and enforce payment of tax under the [Value Added Tax Act] [These words were substituted for the words 'Sales Tax Act' by Maharashtra 32 of 2006, Section 35(1)(b); (w.e.f. 20-6-2006).] shall assess, [review] [This word was substituted for 're-assess' by Maharashtra 32 of 2006, Section 35(1)(a), w.e.f. 20-6-2006.] collect and enforce payment of tax including any interest or penalty, payable by an importer under this Act, as if the tax or interest or penalty payable by such dealer or importer under this Act is a tax or interest or penalty payable under the Sales Tax Act; and for this purpose they may exercise all or any of the powers they have under the said Act and the provisions of that Act including provisions relating to returns, imposition of the tax liability of a person carrying on the business on the transferee of or successor to, such business, transfer or 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, recovery of tax from third parties, appeals, rectification, [review] [This word was substituted for the words 're-assessment revisions' by Maharashtra 32 of 2006, Section 35(1)(c) (w.e.f. 20-6-2006).], references, refunds, penalties, charging or payment of interest, inspection of business premises, seizure of documents, compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly.(2)All the provisions relating to offences, interest 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 under the Sales Tax Act shall, with necessary modifications, apply in relation to the assessment, [review] [This word was substituted for the word 're-assessment' by Maharashtra 32 of 2006, Section 34(2)(a) (w.e.f. 20-6-2006).] collection and the enforcement of payment of any tax required to be collected under this Act, or in relation to any process connected with such assessment, [review] [This word was substituted for the word 're-assessment' by Maharashtra 32 of 2006, Section 34(2)(a) (w.e.f. 20-6-2006).] collection or enforcement of payment as if the Tax under this Act was a tax under the [Value Added Tax] [These words were substituted for the words 'Sales Tax Act' by Maharashtra 32 of 2006, Section 35(b), (w.e.f. 20-6-2006).].

## **Chapter IV**

### **Offences and Penalties**

#### **7. Offences.**

(1)Any importer registered or liable to be registered under this Act, who,-(a)fails to pay, within the time allowed, any tax assessed or any penalty imposed or any interest levied on him under this Act, or(b)wilfully acts in contravention of the provisions of this Act or the rules made thereunder,shall, on conviction, be liable to be punished with fine which may extend to two thousand rupees.(2)Any importer registered or liable to be registered under this Act, who,-(a)wilfully submits an untrue return or fails to submit a return as required by the provisions of this Act or the rules made thereunder; or(b)fraudulently evades the payment of any tax and other amount due from him under this Act.shall, on conviction, be liable to be punished, if it is a first offence, with a fine which may extend to two thousand rupees, and if it is a second or subsequent offence, with simple imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.(3)Any person who makes any statement or declaration before any check-post officer or any authority including the assessing authority in connection with any imported goods specified in the Schedule or the movement or import of the said goods, which statement or declaration he knows or has reason to believe to be false, shall, on conviction, be liable to be punished with simple imprisonment, which may extend to six months or with fine which may extend to two thousand rupees or with both.(4)Any person, who is in any way knowingly concerned in any fraudulent evasion or attempt at evasion or abetment of evasion of any tax payable under this Act shall, on conviction, be liable to be punished with simple imprisonment, which may extend to six months or with fine which may extend to two thousand rupees or with both.

#### **8. Penalties.**

- Where any dealer or importer issues or produces a false bill or purchase or sale voucher, declaration, certificate or other document with a view to support or make any claim that he is not liable to be taxed under this Act, the assessing authority shall, on detecting that such document was false, direct the importer to pay as penalty,-(i)in the case of first such detection in any financial year, double the amount of tax levied or leviable in respect of such goods; and(ii)in the case of second and subsequent detection in the same financial year, an amount equal to three times the tax levied or leviable in respect of such goods:Provided that, an opportunity of being heard shall be afforded to

the importer before issuing any direction for the payment of penalty under this section.

## **Chapter V**

### **Miscellaneous**

#### **9. Indemnity.**

(1) No suit, prosecution or other legal proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done in good faith under this Act, without the previous sanction of the Government. (2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties imposed on him or in the discharge of the functions entrusted to him by or under this Act.

#### **10. Power to make rules.**

(1) The power to make rules under this Act shall be exercisable by the State Government, by notification in the Official Gazette, subject to the condition of previous publication of such rules: Provided that, when the rules are being made for the first time, the same may be made, dispensing with the condition of previous publication. (2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act, and such rules may include rules for levy of fees for any of the purposes of this Act. (3) Without prejudice to any provision made in this behalf, any rule made under this Act, may be made so as to be retrospective to any date not earlier than the day on which this Act comes into force. (4) In making any rules, the State Government, may direct that a breach thereof shall be punishable with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence. (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 rules 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 the notification in the Official Gazette, of such decision 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 done or omitted to be done under that rule.

#### **11. Removal of difficulties.**

(1) If any doubt or difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removal of the doubt or difficulty: Provided that, no such order shall be made after the expiry of a period of two years from

the date of commencement of this Act.(2)Every order made under this section shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

## 12. Repeal of Maharashtra Ordinance XI of 2002 and saving.

(1)The Maharashtra Tax on the Entry of Goods into Local Areas Ordinance, 2002, is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification issued or nomination, appointment or rules made) under the said Ordinance shall be deemed to have been done, taken, issued or made, as the case may be, under the corresponding provisions of this Act.[Schedule] [Schedule substituted by Maharashtra 32 of 2006 Section (w.e.f. 1.4.2005).][See section 2(1)(k) and 3(1)]

| Sr. No.(1) | Description of goods(2)  | Rate of tax(3)              |
|------------|--|-----------------------------|
| 1.         | High Speed Diesel Oil-   |                             |
|            | (a) imported local area of the Municipal Corporations of the Brihan Mumbai, Thane and Navi Mumbai; and   | 34% + one rupees per litre. |
|            | (b) imported into local area other than mentioned in clause(a) above.                                    | 31% + one rupees per litre. |
| 2.         | Aviation Turbine Fuel (Duty paid) (other than that covered by entry 3).                                  | 25%                         |
| 3.         | Aviation Turbine Fuel (Bonded)   | 30%                         |
| 4.         | Aviation Gasoline (Duty paid)  | 10%                         |
| 5.         | Aviation Gasoline (Bonded)   | 24%                         |
| 6.         | Any other kind of motor spirit,-   |                             |
|            | (a) imported into local area the Municipal Corporations of the Brihan Mumbai, Thane and Navi Mumbai; and | 30% + one rupees per litre. |
|            | (b) imported into local area other than mentioned in clause(a) above.                                    | 29% + one rupees per litre. |
| 7.         | Bitumen  | 12.5%                       |
| 8.         | Light diesel oil   | -do-                        |
| 9.         | Naphtha  | -do-                        |
| 10.        | Low Sulphur Heavy stock  | -do-                        |
| 11.        | Kerosene non-PDS   | -do-                        |
| 12.        | Furnace Oil including heavy furnace oil and residual furnace oil   | -do-                        |