

M.P. Motor Spirit Upkar Adhiniyam, 2018

MADHYA PRADESH

India

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Act 11 of 2018

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M.P. Motor Spirit Upkar Adhiniyam, 2018(M.P. Act No. 11 of 2018)[Received the assent of the Governor on the 3.4.2018; assent first published in the "Madhya Pradesh Gazette (Extraordinary)", dated the 5th April, 2018.]An Act to levy cess on sale of motor spirit (commonly known as petrol) in the State of Madhya Pradesh for the purpose of providing fund for development of urban transport infrastructure in the State of Madhya Pradesh or for repaying the loan taken therefor.Be it enacted by the Madhya Pradesh Legislature in the sixty-ninth year of the Republic of India, as follows :-

1. Short title, extent and commencement.

(1)This Act may be called the Madhya Pradesh Motor Spirit Upkar Adhiniyam, 2018.(2)It extends to the whole of the State of Madhya Pradesh.(3)It shall come into force on the date of its publication in the Madhya Pradesh Gazette.

2. Definitions.

(1)In this Act, unless the context otherwise requires, -(a)"cess" means the cess payable on the taxable turnover of motor spirit levied under section 3;(b)"dealer" means any person who carries on the business of buying, selling, supplying or distributing motor spirit;(c)"registered dealer" means a dealer registered under this Act;(d)"rules" means rules made under this Act;(e)"tax" means tax and additional tax payable under the VAT Act;(f)"taxable turnover" in relation to a dealer means that part of dealer's turnover which remains after deducting therefrom the sale price of motor spirit at the hands of the registered dealer from whom it has been purchased, subject to the condition that the selling registered dealer has paid cess on such sale price;(g)"turnover" means aggregate of the amount of sale prices received and receivable by a dealer in respect of any sale or supply or distribution of motor spirit including the amount of tax as defined in clause (e);(h)"VAT Act" means the Madhya Pradesh VAT Act, 2002 (No. 20 of 2002).(2)Words and expressions used herein and not defined but defined in the VAT Act, shall have the meanings respectively assigned to them in that Act.

3. Levy and collection of cess.

(1) For the purpose of providing fund for the development of urban transport infrastructure in the State of Madhya Pradesh, there shall be levied and collected a cess on the taxable turnover of motor spirit of a dealer, within the State. (2) The cess under sub-section (1) shall be levied for such period as notified by the State Government at the rate of one percent of the taxable turnover of such motor spirit, in such manner as may be prescribed. (3) The cess levied under sub-section (1) shall be payable by the dealer;

4. Local Authorities Fund.

(1) The proceeds of the cess and interest (other than fines) recovered under this Act shall first be credited to the Consolidated Fund of the State and after deduction of the expenses of collection and recovery therefrom shall, under appropriation duly made by law in this behalf, be entered in, and transferred to, separate fund called the Madhya Pradesh Urban Transport Infrastructure Development Fund. (2) The amount transferred to the Madhya Pradesh Urban Transport Infrastructure Development Fund shall be expensed for the development of urban transport infrastructure within the State or for repaying the loan taken therefor.

5. Incidence of cess.

- Every dealer liable to pay tax on motor spirit under VAT Act shall be liable to pay cess on his taxable turnover of motor spirit under this Act.

6. Payment of cess.

- The cess levied under section 3 shall be payable by the dealer in such manner as may be prescribed.

7. Registration.

- Every dealer registered under the VAT Act dealing in motor spirit shall be deemed registered dealer under this Act.

8. Refund in certain circumstances.

- Where cess under section 3 is levied and collected on the taxable turnover of motor spirit and such motor spirit is subsequently sold by a dealer in the course of inter-State trade or commerce or exported out of the territory of India, the dealer shall, upon an application made in this behalf and subject to such conditions as may be prescribed, be entitled to refund of cess in respect of such sale by him of the motor spirit.

9. Liability of firms.

- Where a business is owned, managed or run by a firm, the firm and each of the partners of the firm shall jointly and severally be liable to pay cess under this Act: Provided that where any partner retires from the firm he shall be liable to pay the cess, penalty, interest or any other amount payable under this Act remaining unpaid at the time of his retirement, and any cess due up to the date of his retirement even if assessment of cess, or levy of penalty or interest is made at a later date.

10. Cess Authorities.

- For carrying out the purposes of this Act, the officer and authorities appointed under VAT Act shall be deemed to be the officers appointed under the provisions of this Act. ^

11. Delegation of powers.

- Subject to the general or special orders of the State Government, the Commissioner may delegate any of the powers conferred upon him by or under this Act to any person appointed to assist him under section 10.

12. Powers to transfer proceedings.

- The Commissioner may, after due notice to the dealer, by order in writing, transfer any proceedings or class of proceedings under any provisions of this Act or the rules made thereunder, from himself to any other officer and he may likewise transfer any such proceedings (including proceeding already transferred under this section) from one such officer to another officer or to himself.

13. Certain provisions of VAT Act to apply.

- Subject to the provisions of this Act and the rules made thereunder, the provisions of the VAT Act and the rules made, orders and notifications issued thereunder, including the provisions relating to registration, determination of liability to pay tax, returns, assessment, self-assessment, reassessment, payment and recovery of tax, accounts, detection and prevention of tax evasion, refund, appeal, revision, rectification, offences and penalties and other miscellaneous matter, shall mutatis mutandis apply to a dealer in respect of cess, interest or penalty levied and payable under this Act as if these provisions were mutatis mutandis incorporated in this Act, and it shall be deemed that the rules made and orders and notifications issued under those provisions were mutatis mutandis made or issued under the relevant provisions as so incorporated in this Act.

14. Certain sales not liable to cess.

(1) Nothing in this Act or the rules made thereunder, shall be deemed to impose or authorize the imposition of a cess on any turnover of motor spirit where such sales take place. (a) outside the State

of Madhya Pradesh, or(b)in the course of the import of such motor spirit into the territory of India or the export of the goods out of such territory, or(c)in the course of inter-State trade or commerce, or(d)where such sale is made to unit located in a Special Economic Zone notified by the Central Government under the provisions of the Special Economic Zones Act, 2005 (No. 28 of 2005).(2)For the purpose of this section, where a sale takes place -(a)outside the State of Madhya Pradesh, or(b)in the course of import of the goods into the territory of India or the export of the goods out of such territory, or(c)in the course of inter-State trade or commerce, it shall be determined in accordance with the principles specified in sections 3, 4 and 5 of the Central Sales Tax Act, 1956 (No. 74 of 1956).

15. Power to make rules.

(1)The State Government may make rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, the State Government may make rules prescribing. -(a)the form and the manner in which the returns shall be filed;(b)the form and the manner in which and the period before which cess shall be paid;(c)the form in which the order of assessment shall be passed;(d)the form in which notice of demand shall be issued.(3)All rules made under this section shall be laid on the table of the Legislative Assembly.

16. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may. by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as appear to be necessary or expedient for removal of the difficulty.

17. Repeal and saving.

(1)The Madhya Pradesh Motor Spirit Upkar Adhyadesh, 2018 (No. 2 of 2018) is hereby repealed.(2)Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provision of this Act.