

New Okhla Industrial Development Area (Levy of Amenities Tax) Regulations, 2002

UTTAR PRADESH

India

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Rule

NEW-OKHLA-INDUSTRIAL-DEVELOPMENT-AREA-LEVY-OF-AMENITIES of 2002

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New Okhla Industrial Development Area (Levy of Amenities Tax) Regulations, 2002Published vide Notification No. 1210/78-4-2001-130 (N)-89, dated 30th March, 2002, published in the U.P. Gazette, Extraordinary, Part 4, Section (Kha), dated 30th March, 2002[Regulations made under U.P. Industrial Area Development Act, 1976]In exercise of the powers under Section 19 read with sub-section (1) of Section 11 of the Uttar Pradesh Industrial Area Development Act, 1976 (U.P. Act No. 6 of 1976) and in suppression of the New Okhla Industrial Development Area (Levy of Amenities Tax) Regulations, 1992, the New Okhla Industrial Development Authority, with the previous approval of State Government, hereby make the following regulations for the levy, assessment and recovery of amenities tax on the sites and building within the New Okhla Industrial Development Area for providing, maintaining and continuing amenities within that area and for the matters connected therewith or incidental thereto.

1. Short title, extent and commencement.

(1)These regulations may be called the New Okhla Industrial Development Area (Levy of Amenities Tax) Regulations, 2002.(2)They shall apply to all site and buildings situated within such area as are provided with the amenities and of which a public notice is given in accordance with Section 44 of the Uttar Pradesh Urban Planning and Development Act, 1973.(3)They shall come into force with effect from the date of their publication in the Gazette.

2. Definitions.

- In these regulations, unless the context otherwise requires:-(a)"Act" means the Uttar Pradesh Industrial Area Development Act, 1976;(b)"Appeal Officer" means an officer deputed as Appeals Officer under Regulation 14;(c)"Area" means industrial development area of the New Okhla Industrial Development Authority to which these regulations apply;(d)"Assessing Officer" means an officer deputed as Assessing Officer under Regulation 4;(e)"Assessment Year" means the year commencing on the 1st day of April of a calendar year ending with the 31st day of March the year next following;(f)"Notice board" means notice board placed in the Administration Office of the Authority;(g)"Transferree or Occupier" includes the following : (i)An agent or trustee on account of being transferee or occupier;(ii)An agent, power of attorney or trustee who receives the rent of or is entrusted with the management of any site or building devoted to charitable purposes;(iii)A receiver or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of the transferee or occupier of the said site or building; and(iv)A mortgagee-in-possession;(h)"Authority" means New Okhla Industrial Development Authority a body corporate constituted under Section 3 of the Uttar Pradesh Industrial Area Development Act, 1976;(i)"Site" which is situated in the notified area of New Okhla Industrial Development Area, means-(i)in case of an individual plot, the total area of plot;(ii)in case of site of building, the entire area of the plot on which the building is constructed; and(iii)in case of multi-storied building the proportionate area of the plot in relation to the area of building or total covered area of the building whichever is more;But does not include those sites or sites of building where amenities are not provided by New Okhla Industrial Development Area.(j)Words and expression used, but not defined in these regulations and defined in the Uttar Pradesh Industrial Area Development Act, 1976 shall have the meaning as assigned to them in that Act.

3. Levy of tax.

- For the purpose of providing, maintaining and continuing amenities within the area, a tax on amenities hereinafter called the tax at the rate not exceeding one per cent per annum of the market value of site or site of building, shall be levied on all buildings and sites situated within the area.

4. Assessing Officer.

- For the purpose of assessment and collection of tax and disposal of objections submitted under Regulation 6, the Chief Executive Officer shall depute such number of Assessing Officers as he may consider necessary having regard to the quantum of work and allocate duties and region to them.

5. Assessment of tax.

- The Assessing Officer shall make an assessment of tax at the rate approved by the State Government payable on sites and buildings situated within the sector allotted to him on the basis of the market value of such site or site of building as the case may be and pass orders.

6. Preparation and finalisation of assessment list.

(1)The Chief Executive Officer shall cause an assessment list of all sites and buildings, which are situated in the area, to be prepared, containing-(a)description of the area in which the property is situated;(b)the details of the property, either by name or by number sufficient for identification;(c)the names of transferee or occupier, if known;(d)the value;(e)the amount of tax assessed thereon.For the purpose of making such assessment list, the Chief Executive Officer may from time to time depute any person or persons, and the person or persons so deputed may, for the purpose, make an inspection of any property concerned.(2)The Assessment List so prepared shall be displayed at the notice board and a public notice of it shall be given in one national and one local newspaper for inviting objections thereon within fifteen days from the date of its last publication.(3)Any transferee/occupier of a taxable property may within the aforesaid period of fifteen days, submit to the Chief Executive Officer objections in writing against the Assessment List prepared in clause (1).(4)The objections submitted under clause (3) shall be sent to the Assessing Officer for disposal. The Assessing Officer shall, after allowing the objector an opportunity of being heard in person or by agent to-(a)investigate and dispose of the objections; and(b)cause any amendment necessary in accordance with such result to be made in the Assessment List.(5)When all the objections submitted under clause (3) have been disposed of and all required amendments have been made in the Assessment List, and said list shall be displayed at the notice board and notice shall be given that the amended Assessment List may be seen at the notice board.(6)The amended Assessment List prepared after consideration of all the objections shall, subject to the result of appeal under Regulation 15, be final and conclusive.(7)A new Assessment List shall ordinarily be prepared in the manner prescribed under these regulations once in every five years.

7. Determination of Market Value.

- The Chief Executive Officer shall from time to time determine the market value of site or of building situated within the area on the basis of criterion given in the explanation to sub-section (1) of Section 11 of the Act and give public notice thereof.

8. Return of tax.

(1)The transferee or occupier of such site or building which is situated within the area to which amenities are being provided, maintained and continued by the Authority shall have the option to take recourse to self-assessment of tax relating to his site or building in the manner hereinafter provided.(2)The transferee or occupier of a site or building may calculate the market value, by the method prescribed by the authority, for such site or site of building or both for particular assessment year and the tax payable thereon and furnish a return of tax to the Assessing Officer of the region in which such site or building is situated by 30th day of June of the next following assessment year in Form 1 appended to these regulations.(3)The Assessing Officer shall, as soon as possible, on receipt of return of tax examine and investigate the accuracy of the contents thereof, and if he is satisfied that the return shows correct market value of the site or site of building to which it relates and the amount of tax has been correctly calculated he shall pass the order of assessment of tax accordingly.(4)If the Assessing Officer on examination and investigation of the

return is of the opinion that the market value of the site or site of building and the tax payable thereon has not been correctly calculated, he or his authorized representative shall by a notice call upon the transferee or occupier of such site or building to clarify the position and adduce evidence oral or documentary, if he so desires, within fifteen days of the issue of the notice and thereupon decide the correct market value of the site of building and tax payable thereon and pass the order of assessment of tax accordingly.(5)If the transferor or occupier of a site or building does not furnish the return of tax within the time specified under sub-regulation (2) of Assessing Officer, shall determine the market value of such site or site of building and the tax payable thereon and pass the order of assessment of tax.(6)The order of assessment of tax passed under sub-regulations (3), (4) or (5) shall be operative for a period of five years or a period mentioned in the assessment. After the expiry of the period fresh return of tax shall be furnished under sub-regulation (2).

9. Power of Entry.

- The Assessing Officer or any other person authorized by Chief Executive Officer may enter into or upon any site or site of building for the purposes specified in Section 16 of the Act.

10. Powers and functions of the Assessing/Appellate Officers.

- The Assessing/Appellate Officer shall have all powers to make inquiry, inspection and be authorised to do such acts, including site inspections, issuance of notice and consideration of such oral and documentary evidence, as may be necessary for him to ensure accurate assessment of the tax. He shall perform such other functions and discharge such other duties, as may be entrusted to him by the Chief Executive Officer by general or special order from time to time.

11. Payment of tax.

- The amount of tax shall be payable in two equal instalments-(a)in case of self-assessment, where the return of tax is accepted as correct, the first instalment as per self-assessment shall be payable on or before 31st day of August next following the year of assessment and the second instalment by last day of February next falling thereafter;(b)in other cases one half of the tax levied in respect of an assessment year shall be paid by 31st day of August and the rest on half by the last day of February next falling thereafter.

12. Interest on tax.

- If an assessee fails to make payment of the tax in accordance with the provisions of these regulations, he shall be liable to pay a simple interest on unpaid amount of tax at the rate of 18 per cent per annum, which shall in no case exceed the principal tax amount due.

13. Register of Site and Building.

- A register of all sites and building shall be maintained by the Assessing Officer. The register shall show the area and number of the site, the covered area of the buildings, the name of the occupier/transferee.

14. Appointment of Appeals Officer.

- The Chief Executive Officer shall depute such number of Appeals Officers as he considers necessary for the purpose of hearing and deciding appeals against the assessment of the tax.

15. Appeal against the Assessment.

(1) Any person aggrieved by an order of assessment of tax made by the Assessing Officer may, within 30 days from the date of communication of such order to him, prefer an appeal against the order of assessment to the Appeals Officers. (2) Where an appeal is preferred under sub-regulation (1), the Appeals Officer may, stay the enforcement of the assessment order, provided the assessee while filing the appeal pays to the Authority fifty per cent of the amount of assessed tax, and undertakes to pay the tax admittedly payable, on the dates specified in sub-regulation (1) of Regulation 11. If the assessee, fails to pay the tax in compliance of such undertaking, the stay order shall stand vacated. (3) The Appeals Officer may, after giving to the parties an opportunity of being heard, confirm, set aside or modify the order under appeal or remand the case, and the decision of the Appeals Officer shall, without prejudice to any remedy available to the transferee or occupier under any other law for the time being in force, be conclusive, final and binding on the transferee or occupier and the authority.

16. Recovery of tax.

- The tax, unless already paid, may be recovered from the defaulter by the following process in the manner provided hereinafter-(i) by presenting a bill; (ii) by serving a written notice of demand; (iii) by distraint and sale of a defaulter's movable property; (iv) by the attachment and sale of defaulters immovable property; (v) by the attachment of rent due in respect of any property of the defaulter; and (vi) by a suit.

17. Presentation of Bill.

(1) As soon as a person become liable for the payment of any sum on account of a tax, Assessing Officer shall, with all convenient speed, cause a bill to be presented to the person so liable. Explanation. - A person shall be deemed to have become liable for the payment of tax immediately on the expiry of the period in respect of which such tax is payable. (2) Every such bill shall specify the period for which and the site or building in respect of which, the tax is payable.

18. Notice of demand.

- If the sum for which a bill has been presented as aforesaid is not paid into the office of the Authority, or to any officer empowered in that behalf to receive such payments, within thirty days from the date of presentation thereof, the Assessing Officer may cause to be served upon the person liable for the payment of said sum, a notice of demand in Form 2 appended to these regulations.

19. Issue of Warrant.

(1) If the person liable for the payment of the said sum does not pay within fifteen days from the service of such notice of demand either-(a) show cause to the satisfaction of the Chief Executive Officer or the Assessing Officer, why he should not pay the same; (b) such sum with all costs of the recovery may be recovered under a warrant caused to be issued by the Assessing Officer in Form 3 appended to these regulations or by an order to the like effect by distress and sale of the movable property of the defaulter. (2) Every warrant issued under this regulation shall be signed by the Assessing Officer.

20. Manner of executing warrant.

(1) It shall also be lawful for any officer of the Authority empowered in that behalf by the Chief Executive Officer to distrain wherever, it may be found, any movable property of the person therein named as defaulter, subject to the provisions of sub-regulations (2) and (3). (2) The following property shall not be distrained: (a) the necessary wearing apparel and bedding of the defaulter, his wife and children; (b) the tools of an artisan; (c) books of accounts; (d) where the defaulter is an agriculturist, his implements of husbandry, seed, grain and such cattle as may be necessary to enable him to earn his livelihood. (3) The distress shall not be excessive, that is to say, the property distrain shall be as nearby as possible equal in value to the amount recoverable. (4) The officer concerned shall on seizing the property, forthwith make an inventory thereof, and shall, before removing the same give to the person in possession thereof at the time of seizure a written notice in Form 4 appended to the regulations that the said property will be sold as shall be specified in such notice.

21. Sale of goods under warrant and application of proceeds.

(1) When the property seized is subject to speedy and natural decay or when the expense of keeping it in custody together with the amounts to be recovered is likely to exceed its value, the officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was seized, to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant is forthwith paid. (2) If not sold at once under sub-regulation (1) the property seized, or a sufficient portion thereof, may, on the expiration of the time specified in the notice served by the officer executing the warrants, be sold by public auction under the orders of the Chief Executive Officer unless the warrant is suspended by the person who signed it or the sum due from the defaulter is paid together with all costs incidental to the notice, warrant, and distress and

detention of the property.(3)The Assessing Officer shall apply the sale proceeds or such part thereof as shall be sufficient to discharge the amount of tax due and the costs of recovery and the surplus, if any, shall be paid to the defaulter as early as possible.

22. Attachment and sale of immovable property.

(1)Where the Chief Executive Officer or any other officer authorised by him in that behalf so directs, the Assessing Officer may, in a case where the amount of tax due has not been recovered in whole or part, cause the attachment and sale of the defaulters immovable properties.(2)The attachment of immovable properties in such case shall be made by an order prohibiting defaulter from transferring or charging the land or building, as the case may be, or both in any way, and all persons for taking any benefit out of such transfer or charge, and declare that the site or building or both shall be sold unless the amount of tax due, together with the costs of recovery are paid into the office of the Authority within a period of fifteen days from the date of the attachment. A copy of such order shall be fixed on a conspicuous part of the site or building, as the case may be.(3)The transfer of property under attachment shall not be treated as valid without the prior permission of the Chief Executive Officer or any Officer authorised in this behalf, and such transfer shall be at the risk of the transferee, he will be liable to pay the tax due on the property in question.

23. Sale of Immovable Property.

(1)If the amount due is not paid within the period specified in sub-regulation (2) of Regulation 22, the immovable property or a necessary portion thereof may be sold by public auction by order of the Chief Executive Officer unless the recovery is suspended by him or sum due and the costs of recovery are paid by the defaulter. The Assessing Officer shall apply the sale proceeds or such part thereof as shall be sufficient to discharge the amount of tax due and the cost of recovery, the surplus, if any shall be refunded to the defaulters as early as possible.(2)Where the full sum due and the cost of recovery are paid by the defaulter before a sale is effected, the attachment of immovable property shall be withdrawn.

24. Attachment of Rent.

(1)Where a bill for any amount due on account of tax is served upon occupier of the site or building pursuant to Regulation 17, the Assessing Officer may at the time of service thereof or on any subsequent time, cause to be served upon the transferee or occupier a notice requiring him to pay the Authority and rent due or falling due from him to the transferee or occupier, to the extent necessary to satisfy the amount due.(2)Such notice shall operate as an attachment of the said rent until the said amount due shall have been paid and satisfied and the occupier shall be entitled to credit the amount with transferee or occupier for any sum paid by him to the Authority in pursuance of such notice.(3)If the occupier shall fail to pay to the authority any rent due or falling due which he has been required to pay in pursuance of a notice served upon him as aforesaid, the amount of such rent may be recovered from him by the Assessing Officer as if it were an arrear of tax.

25. Deputing of Senior Administrative Officer.

(1)The Chief Executive Officer may having regard to the administrative capability and general suitability of an officer, depute him as Senior Administrative Officer (Amenities).(2)In order to assist the Senior Administrative Officer (Amenities), the Chief Executive Officer shall place at his disposal such officers and members of the staff, with such designations as he may consider fit and expedient.

26. Authorising Directions to be followed.

- The Senior Administrative Officer and all officers and members of his staff shall be guided by such general or special directions as may be issued by the Authority from time to time.

27. Amenities to be under the control of Chief Executive Officer.

- The Amenities Staff shall work under overall control of the Chief Executive Officer and submit report to him every month.

28. Constitution of the Amenities Advisory Committee.

(1)The Authority in order to promote and seek public participation and with a view to inviting suggestions in relation to the maintenance and continuance of amenities within the area may constitute a Committee to be called 'Amenities Advisory Committee'.(2)The Amenities Advisory Committee shall consist of the following members:(a)the Chief Executive Officer or any person nominated by him as the Chairman of the Committee;(b)three persons as the Authority may, from time to time nominate having regard to the exigencies of the situation;(c)such number of persons not exceeding three to be nominated by the State Government as members.(3)The members of the Amenities Advisory Committee referred to in clause (b) and clause (c) of sub-regulation (2) above shall hold office for five years, as may be specified at the time of their nomination.While nominating members under clause (b) of sub-regulation (2), the authority shall have due regard to the representation of the New Okhla Industrial Development Authority's entrepreneurs and the persons residing or entrusted with the responsibility of running educational institutions or carrying on activities of public interest therein.(4)The Amenities Advisory Committee shall meet once in every three months or at such intervals as the Chief Executive Officer may consider expedient on matters relating to maintenance and continuance of the amenities within the area.

Form 1[Regulation 8 (2)]Form of Self-Assessment of tax

1. Assessment Year :

2. Property No. :

3. Area of site/site of building :

4. Transferee or occupier of a site or building :

5. Correspondence Address :

6. Market Value of site/site of building as per prescribed rates by Authority :

7. Total value of site or site of building :

8. Tax payable as per prescribed rates of Authority :

Signature of OwnerDeclarationI hereby certify that the abovementioned details are complete, true to the best of my knowledge and belief.DateSignature of OwnerForm 2(Regulation 18)Form of the Notice of DemandTo,A.B. residing at..... take notice that the Authority..... demand from..... the sum of..... due from on account of (here described the property, occupation, circumstances or thing in respect of which the sum is leviable) under..... for the period of..... commencing on the..... day of..... 20..... and ending of the day of..... 20..... and that is within fifteen days from the service of this notice, the said sum is not paid into the Authority office at..... for sufficient cause for non-payment is not shown to the satisfaction of the Authority, a warrant of distress will be issued for the recovery of the same with costs.Dated this..... day of.....

20.

.....(Signed)By order of the Authority ofForm 3[Regulation 19 (1)]Form of Warrant(Here insert the name of the officer charged with the execution of the warrant)Whereas A, B of has not paid..... and has not shown satisfactory cause for the non-payment of, the sum of due for the liability..... mentioned in the margin for the period..... commencing on the day of..... 2002 and ending with the day of..... 2002 and leviable under.....;And whereas fifteen days have elapsed since the service on him of notice of demand for the same;This is to command you to distrain, subject to the provisions of Regulation 19 of New Okhla Industrial Development Area (Levy of Amenities Tax) Regulation, 1997 the goods and chattels of the said A.B., to the amount of being the amount due from him as follows :On account of the said liability.....For service of notice.....;And forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.Dated this..... day of..... 20.....(Here described the liability)Form 4[Regulation 20 (4)]Form of Inventory of Goods Distrained and Notice of SaleTo,A, B. residing at..... take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of..... due for the liability (here describe the liability) mentioned in the margin for the period commencing with the..... day of..... 2002 and ending with the..... day of..... 2002 together with due for service of notice of demand, and that unless within fifteen days from the date of the service of this notice you pay into

the Authority office at..... the said amount together with the costs of the recovery, the said goods and chattels will be sold, with due for service of notice of demand, and that unless within fifteen days from the date of the service of this notice you pay into the Authority office at..... the said amount together with the costs of the recovery, the said goods and chattels will be sold. Dated this..... day of..... 20..... (Signature of Officer Executing the warrant) (Inventory) (Here state particulars of goods and chattels seized.)