

Maharashtra Sales Tax on the Transfer of property in goods involved in the execution of Works Contracts (Re-enacted) Act, 1989

MAHARASHTRA

India

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Rule

MAHARASHTRA-SALES-TAX-ON-THE-TRANSFER-OF-PROPERTY-IN- of 1989

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Maharashtra Sales Tax on the Transfer of property in goods involved in the execution of Works Contracts (Re-enacted) Act, 1989Last Updated 4th December, 2019

Chapter I Preliminary

1. Short Title, Extent and Commencement.

(1)This Act may be called the Maharashtra Sales Tax on the Transfer of property in goods involved in the execution of Works Contracts (Re-enacted) Act, 1989.(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 1986.

2. Definitions.

- In this Act, unless the context otherwise requires,(1)(a)"appointed day" means the 1st day of October 1986;(b)"Bombay Sales Tax Act" means the Bombay Sales Tax Act, 1959;(c)"Commissioner" means the person appointed to be the Commissioner of Sales Tax under the Bombay Sales Tax Act;(d)"dealer" means any person who, whether for valuable consideration, commission,

remuneration or otherwise, transfers property in goods involved in the execution of works contracts and includes -any State Government and the Central Government which so transfers such property in goods, and any society, club, or association of persons which so transfers the property in goods to its members;(e)"declared goods" means declared goods as defined in the Central Sales Tax Act, 1956;(f)[***] [Clause (f) deleted and shall be deemed always to have been deleted by Maharashtra 12 of 1995 Section 13, (a).](g)"person" includes any company or body of individuals whether incorporated or not, a Hindu undivided family, a firm, a local authority and also a corporation, company, body or authority owned or set-up by, or subject to administrative control of the Central Government or any State Government;(h)"prescribed" means prescribed by rules;(i)"purchase price" means the amount of valuable consideration paid or payable by a person for purchase of any goods in relation to execution of works contract, effected in the State or in the Course of inter-State trade or commerce or in the course of import including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof and will also include the cost of freight, transit or insurance and any taxes, duties, cesses and fees paid or payable in respect of such goods, whether charged separately or not;(j)"registered dealer" means a dealer registered under section 8;(k)"rules" means rules made under this Act;(l)"sales" means a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract in the State; and the word "sell" with all its grammatical variation and cognate expressions shall be construed accordinglyExplanation. - "For the purposes of this clause, the transfer of property in the goods involved in the execution of a works contract shall be deemed to have taken place in the State, if the goods so transferred are within the State at the time of their use, application or, as the case may be, appropriation in the execution of the works contract, irrespective of the place where the agreement for works contract is made and whether the consent of the other party is prior or subsequent to such use, application or appropriation;(m)["Sale price" means [Clause (m) was substituted by Mah Act No 12 of 1995 and shall be deemed to have been always so substituted.](i)the amount of purchase price of the goods or, as the case may be, the value of the goods, brought or transferred from a place outside the State where such goods are sold in the same form in which they were purchased, brought or transferred, and(ii)where the goods have been sold in the form other than the form in which they were purchased or, as the case may be, brought or transferred from a place outside the State, then the purchase price of the goods or, as the case may be, the value of the goods brought or transferred from a place outside the State, and so sold,](m1)["Schedule" means the Schedule to this Act.] [Inserted by Maharashtra 28 of 1991, section 2.](n)"State" means the State of Maharashtra;(ni)[tax means the tax payable under this Act and includes a lump sum amount by way of composition payable. in lieu of the amount of tax.] [Clause (ni) inserted by Maharashtra 17 of 1993 Section 9 w.e.f. 1.1.1992.](o)"turnover of purchases" means the aggregate of the amounts of purchase price paid or payable by a dealer in respect of purchase of any goods in relation to the execution of works contract, made by him during any period, after deducting the amount of purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period;(p)"turnover of sales" means the aggregate or the amount of sale price received or receivable by a dealer in respect of any transfer of property in goods involved in the execution of any works contract whether executed fully or partly during any period(q)"Year", (i)means the financial year, (ii)in relation to any particular registered dealer for the purposes of this Act (except sections 3 and 8), means the year by reference to which the accounts of that dealer are ordinarily maintained in his books, but the dealer may by written

declaration made by him in this behalf opt for the financial year: Provided that, where an option has once been exercised by a registered dealer, he shall not, except with the consent of the Commissioner and upon such condition as the commissioner may determine, make any variation in respect thereof; (2) Works used in this Act but not defined shall have the same meaning as assigned to them under the Bombay Sales Tax Act.

Chapter II

Incidence and Levy of Tax

3. Incidence of Tax.

(1) Every dealer whose turnover either of all purchases or of all sales, made during "(a) the year ending on the 31st day of March 1986, or (b) the year commencing on the 1st day of April 1986, has exceeded or exceeds the limits of rupees two lakhs, shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act on his turnover of sales made on or after the appointed day provided that, a dealer to whom sub-clause (a) does not apply but sub-clause (b) applies and whose turnover either of all purchases or sales first exceeds the limit of rupees two lakhs after the appointed day shall not be liable to pay tax in respect of such sales which take place up to the time when his turnover of purchases, or his turnover of sales as computed from the 1st day of April 1986 does not exceed such limit. (2) Every dealer whose turnover either of all purchases or of all sales made, during any year commencing on the 1st day of April, being a year subsequent to the years mentioned in subsection (1), first exceeds the limit specified in that sub-section, shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the date on which such limit so first exceeds: Provided that, a dealer shall not be liable to pay tax in respect of such sales as take place during the period commencing on the first day of April of the said year up to the time when his turnover of purchases or, turnover of sales as computed from the first day of April of the said year does not exceed such limit. (3) Every dealer who becomes liable to pay tax under this Act, shall continue to be so liable until his registration certificate is duly cancelled; and upon such cancellation his liability to pay tax, other than tax, already levied or leviable, shall, until his turnover of all purchases or turnover of all sales again first exceeds the limit specified in sub-section (1), cease: Provided that, where the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of such purchases and sales as take place during the period commencing on the date of cessation of liability to tax and up to the time when his turnover of all purchases or of all sales does not exceed such limit, no tax shall be payable.

4. Liability of Dealer.

- Subject to the provisions of this Act and the rules made there under, a tax shall be leviable on the turnover of sales involving transfer of property in goods in the execution of the works contract commenced or continued for execution on or after the appointed day, whether such contract was entered into prior or subsequent to the appointed day.

4A. [Tax Not to be Levied in Respect of Works Contracts of State Government. [Section 4A was inserted by Act 1 of 2000, dated 1.1.2000 Section 2.]

- Notwithstanding anything contained in tax shall be Levi able on the turnover of sales effected by any contractor, who is a registered dealer, to the State Government on or after such date as may be notified by the State Government in this behalf.]

5. Tax Payable By Deal.

- Subject to the provisions of this Act and the rules made there under, there shall be paid by every dealer who is liable to pay tax under this Act, the tax leviable in accordance with the provisions of this Act on the turnover of sales

5A. Facility for splitting up of turnover of sales.

- Notwithstanding anything contained in section 5,(1)a contractor assigning execution of works contract (either in whole or in part) to a subcontractor registered under this Act, shall deduct from his total contract value, the value in respect of works contract executed through such sub-contractor provided a declaration in the prescribed form signed by such sub-contractor is produced:(2)a sub-contractor who has been assigned execution of works contract (either in whole or in part) by contractor permitted under section 6A shall deduct from his total contract value, the value in of such works contract executed by him provided a declaration in the prescribed form signed by such contractor is produced and accordingly but, subject to the provisions of section 7, no tax hall be payable by such contractor or sub-contractor, as the case may on the turnover of sales representing such contract value.

6. Levy of Tax.

(1)(A)There shall be levied a tax on the turnover sales in respect of goods at rates specified in clause (B), after deducting from such turnover the turnover of sales of declared goods purchased from a dealer registered under the Bombay Sales Tax Act, 1959 and sold in the same form in which they were purchased; or without doing anything to them which amounts to or results in any manufacture.(B)The tax shall be levied at the following rates, namely;(i)in respect of declared goods, whether used in the same form or otherwise, the rate of tax shall be four paise in a rupee of the turnover of sales of such goods;(ii)in respect of goods specified in the Schedule, if they are manufactured, produced or constructed, and supplied in such form or used in the execution of words contract then, subject to sub-clause (i) tax shall be levied at the rate set out against each of them in column (3) of the said Schedule;(iii)in respect of goods other then those covered by sub-clauses (i) and (ii), the rate of tax shall be fifteen paise in a rupee- on the turnover of sales of such goods.(2)[***] [Sub-section (2) was deleted by Maharashtra 21 of 1998, S. 26(a), w.e.f. 1.5.1998, Prior to its substitution](3)In order to ensure the compliance with the restriction contained in section 15 of the Central Tax Act, 1956 (LXXIV of 1956), that the tax shall not be-levied

on the sales and purchases of declared goods at more than one stage, it is hereby provided that if under the Bombay Sales Tax Act or under this Act, any tax is leviable on the sale or purchase of such goods, then no further tax shall be levied under this Act on any subsequent sale of such goods in the same form, and accordingly, for the purpose of arriving at the taxable turnover of sales of a dealer, there shall be deducted from his total turnover of sales, such sales of such declared goods on which tax has become leviable at any earlier stage.

6A. Composition of Tax.

(1) Notwithstanding anything contained in section 6, the dealer may, in lieu of the amount of tax payable by him under the provisions of this Act, pay lump sum tax by way of composition (i) an amount equal to two per cent of total contract value of the construction contracts and four per cent of the total contract value in case of other contracts, received or receivable without any deduction whatsoever during the given period; or (ii) an amount equal to eight per cent of the total contract value of the works contract, after deducting from such value (a) the turnover of purchases in respect of goods covered by the Schedule A to the Bombay Sales Tax Act, 1959; (b) the turnover of purchases in respect of goods which are totally exempt from the payment of the tax unconditionally under any notification issued under section 41 of the Bombay Sales Tax Act, 1959; (c) the turnover of purchases of goods provided such purchases are effected from (i) a dealer registered under the Bombay Sales Tax Act, 1959 and whose registration Certificate is in force on the date of such purchases; or (ii) a person not registered under the Bombay Sales Tax Act, 1959, but the tax under the said Act has been paid on the goods so purchased. [Explanation. - For the purposes of this sub-section, the expression "construction contract" shall mean such contract as may be notified by the State Government from time to time.] [Explanation was inserted by Maharashtra I alf, 2000, dated 1.2.2000 section 3(1).]; (1A) [Notwithstanding anything contained in section 6 or subsection (1) of this section, a dealer who has entered into any contract for execution of work during the period commencing on the 1st April 1992 and ending on the 30th April 1998, and has commenced execution during such period and the execution of such contract has continued on or after 1st May 1998, may opt to pay in lieu of tax payable by him under the Act, in lump sum by way of composition, an amount equal to a prescribed percentage of the total contract value of such contract and different percentage may be prescribed for different classes of contracts. (2) The lump sum tax payable under sub-section (1) shall be paid by the dealer on or before the date prescribed for submission of the return, in proportion to the work executed and goods used in the execution thereof during the period for which the return has been filed.] [Sub-section (1A) was inserted by Maharashtra 17 of 1999, w.e.f. 6.2.1999.] (3) [***] [Sub-section (3) was deleted by Maharashtra 16 of 1995, w.e.f. 1.10.1995, Section 63(n).] (4) A dealer to who opts for lump sum payment under subsection (1) or sub-section (1A) shall not recover from the person from who the works -contract is or is being executed, any amount in excess of the lump sum amount paid or payable by him by way of composition under this section. (5) If any dealer has recovered any excess amount in, contravention of sub-section (4), and has not paid the same into a Government Treasury, he shall be liable to pay the same, and if he has paid the same to the Government Treasury no refund in respect of such excess amount paid by him shall be granted; and such excess amount recovered in contravention of sub section (4) shall be deemed to be tax collected under this Act, and such excess amount shall be liable to be forfeited to the State Government and the procedure as laid down in section 37 and the provisions of sub-section (4), (6) and (6A) of

section 38 of the Bombay Sales Tax shall mutatis mutandis apply, to such forfeiture, if any. (6) All permissions granted to the registered dealers for payment of lump by way of composition prior to the commencement of the Maharashtra Tax Laws (Levy and Amendment) Act, 1998 (Maharashtra 21 of 1998) under this section, shall stand cancelled.

6B. Tax Deduction At Source.

(1) Notwithstanding anything contained in this Act, an employer or class of employers which may be notified by the State Government for the purposes of this section, from time to time, shall deduct tax from, and out of the amount payable by such employer to a dealer to whom a works contract has been awarded involving transfer of property in goods (whether as goods or in some other form) at the rate of 2 per cent of such amounts payable towards such contract Provided that, no such deduction shall be made where the amount the aggregate of the amounts payable to a dealer by such employer less than 5 [rupees two lakh] during any year. Provided further that, the quantum of such deduction shall not exceed the quantum of tax or an amount in lump-sum by way of composition payable towards the work contract: Provided also that no deduction shall be made from any payment made to any sub-contractor by a principal contractor, where the principal contractor has assigned the execution of any 'Works contract to the said sub-contractor. Explanation. - Where any payment in the nature of an advance payment towards the execution of a works contract is made by an employer to a dealer, and such amount is adjustable against the total contract value payable to the said dealer then, for the purposes of this sub-section, the advance payment shall be deemed to be the amount paid in respect of the works contract only when such advance payment is adjusted in part or otherwise, against the total amount payable towards the works contract. (2) The tax deducted under sub-section (1) shall, be remitted to the Government Treasury by the said employer making such deduction, within ten days [from the expiry of the month during which tax is so required to be deducted] [Added by Maharashtra 1 of 2000 S. 4(l)(c) w.e.f. 1.4.1999.] Provided that, the employer shall remit into the Government Treasury the full amount of tax due and deductible by him under subsection (1) from the dealer irrespective of the actual amount of tax deducted by him from such dealer. (3) Any such, employer making such deduction under sub-section (1), shall in respect of every month in which such deduction is made, send to the prescribed assessing authority, a statement, in the prescribed form in the prescribed time containing details of the works Contract under execution and tax, deducted thereon, and shall furnish a certificate in the prescribed form to the dealer specifying the amount go deducted and such other particulars as may be prescribed. (4) Any such employer who remits the tax into Government Treasury under sub-section (2) shall be deemed to have made the payment of tax under the authority of the said dealer [and such payment would also constitute a good and sufficient discharge of the liability of the employer towards the contractor, to the extent of the payment so made in' the Government Treasury.] [Substituted by Maharashtra 1 of 2000 section 4 (1)(2).] (5) If any such employer fails to remit into the Government Treasury the amount due and deductible as required by sub-section (2) in the prescribed time, the said assessing authority, after such enquiry as it deems fit, and after giving to such employer a reasonable opportunity of being heard, on being satisfied that the employer has failed to discharge the liability, under sub-section (2), shall levy and recover from the employer interest at the rate of two percent per month or part thereof, on the amount due and deductible, and by order in writing shall direct such employer to pay the interest in addition to such amount. (5A) [Where tax in respect of a works

contract is remitted under sub-section (2), the amount of tax payable by the contractor, for any month or year, as the case may be, in respect of such works contract, shall be reduced by the amount of tax already deducted and remitted into Government Treasury: Provided that, the burden of proving that the tax on such works contract has already been deducted and remitted into Government Treasury shall be on the dealer claiming the reduction and for this purpose he may furnish to the Commissioner a certificate duly filled in and signed by the, employer in such form and containing such particulars as may be prescribed.] [Inserted by Maharashtra 1 of 2000 Section 4(4) w.e.f. 1.4.1999.](6)The provisions of the Bombay Sales Tax Act, 1959 relating to the recovery of tax, penalty, interest and prosecution for an offence shall, mutatis mutandis, apply to recovery of tax required to be deducted at source by the said employer and to recovery of any demand of interest levied under sub-section (5).(7)The payment of tax by way of deduction in accordance with sub-section (2) shall be without prejudice to any other mode of recovery of tax due, under this Act from the dealer executing the Works Contract.(8)[(a) Where, on an application having been made by the contractor in this behalf, the Commissioner is satisfied that the contract under sub-section (1) is separable and involves both a sale and labour, or is not a sale and, therefore, justifies deduction of tax only on a part of the sum payable in respect of the works contract or, as the case may be justifies no deduction of tax at all, he shall, grant him such certificate as may be appropriate: Provided that the Commissioner may, reject such application, or on his own motion, cancel or modify such certificate, after giving the contractor a reasonable opportunity of being heard: Provided further that, nothing in the said certificate shall affect the tax liability of the contractor under this Act(b)Where such certificate is produced by the contractor, before the employer for payment, the employer shall, unless such certificate is cancelled or modified by the Commissioner, make the deduction of the tax, if any, required to be made in accordance with the said certificate In the event of such certificate being cancelled or modified by the Commissioner the employer shall make the deductions accordinglyExplanation. - For the purposes of this section, the amount payable by an employer to a dealer shall not include the amount of tax, if any, separately charged by the dealer.] [Substituted by Maharashtra 1 of 2000 Section 4 (1)(5).]

7. Joint And Several Liability Of Principal and Agent.

(1)Not- withstanding anything contained in any agreement to the contrary, where the contractor executes the works contract awarded to him, through sub-contractor directly or otherwise, then the relationship between the contractor and the person who has actually executed the works contract or part of it as a sub-contractor shall be d to be that of the principal and agent(1A)[Where such principal assigns the execution of the works contract to different such agents resulting into the distribution of the turnover of sales amongst the principal and the agents or wholly amongst the agents Whereby the principal escapes the liability to pay tax on the whole or part of the turnover of sales under this Act by virtue of such distribution of the turnover of sales, then having regard to the total turnover of sales (including the total turnover of sales in respect of execution of such contract) of the principal in the year of assessment being such that the principal would have been li-able to pay tax under this Act if such works contract had been executed by himself alone, the liability to pay tax on such total turnover of sales shall be that of the principal.] [Inserted by Maharashtra 24 of 1990, and shall be deleted to have always been Inserted.](2)Where such agent executes such works contract on behalf of a principal and each or either of them is liable to pay tax under this Act, then

notwithstanding anything contained in this Act, the principal and the agent shall be jointly and severally liable to pay tax in respect of transfer of property in goods involved in the execution of such works contract.(3)If the principal shows to the satisfaction of the Commissioner that the tax has been paid by the agent on the turnover of sales, the principal shall not be liable to pay tax again in respect of the same turnover of sales on which the agent has paid tax.(4)If the agent shows to the satisfaction of the Commissioner that the tax has been actually paid by his principal on the turnover of sales on which he is liable to pay tax under the provisions of this Act, then the agent shall not be liable to pay tax again on the same turnover of sales on which the principal has paid tax.(5)No deduction from payment of tax under sub-section (3) or (4) shall be given to the principal or to the agent, unless a certificate containing such particulars as may be prescribed is produced.

Chapter III

Registration

8. Registration.

(1)No dealer shall, while being liable to pay tax under this Act, execute or continue to execute a works contract, unless he possesses a valid certificate of registration as provided by this Act;Provided that, it shall be lawful for the dealer to execute or continue to execute a works contract if the dealer has applied for registration within the prescribed time.(2)Every dealer required to possess a certificate of registration shall apply in such manner and to such authority as may be prescribed.(2A)[person or a dealer who intends to carry on the business of buying or selling of the goods. hut is not liable to pay the tax under section 3, may, if he so desires, apply for the certificate of registration in the prescribed manner to the prescribed authority.] [Sub-section (2A was inserted by Maharashtra 1 of 2000 section 5(1).](3)If the authority, after such inquiry as it deems fit, is satisfied that an application for registration is in order, it shall register the applicant and issue to him a certificate of registration in the prescribed form.(4)The authority may after considering any information furnished or otherwise called for or received under any provisions of this Act, amend from time to time, the certificate of registration.(5)If any person, upon an application made by him has been registered as a dealer, and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax on his sales made from the date on which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay tax under section 3.(5A)[Notwithstanding anything contained in this Act, every dealer who is registered under sub-section (2A) shall, so long as his registration is in force, be liable to pay the tax under this Act] [Substituted section (5A) was inserted by Maharashtra 1 of 2000 section 5(2).](6)Where a Registered dealer discontinues, transfers or wise disposes of his activity of execution of works contract or the turnover of sales or purchases of a Registered dealer has, during any year, not exceeded the limits specified in section 3 and the dealer applies in the prescribed manner for cancellation of his registration certificate, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.(7)Where the Commissioner is satisfied that any Registered dealer has discontinued, transferred or otherwise disposed of the activity of execution of works contract and the dealer has failed to apply under sub-section (6) for cancellation of registration, the Commissioner may, after giving the dealer a

reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the said activity has been discontinued, transferred or otherwise disposed of, as the case may be: Provided that, the cancellation of certificate of registration on an application of the dealer or otherwise shall not affect the liability of the dealer to pay the tax (including any interest and penalty) due for any period up to the date of cancellation whether such tax (including any interest and penalty) is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

Chapter IV

Certain Provisions Of The Bombay Sales Tax Act Applicable

9. Authorities Under Bombay Sales Tax Act Empowered To Assess, Reassess Etc. Tax Under This Act.

(1) Subject to the other provisions of this Act and the rules made there under, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the Bombay Sales Tax Act shall assess, reassess, collect and enforce payment of tax, including any interest or penalty payable by a dealer under this Act as if the tax or interest or penalty payable by such a dealer under this Act is a tax or interest or penalty payable under the Bombay Sales Tax Act and for this purpose they may exercise all or any of the powers they have under the Bombay Sales Tax Act, and the provisions of the Bombay Sales Tax Act relating to returns, assessment, re-assessment, rectification collection, forfeiture, registration of the transferee of any dealer liable to pay tax under this Act, imposition of the tax liability of a dealer on the transferee of, or successor to, such dealer, transfer of 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, special mode of recovery of tax, appeals, revisions, references, refunds, fines, penalties, charging or payment of interest, compounding of offences and the treatment of documents furnished by a dealer as confidential, shall, mutatis mutandis, apply accordingly (2) All the provisions relating to offences or payment of 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) of the Bombay Sales Tax Act shall, mutatis mutandis, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of the tax required to be collected under this Act or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax payable under this Act were the tax payable under Sales Tax Act.

Chapter V

Miscellaneous and Rules

10. Certain Sales Not To Be Liable To Tax.

- Nothing in this Act shall be deemed to impose or authorise the imposition of a tax on any sale of any goods, where such sale takes place (a) (i) outside the State, or (ii) in the course of import of the

goods in the territory of India or the export of the goods out of such territory, or(b)in the course of inter-state trade or commerce, and the provisions of this Act shall be read and construed accordinglyExplanation. - For the purposes of this section whether a sale takes place(i)outside the State, or(ii)in the course of the import of the goods into the territory of India or export of the goods out of such territory, or(iii)in the course of inter-state trade or commerce, shall be determined in accordance with the principles formulated in sections 3, 4 and 5 of the Central Sales Tax Act, 1956.

11. Power To Make Rules.

(1)The State Government may make rules generally to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.(3)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 daily fine not exceeding one hundred rupees during the continuance of the offence.(4)Rules made under this section shall be subject to the condition of previous publication Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.(5)Every rule made under this section 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 rule 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 such notification 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 previously done or omitted to be done under that rule.

12. Power to Remove Difficult.

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficultyProvided that, no such order shall be made after the expiry of a period of two years from the date of publication of this Act in the Official Gazette.

Chapter VI

Transitional and Special Provisions

13. Repeal of Maharashtra 19 of 1985.

- The Maharashtra Sales Tax on transfer of property in goods involved in the execution of Works Contracts Act, 1985 (hereinafter referred to as "the repealed Act") shall stand repealed.

14. Non-Levy of Tax In Respect of Certain Works Contracts.

- Notwithstanding anything contained in this Act, during the period, commencing on the 1st October 1986 and ending on the 17th March 1988, no tax shall be levied and collected under this Act on the turnover of sales in respect of works contracts covered by entry 18 of the Schedule to the repealed Act.

15. Person Not Liable To Pay Tax Under Repealed. Act Shall Not Be Liable To Pay Tax During Specified Period.

- Notwithstanding anything contained in this Act, during the period commencing on the 1st October 1986 and ending on the day immediately preceding the 2 publication of this Act in the Official Gazette (hereinafter referred to as the "the specified period"), any person who was not registered and was also was not liable to pay tax under the repealed Act shall be liable to pay any tax under the provisions of this Act and accordingly no tax shall be levied and collected from such person.

16. Refund of Tax or Excess tax Paid Under Repealed Act.

- Where the commissioner is satisfied that any dealer registered under the repealed Act has paid in Government Treasury any amount by way of tax under the repealed Act, but he is not liable to pay any tax or tax to the extent of the amount so paid for the specified period or any part thereof in accordance with the provisions of this Act, the Commissioner shall, on filing a fresh consolidated return for specified period by such dealer, in the prescribed form, and after assessment, as soon as may be, order refund of the amount or excess amount of tax so paid by him under, the repealed Act. Provided that, if the registered dealer has recovered the amount by way of tax separately from the person to whom the property in goods is transferred, then no refund in respect of the amount .so recovered shall be granted; a such amount shall be forfeited to the State Government and upon such forfeiture the provisions of sub sections (6) and (6-A) of section 38 of the Bombay Sales Tax Act shall mutatis mutandis apply as they apply in the case of amount oil tax forfeited under that Act.

17. Filing of Fresh Consolidate Return.

- A dealer registered under the repealed Act shall file a fresh consolidated return for the specified period or any, part thereof for which he was holding registration, certificate under the repealed Act within the period as m be prescribed, in such manner and containing such particulars as may be prescribed In particular, the return shall specify the amount of tax payable, the amount of tax paid under the repealed Act and the balance amount of tax payable by him or the excess payment made, as the case may be. If any balance amount of tax is still payable, it shall be paid before furnishing of such return, and any amount of tax: paid in excess, if any, shall be refunded after assessment in the manner laid down in section 16.

18. Computation of Period Of Limitation For Assessment.

- Where a dealer registered under the repealed Act files a fresh consolidated return in accordance with the provisions of section 17, then the period of limitation of 3 years for completing the assessment for the specified period or part thereof shall be computed from the end of the financial year in which the prescribed date for filing of such return falls.

19. Order of Assessment.

- Notwithstanding anything contained in. this Act or in the Bombay Sales Tax Act, only one order assessment shall be made for the specified period or part thereof in respect of the dealer who is or becomes liable to any tax in accordance with the provisions of this Act for such period.

20. Composition Of Tax For Specified Period.

- The Commissioner may, in such manner and subject to such conditions as may be prescribed, permit any dealer liable to pay tax under this Act to pay, at his option, in lieu of the amount of tax payable' by him under the provisions of this Act in respect of the specified period, a lump sum by way of composition at the rate of four per cent of the total value of works contract executed by him. Provided that, the dealer exercising such option before the expiry of the period prescribed for filing the fresh consolidated return shall not be required to file such return.

21. Validity And Effectiveness Of Registration Certificate.

- The registration certificate, whether in force or not, granted under the repealed Act to a dealer who becomes liable to pay tax under the provisions of this Act on any day during the specified period and continues or does not continue to be so liable thereafter shall be deemed to be valid as if such registration certificate is granted under the provisions of this Act and shall remain effective from the date from which he becomes so liable till it was cancelled under the repealed Act, or till the cancellation thereof in accordance with the provisions of this Act, as the case may be.

22. Person Not Liable For Conviction Under Certain Circumstances.

- Nothing contained in this Act shall render any person liable to be convicted of any offence in respect of anything done or omitted to be done by him under this Act, if such act or omission was not an offence under the repealed Act but for the re-enactment of this Act, nor shall any person in respect of such act or omission be subject to a penalty greater than that which could have been inflicted on him under the law in force immediately before the date of publication of this Act in the Official Gazette.