

The Gujarat Mineral Rights Tax Act, 1985

GUJARAT

India

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Act 19 of 1985

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The Gujarat Mineral Rights Tax Act, 1985 Gujarat Act No. 19 of 1985 [Dated 3rd August, 1985] For Statement of Objects and Reasons, see Gujarat Government Gazette, Extraordinary, Part V, dated the 25th July, 1985, pp. 43-8 to 43-9. This Act was assented to by the Governor on the 2nd August, 1985. An Act to provide for levy and collection of tax on mineral rights of holders of mining leases in respect of certain minerals in the State of Gujarat. It is hereby enacted in the Thirty-sixth Year of the Republic of India as follows.-

1. Short title, extent and commencement.

(1) This Act may be called the Gujarat Mineral Rights Tax Act, 1985. (2) It extends to the whole of the State of Gujarat. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a) "holder" means a holder of a mining lease in respect of a specified mineral for which he holds such mining lease and includes his agent, manager, employee, contractor or sub-lessee; (b) "tax" means a tax on mineral rights levied under Section 3; (c) "Taxation Officer" means such officer as the State Government, may by notification in the Official Gazette, appoint to be the Taxation Officer for the whole State or for any area or areas for the purposes of this Act, and the State Government may appoint more officers than one as Taxation Officer for the whole of the State or for any area; (d) "prescribed" means prescribed by rules made under the Act; (e) "specified mineral" means mineral specified in the Schedule; (f) the words "mineral" and "mining lease" shall have meaning respectively assigned to them in the Mines and Mineral (Development and Regulation) Act, 1957 (37 of 1957).

3. Levy and collection of tax on mineral rights.

- On and from the commencement of this Act, there shall be levied and collected a tax on mineral rights at such rates not exceeding the maximum specified in column 2 of the Schedule against minerals specified in column 1 of that Schedule, as the State Government may, from time to time by notification in the Official Gazette, fix.

4. Liability to pay tax.

- The tax shall be leviable on the holder of the mining lease in respect of a specified mineral for which he holds such mining lease.

5. Submission of returns.

(1)The holder liable to pay tax under Section 4 shall, in respect of every specified mineral, deliver or cause to be delivered to Taxation Officer a return in such form and in such manner and at such intervals as may be prescribed.(2)Different intervals may be prescribed in respect of different specified minerals.(3)If any holder having furnished a return under this section discovers any omission or incorrect statement therein he may furnish at any time before the amount of tax is assessed a revised return.

6. Payment of tax.

- The tax payable in respect of any month in accordance with the returns or revised returns submitted under Section 5 shall be paid into a district treasury or in such other manner as may be prescribed, by the holder and the receipts, if any, evidencing such payment shall be forwarded by such holder to the Taxation Officer on or before such date or dates of the months immediately succeeding as may be prescribed and applicable to him.

7. Assessment of tax.

(1)The Taxation Officer when satisfied on the material before him that the returns including a revised return, if any, made under the foregoing provisions for a month are correct and complete, shall proceed to assess the amount of tax payable by the holder to the State Government in respect of the period for which the return is made.(2)If the Taxation Officer is not so satisfied he shall serve a notice on the holder either to attend in person at his office on a date specified in the notice or to produce or cause to be produced on that day any evidence on which the holder relies in support of his return.(3)For the purpose of assessing the amount of tax payable by a holder under this Act, the Taxation Officer may serve on the holder a notice requiring him to produce on a date specified in the notice such accounts, records and other document as the officer may require.(4)The Taxation Officer after considering such evidence as the holder may produce, and such other evidence as that officer may require, shall by an order in writing assess the amount of tax payable by the holder.

8. Taxation Officer to assess tax when return not made.

- Where any holder fails to submit a return under Section 5 in respect of any month or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (3) of Section 7, the Taxation Officer shall assess the amount of tax payable by the holder for the month to the best of his judgement.

9. Tax escaping assessment.

- Where the Taxation Officer has reason to believe that any tax leviable under this Act for any period has remained unassessed, he may, at any time within one year after the end of that period, serve on the holder a notice requiring him to furnish such information (including any return in accordance with the provisions of Section 5) as may be specified in the notice, and may after making such inquiry as he may consider necessary, proceed to assess the amount of such tax; and the other provisions of this Act, shall, so far as may be applicable as if the holder had furnished the return in accordance with Section 5.

10. Payment of tax assessed.

- The amount of tax assessed and remaining unpaid under the foregoing provisions of this Act shall be paid by the holder to the Taxation Officer on or before such dates and in such manner as may be prescribed.

11. Recovery of tax, etc.

(1) Where any tax or penalty or both are due under the provisions of this Act, the Taxation Officer shall serve upon the holder a notice of demand in the prescribed form specifying the sum so payable to the State Government. (2) Where any sum specified as payable in the notice of demand is not paid within one month from the date on which the notice was served on the holder, such sum shall be recoverable as arrears of revenue.

12. Appeal.

(1) Any holder who is aggrieved by notice of demand served on him under Section 11 may, within thirty days of the service thereof, appeal to the prescribed authority: Provided that no appeal shall be entertained unless it is accompanied by the proof of the payment of the tax admitted by the appellant to be due and of payment of such fees as may be prescribed. (2) Subject to such rules of procedure as may be prescribed, the prescribed authority may, after giving an opportunity of being heard pass such order on the appeal as such authority thinks just and proper.

13. Revision.

- The State Government or such officer not below the rank of Deputy Secretary designated by the State Government in this behalf may suo motu or on the application submitted by the aggrieved person within four months of the date of passing of any order by any officer or authority under this Act call for and examine the record thereof for the purpose of satisfying itself or himself as to the legality or propriety of any order so passed therein and pass such order thereon as it or he thinks just and proper: Provided that no record of any proceeding under this sub-section shall be called for, - (i) in a case where an appeal from the order passed therein has been filed, when such appeal is pending, and (ii) in a case where an appeal has not been filed from such order, before the expiry of time prescribed for filing appeal. (2) No order which adversely affects any person shall be passed under this section unless such person has been given reasonable opportunity of being heard. (3) No order shall be revised under sub-section (1) by the State Government or the designated officer suo motu and no application under that sub-section by an aggrieved person for revision of any order shall be entertained by the State Government or the designated officer after the expiry of two years from the date of such order. Explanation. - In computing the period of limitation for the purpose of this subsection, - (a) any period during which the record of any proceeding shall not be called for under the proviso to sub-section (1), and (b) any period during which any proceeding under this section is stayed by an order or injunction of any Court, shall be excluded.

14. Refund of excess payment.

(1) The Taxation Officer shall refund to a holder, in such manner as may be prescribed, the amount of tax and penalty (if any) paid by such holder in excess of the amount due from him from time to time. (2) The refund under sub-section (1) may at the option of the holder be by deduction of such excess from the amount of tax and penalty (if any) due from him in respect of any other period: Provided that, the Taxation Officer shall before making any such refund first apply such excess towards the recovery of any amount due in respect of which a notice under Section 11 has been served on the holder.

15. Maintenance of account and register.

- Every holder shall keep and maintain accounts and registers in such forms as may be prescribed in respect of any specified mineral removed or consumed by him from the leased area.

16. Power to order production of accounts, etc.

- The Taxation Officer or any other officer empowered in this behalf by the State Government, may, for the purpose of assessing tax or for any of the purposes of this Act by order require any holder to produce before him such accounts, registers and documents, and to furnish such information relating to the removal or consumption by him of any specified mineral as may be specified in the order.

17. Power of entry and inspection.

(1) For the purpose of verifying whether the provisions of this Act or any rules made thereunder are being complied with, any officer authorised by the State Government in this behalf may, - (a) at all reasonable times enter and inspect any mine or any areas of mining lease granted to a holder; (b) survey and take measurements in any such area or mine; (c) weigh or take measurements of stocks of any specified mineral lying at any such area or mine; (d) examine any documents, book, register or record in the possession or power of any person having the control of or connected with any area of mining lease or any mine and place marks of identification thereon and take extracts from or make copies of such documents, book, register or record; (e) order the production of any such document, book, register or record referred to in clause (d); and (f) examine any person having the control of or connected with any area of mining lease or any mine. (2) All searches made under sub-section (1) shall be in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

18. Penalty for non-payment of tax.

- Any holder failing, without reasonable cause, to pay tax within time under the provisions of this Act shall be liable to pay in addition to the amount of the tax a sum not exceeding twenty five per cent, thereof as penalty.

19. Offences and penalties and competent Court.

(1) Any person who - (a) being a holder (i) submits or allows or causes to be submitted an incorrect or incomplete return or fails to submit a return as required by or under any provisions of this Act; or (ii) fraudulently evades or allows to be evaded, the payment of any tax due from him; or (iii) fraudulently makes or causes or allows to be made any wrong entry in or fraudulently omits or causes or allows to be omitted any entry from, any statement submitted, or any accounts or register; or (b) (i) obstructs any officer exercising the powers Section 17; (ii) wilfully acts in contravention of any of the provisions of this Act or the rules or any lawful orders passed in accordance therewith shall, on conviction be punished with fine which may extend to one thousand rupees, and if the Magistrate so directs in his order shall be liable to pay in addition as if it were a fine, such specified amount as the Magistrate may determine to be the amount the payment of which he had evaded. (2) No offence punishable under this Act shall be inquired into or tried by any Court inferior to that of a Magistrate or the first class and except on a complaint made by the Taxation Officer or by any other officer authorised in that behalf by the State Government by a general or special order.

20. Offences by companies.

(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and be punished accordingly: Provided that, nothing

contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purpose of this section-(a)"company" means a body corporate, and includes a firm or other association of individuals; and(b)"director" in relation to a firm means a partner in the firm.

21. Compounding of offences.

(1)The Taxation Officer may, either before or after the institution of proceedings for any offence punishable under Section 20, accept from any person charged with such offence by way of composition of the offence, where the offence charged consists of the evasion of payment of tax, a sum of money not exceeding double the amount of the tax recoverable, in addition to the amount of tax so recoverable; and in any other case, a sum of money not exceeding five hundred rupees.(2)On the payment of such sum as may be determined by the Taxation Officer under sub-section (1), if any criminal proceeding have been instituted against such person in respect of the offence, the composition shall be deemed to amount to an acquittal, and no further proceedings shall be taken against such person in respect of the same offence.

22. Protection of action taken in good faith.

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

23. Power of State Government to make rules.

(1)The State Government, may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing provisions such rules may be made for all or any of the following matters, namely.-(a)the form and manner in which and intervals at which a return shall be delivered or cause to be delivered under sub-section (1) of Section 5;(b)the manner in which the tax shall be paid and the date or dates of the month on or before which the receipt evidencing such payment shall be forwarded, under Section 6;(c)the dates on or before which and manner in which the amount of tax assessed and remain unpaid shall be paid under Section 10;(d)the form in which a notice of demand shall be served upon the holder under sub-section (1) of Section 11;(e)the fees to be paid for appeal under sub-section (1) and the rules of procedure subject to which the prescribed authority may pass an order on appeal under sub-section (2) of Section 12;(f)the manner in which the amount of tax and penalty, if any, shall be refunded to a holder under sub-section (1) of Section 14;(g)the forms in which accounts and registers in respect of specified minerals removed or consumed from the leased area shall be kept

and maintained under Section 15;(h)any other matters which is to be or may be prescribed under this Act.(3)The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the conditions of the rules being made after previous publication(4)All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the Legislature, or to such modification as the Legislature may make during the session in which they are so laid, or the session immediately following.(5)Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

Schedule

(See Section 3)

Mineral	Maximum rate of tax per metric tonne removed or consumed by the /from the leased area. Rs.
1.	2.
Quartz	4
Silica Sand	4
Calcareous sand	25
China clay	4
Dolomite	10
Fireclay	4
Bauxite	10
Latarite	10
Lignite	25
Limestone	25
Flourspar	25