

THE DELHI LUXURIES TAX ON COMMODITIES RULES, 2001

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Notif. No. F. 101(91)/2001-Fin.(A/Cs)/174-83-Whereas the draft of the Delhi Luxuries Tax on Commodities Rules, 2001 was published as required by sub-section (1) of Section 18 of the Delhi Luxuries Tax on Commodities Act, 2001 (Delhi Act No.9 of 2001) in the Delhi Gazette on the 28th November, 2001 vide this Govt's Notification No. F.101(91)/20012-Fin. (A/Cs)/3584-92 dated the 28th November, 2001 inviting objections/suggestions from the persons likely to be affected there by, till after 15 days from the date of the publication of the said notification in the Delhi Gazette.

And whereas the said Gazette was made available to the public on the 28th November, 2001.

And whereas no objections suggestions have been received with regard to these said draft rules.

Now, therefore, in exercise of the powers conferred by Section 18 of the Delhi Luxuries Tax on Commodities Act, 2001 (Delhi Act No.9 of 2001), the Lt. Governor of the National Capital Territory of Delhi is pleased to make the following rules, namely:-

1. Short title and commencement-

- (1) These rules may be called the Delhi Luxuries Tax on Commodities Rules, 2001.
- (2) They shall come into force at once.

2. Definitions-

(1) In these Rules, unless the context otherwise requires.

(a) "Act" means the Delhi Luxuries Tax on Commodities Act, 2001 (Delhi Act 9 of 2001)

(b) "appropriate asses in authority" in respect of a stockiest means the sales tax officer on the assistant sales tax officer, as may be specified by the Commissioner, with whose jurisdiction the stockists place of business is situated or he has more than one place of business in Delhi, such sales tax officer or the assistant sales tax officer within those jurisdiction the head office in Delhi of such stockiest is situated, or in respect of a stockiest was no place of business in Delhi but is carrying on the business of stockiest goods in Delhi, the sales tax officer nominated by the Commissioner for some purpose by a general or a special order or any other officer to whom proceeding in relation to such stockiest is transferred.

c) "fee" means any fee levy under the provisions of the Act.

(d) "Form" means a form added to these rules.

(e) "Schedule" means the Schedule appended to the Act;

(f) "section" means the section of the Act;

(2) Words and expressions used in these rules, but not defined herein but defined in the Act or in the Delhi Sales Tax Act, 1975 (43 of 1975) and the rules made thereunder, shall have the meanings as assigned to them in the Act, or in the Delhi Sales Tax Act, 1975 and the rules made under that Act.

3. Registration of stockists

(1) Every stockist liable to pay tax under the Act shall apply for registration to the appropriate assessing authority in Form LT-I within thirty days from the date of the commencement of his business:

Provided that the stockist who has already commenced his business shall apply for registration within thirty days from the date of the publication of these rules.

(2) Every such application shall be accompanied by a court fee stamp of fifty rupees.

(3) Every such application shall be signed and verified by the stockist or a person authorized by the stockist to sign and verify the application and shall be accompanied by recent photographs in duplicate of the stockist and the authorized person, if any.

(4) The appropriate assessing authority, on receipt of application under sub-rule

(1) shall, if he is satisfied after making such enquiry as he deems necessary that the particulars furnished in the application are correct and complete, register the stockist and grant registration certificate in Form LT-II. In the case of a stockist, having more than one place of business in Delhi, the appropriate assessing authority shall issue to the registered stockist a certified copy of the registration certificate for every branch or warehouse enumerated therein on payment of a fee of two rupees in the form of court stamps for each copy:

Provided that in the case of a stockist who is already registered under the Delhi Sales Tax Act, the registration certificate shall be granted on making on an application, without making any further enquiry or requiring for furnishing of any security.

(5) The registration certificate granted under this rule shall be displayed prominently at the place of business at each branch and each warehouse of the stockist.

(6) The particulars of the registration dealers shall be maintained in Form LT-III.

(7) Where the registration certificate granted under these rules is lost, destroyed, defaced or mutilated, a duplicated copy of such registration certificate may be granted by the appropriate assessing authority if he is satisfied of such loss, destruction, defacement or mutilation, on payment of a fee by a court fee stamp of ten rupees. (8) Any other provision of the Delhi Sales Tax Act and the rules made thereunder as regards to registration and surety save as provided herein shall apply mutatis mutandis.

4. Amendment of registration certificate

(1) Where a stockist desires that the registration certificate granted to him requires any amendment of such certificate, he shall make an application before the appropriate assessing authority who has granted such certificate specifying the reasons for such amendment together with the registration certificate.

(2) The appropriate assessing authority on receipt of such application under sub-rule (1) if satisfied, after making such enquiry as he deems fit, amend such registration certificate including the copies thereof.

5. Maintenance of record by stockists

(1) Every registered stockist and every person liable to registration as a stockist under the Act, shall keep and maintain true and complete account of every receipt and delivery and removal of stock of luxuries together with supporting documents such as invoices, challans, advice or other documents of like nature.

(2) Each and every receipt, delivery, removal and dispatch of stock of luxuries shall be brought to account forthwith.

(3) Every registered stockist and every person liable to registration as a stockist under the Act, in addition to the normal books of accounts kept by him, shall maintain day-to-day stock account, containing particulars in terms of quantity and value, in respect of-

(a) opening balance of stock;

(b) additions by way of manufacturing or receipts, either by way of purchases or by inward stock transfers, or by any such nature; (c) deliveries either by way of sales, removals, dispatches or by any such nature; and

(d) closing balance of stock.

(4) Books of accounts and documents prescribed here-in-above shall be preserved for a period of eight years from the year to which they relate or until the assessment for the year to which they relate, his become final, whichever is later.

5) Any loss of books of accounts shall be reported forthwith to the nearest police station where the loss took place and to the jurisdictional appropriate assessing authority.

6. Returns and payments of tax by stockiest

(1) Every registered stockist shall furnish returns in Form LT-IV quarterly, within thirty days from the expiry of each quarter.

(2) Notwithstanding the provisions of sub-rule (1), the appropriate assessing authority may, by order and for reasons to be recorded in writing, fix a monthly return for a registered stockist to be furnished to it in Form LT-IV by the fifteenth day of the next month.

(3) An order passed under sub-rule (2) shall remain in force for not less than one year and shall continue until the appropriate assessing authority may, by order direct on the application of the stockist that he shall furnish returns quarterly in accordance with the provisions of these rules from the commencement of such quarter as may be specified therein.

(4) Every return shall be accompanied by:

(a) treasury receipt in Form LT-V;

(b) such other documents as are specified in Form LT-IV.

(5) A stockist to whom a certificate of registration has been granted for the first time, shall furnish returns beginning with the date of grant of certificate of registration.

Explanation. The stockist who has been registered retrospectively under the Act shall furnish returns, the date of furnishing of which has already expired on the date of grant of registration certificate, within seven days from the date as such grant.

(6) An interest at the rate of two percent per month shall be payable for belated payment of tax due and payable.

(7) Every registered stockist in addition to the return prescribed in sub-rule (1) shall also submit an annual return in Form LT-VI within ninety days after the close of the year to which the return relates and in the case of a registered stockist having more than one place of business in Delhi, the return shall include particulars relating to all such places of business.

(8) The provisions of the Delhi Sales Tax Act as regards return and payment of tax and penalty shall apply mutatis mutandis in respect of all the provisions in this regard not specifically provided herein.

7. Issuance of sale Bill

(1) Every registered stockist or a stockist liable to registration under the Act, in respect of each and every delivery of a luxury-

(a) which is in pursuance of a sale, shall issue a bill of sale containing the following particulars, namely-

(i) full name and address of the selling stockist with his registration certificate number;

ii) serial number of the bill and date;

(iii) name and address of the buyer;

(iv) registration certificate number of the buyer if he is a stockist under the Act or dealer under the Delhi Sales Tax Act;

(v) description of the luxuries;

(vi) quantity of the luxuries;

(vii) value of the luxuries;

(viii) tax charged;

(ix) signature of the selling stockist or his agent.

(b) when is other than in pursuance of a sale, shall issue a delivery note which shall be in Form LT-VII and stockist shall maintain record of delivery notes in Form LT-VIII.

(2) Every registered stockist or stockist liable for registration under the Act shall keep a duplicate copy of such bill or cash memorandum or delivery note duly signed and dated and preserve it for a period of not less than eight years from the end of the year to which it relates unless any proceedings in respect of that year are pending, in which case they shall be preserved till the final decision of such proceedings.

8. Conditions subject to which stockist may claim deduction from his

turnover of stock of luxuries on account of tax having been paid

(1) A stockist who wishes to deduct from his turnover of stock of luxuries the amount in respect of any luxuries on the ground that he is entitled to make such deductions under the provisions of Clause (ii) of sub-section (3) of Section 3, shall furnish to the appropriate assessing authority up to the time of assessment-

(i) copies of the relevant cash memos or bills according as the sales are cash sales or sales on credit; and

(ii) proof of declaration in respect of luxuries on which tax under the Act has been paid or has become payable, in Form LT-IX obtained from the stockist who is liable to pay the tax.

(2) A stockist who is liable to pay the tax on the turnover of stock of luxuries delivered to another stockist, shall issue the declaration in Form LT-IX to such other stockist.

9. Conditions subject to which a dealer may claim deduction from his turnover of stock or luxuries on account of dispatch of luxuries outside Delhi

(1) A stockist who wishes to deduct from his turnover of stock of luxuries the amount in respect of dispatch of luxuries outside Delhi on the ground that he entitled to make such deduction under the provisions of Clause (i) of sub-section (3) of Section 3, shall produce before the appropriate assessing authority up to the time of assessment thereof-

(a) in the case of dispatch of luxuries outside Delhi which is by way of sale in the course of inter-state trade and commerce-

(i) copies of the relevant cash memos or bills according as the sales are cash sales or sale on credit;

(ii) proof of receipt of payment respecting sales on credit which shall be through cheque or bank draft;

(iii) 'C Form (certified photocopy);

(iv) copy of GR/Railway receipt/Air cargo receipt;

(v) sales tax registration number of purchasing dealer under the Sales Tax Act if registered in destination State;

(b) in the case of dispatch of luxuries outside Delhi which is otherwise than by way of sale, in the course of inter-state trade and commerce, copies of delivery note alongwith evidence of dispatch of luxuries;

(c) in the case of dispatch of luxuries outside Delhi, which is in the course of export out of India-

(i) copies of relevant Cash memos;

(ii) the evidence of export of such luxuries.

(2) If the appropriate assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars furnished in terms of sub-rule (1) are true, he may, at the time of, or at any time before the assessment of tax payable by the stockist under the Act, make an order to that effect and thereupon the despatch of luxuries shall be for the purposes of the Act deemed to have been effected in accordance with sub-section (3) of Section 3.

10. Determination of turnover of stock of luxuries for levy of tax

(1) For the purpose of levy of tax under Section 3, the turnover of stock of luxuries shall be determined by deducting from the aggregate value of stock of luxuries, the following amounts, subject to the condition specified in respect of each.

(a) amount of value of stock of luxuries representing opening stock as on first day of the year; (b) amount of value of stock of luxuries on which tax under the Act has been paid or has become payable, subject to production of proof in form LT-IX.

(c) amount of value of stock of luxuries despatched to places outside Delhi subject to the production of proof as prescribed in the Rule 9.

(d) amount of value of stock of luxuries returned to the stockist, subject to condition that such return is within a period of six months from the date of delivery either in pursuance of a sale or despatch other than by way of sale and that in respect of such return of luxuries, tax under the Act has already been paid

11. Assessment of tax and imposition of penalty

(1) In proceedings under Section 8 or Section 9, the appropriate assessing authority may depute a sales tax inspector to conduct such enquiries as it may direct.

After considering any objection and evidence adduced by the stockist, the appropriate assessing authority shall assess the amount of tax and determine the amount of interest under sub-sections (3) and (4) of Section 7 and may impose penalty, if leviable under Section 12.

12. Notice of discontinuance of business or change of place of business

If, at any time, a stockist- (a) discontinues or sells or otherwise disposes of the whole or any part of any business carried on by him; or

(b) changes his places of business or any of his additional places of business; or

(c) opens a new place of business; or

(d) changes the name of any business carried on by him, the stockist or if he is dead, his legal representative shall intimate the fact to the appropriate assessing authority concerned within thirty days thereof.

13. Application of the Delhi Sales Tax Rules, 1975

Subject to the provisions of these rules, for the purposes of the subordinate and territorial jurisdiction of officers, notice for payment of tax not paid according to return, supply of the copy of order of assessment, service of orders and notices and copies of documents and orders, appeals, revisions and fees, the provisions of the Delhi Sales Tax Rules, 1975 relating to the aforesaid matters and all other matters not specifically provided in these rules but provided for in Delhi Sales Tax Rules, 1975, shall mutatis mutandis apply in relation to any process connected thereto as far as relevant as if the tax payable under the Act is a tax payable under the Delhi Sales Tax Act.

14. Penalty

A breach of any of these rules for which no penalty is provided in the Act, shall be punishable with fine which may extend to five thousand rupees and where the offence is continuing one, with a daily fine of not exceeding five hundred rupees during the continuance of the offence.