

# L1BT LOCAL BODY TAX

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# Definitions Rule (2)

- Mah. Gov. empowered by sec. 152T(1) of Bombay Provincial Municipal Corporation Act, 1949 to make rules
- The Rules are called Bombay Provincial Municipal Corporation (Local Body Tax) Rules, 2010
- Act means Bombay Provincial Municipal Corporation Act, 1949
- Appointed day means notified day from which the levy of Local Body Tax is to commence.
- Designated Bank means bank authorised to collect the tax on behalf of corp.

# Definitions Rule (2)

- **Sch. A** means the sch. notified by state gov. u/s 99B giving the goods & rate of tax leviable under the prov. of Act in corp. area.
- **Sch. B** means the sch. notified by state gov. u/s 152Q giving the goods on which no tax leviable under the prov. of Act in corp. area.
- Notified day means the day on Govt. publishes a notification in official gazette directing a corp. to levy L.B.T. in its area in lieu of Octroi or cess.
- **Taxable Event**: Entry of any goods by purchase, stock trf., sale, job work or by gift in limits of city/corporation

# DEFINATIONS

- **Dealer**: (16A) Any person who imports or buys any goods in corp. limits for business or in connection with or incidental to business for commission, remuneration or otherwise
- Any individual who imports goods for his exclusive consumption or is not a dealer.
  
- **Purchase Price**: It will include all expenses like transport, commission freight etc. till goods reach in city limit of purchaser.
- **Goods**: (25) Include live animals.

# DEFINATIONS

- **Importer** (28A) means a person who brings in or causes to be brought any goods in to the city limits from any place outside the area of city for use, consumption or sale.
- **Business** (5A) Include any trade commerce, profession, consumption or manufacture carried on with motive to gain or profit & whether or not any gain or profit accrues & whether there is a volume, frequency, continuity or regularity in such trade.

## Incidence of Tax Rule (3)

- **Importer**: T/o of Sch A goods not < 5000/- & value of the goods imported not < 5000/- & T/o of all sales/purchases not < 100000/- (300000/-)
- **Others**: T/o of Sch A goods not < 5000/- & T/o of all sales/purchases not < 150000/- (400000/-)
- **Temporary**: Dealer not carrying on regular business in city but on temporary basis will be liable for registration whether or not he is liable as above.

# Calculation of T/o for liability R(4)

- Turnover of all the sales or purchases whether taxable or not
- Turnover to include the Turnover for self as well as on behalf of principals
- Turnover of auctioneer to include price of goods auctioned on behalf of principal if price recd. by him.
- Manager or agent of non resident dealer to be liable for registration. Whether non resident dealer / principal is lia. or not is not imp.

## Liability to pay L.B.T. in certain cases R (5)

- a) If dealer dies & business continued by legal rep. the legal rep. liable to pay tax
- b) If business discontinued before death dealer will be lia. Even if L.B.T. is not quantified. If business discontinued after death Legal Rep. liable to pay the amt. of L.B.T. out of estate of the deceased.
- c) In case of H.U.F. is partitioned every member is lia. for L.B.T. jointly & severally
- d) If firm is dissolved every partner lia. for L.B.T. jointly & severally (j&s)



## Liability in certain cases R(5)

- e) If dealer liable to pay L.B.T. trf., disposes, sales, leases, effects any change in ownership the person succeeding will be J&S liable for L.B.T.
- f) Guardian in case of ward & trustee in case of trust lia. for L.B.T. liability till the date of retirement.
- g) The successor after death shall apply for L.B.T. reg. within 30 days of succession and will be lia. for tax from date of succession.

# Liability of Firm/agent Rule (6)(7)

- Every partner j&s lia for L.B.T. for firm lia.
- If any partner retires from the firm he will be liable for L.B.T. lia. up to that date if he intimates to comm. the same within 60 days otherwise will continue to be lia. for L.B.T. j&s till the date of intimation.
- Com. agent, auctioneer importing material for consumption, sale or use they will be lia j&s with principal to pay L.B.T.
- If agent/ auctioneer pays the amt. principal will not be lia. & v/v.

Lia. Of manager(7)/ Application of prov.(8)

- Manager of non resident dealer importing goods & N.R.D. both will be lia. for L.B.T. j&s.
- If one of them pays the L.B.T. other will be absolved from the lia.
- The provision of this act & rules to apply to the persons mentioned in rule 5,6,&7 as if he was the dealer or the first mentioned person himself. – Rule 8

## Registration Rule (9)

- A dealer lia u/r 3 or u/r 5 shall not carry on the business as dealer unless he possesses valid RC.
- **The dealer shall apply for RC**
  - a) Within 30 days from the appointed date if his t/o of sales or pur. in the pr. yr. has exceeded limits of rule 3 or in the period commencing from 1<sup>st</sup> Apr of that year.
  - b) Within 30 days when he completes the Turnover in the F. Y. as per rule 3
  - c) 15 days prior to commencement of temp. busi.

# Registration Rule (9)

- Every dealer reg. under MVAT Act shall be deemed to registered under these rules, but it is advisable to apply for reg.
- Application shall be in Form A along with fees of RS. 100/-
- Every application shall be signed and verified by appropriate person along with photograph which has to be signed before the comm. on the date of hearing.
- In case of firm the every partner shall singed and furnished the declaration given in Form A

## Registration Rule (9)

- The details of partner / members of HUF – AOP like POR to be submitted in the application & produce proof at the time of hearing with Xerox copy .
- The application shall be give the class of goods in general term in which they deal.
- If all the details are verified and sufficient the comm. will issue RC.
- If any additional information is furnished under these rules the comm. shall amend the RC

# Grant of RC (Rule 10)

- The RC Shall be in Form B
- It shall be in the name of business
- If RC application is in time it shall be w.e.f. the date of liab. / notified date / date of succession u/s 5(7)
- If appl. is late it shall come into force w.e.f. the date of appl.
- If the appl. is for temp. busi. It shall come into force w.e.f the date of appl. and shall be in force till such date as comm. may specify. Such dealer may have to pay deposit adjustable against LBT Liab.
- In case of MVAT dealers it shall be effective from appointed date even if they have not applied it.
- For addl. busi. place the Reg. number will be same

# Copies of RC (R -11) / Non Transferability (R -12) / Exhibition of RC (R – 13)

- Comm shall issue addl. copies of RC at the fee of Rs. 25/- p. copy for addl. P.O.B.
- On payment of Rs. 25/- duplicate RC will be issued on the appl. In case the original RC was lost, destroyed or defaced.
- RC shall not be transferable.
- The RC shall be displayed conspicuously at every P.O.B.



# Changes in Business (R – 14)

- Dealer shall intimate comm. within 60 days along with original RC in following cases:
- Trf of business in whole or part, sales, lease, hire or otherwise dispose of business or effects any other change in ownership of business or
- Discontinues business or change place of busi., opens a new place of business or
- Changes name or nature of business or
- Effects change in class of goods or
- Enters into partnership or forms other association
- The comm shall make necessary amendment in view of information and/or issue new R.C.

## Production / Continuation of RC (R 15 / 16)

- The comm. may require the dealer to produce RC for carrying out any changes in it under this rule, suomoto.
- It is not necessary for the dealer to change the RC in following cases:
  - a) Change in the name of business.
  - b) Change in the const. of firm w/o dissolution.
  - c) Change in the trustees of the trust.
  - d) Change in the guardian of ward.

# Cancellation of RC (R 17)

- a) The busi is discontinued or trf or disposed off.
- b) Neither the t/o of sales or pur during the year has not exceeded the limits specified u/r 3 and applies in Form C for cancellation of RC.

The comm. to hold the inquiry and cancel the RC w.e.f. the date applied.

If cancellation is not applied even after business is discontinued, the comm. may cancel RC suomoto after giving notice

Such cancellation shall not affect the LBT liab.

The comm. shall cancel the RC by order in writing and which shall be displayed on notice board of corporation.

# Cancellation of RC (R 17)

- The date of cancellation shall be the date from which the busi. Is discontinued / disposed.
- If RC is cancelled for low turnover the effect shall not be later than 1<sup>st</sup> day of next month
- The dealer shall surrender all copies of RC in original within 15 days from the date of order of cancellation.
- The temp. dealer required to furnish security deposit fails to give notice of discontinuation of business, the comm. after giving notice to him, cancel the RC and display the same on notice board for knowledge of general public.

## Manager / Registers / Presumption (R.18,19, 20)

- Every dealer shall within 1 month of RC, send to the comm. **Form F** stating the name of person who shall be deemed to be a manager.
- The dealer shall maintain the reg. of pur., receipt of goods on trf. basis in **Form D**
- If dealer purchases sch A goods from a dealer from same city, he shall obtain certificate as per rule 21, which will be verified by the comm. and if it is ok such pur will not be taxable. If such certificate is not produced it will be presumed that such goods are imported and tax will be payable on the same.

## Certificate for Local Pur. / Contents (R 21, 22)

- Where dealer sells goods to another dealer in same area he shall issue a invoice containing a certificate in the manner and details u/r 22
- Sales invoice shall specify the full name, style and add of business place and LBT no. of seller, particulars of goods sold including sales price and a certificate mentioned in rule 22.
- Where the invoice amt is more than Rs. 500 it shall give the details of purchaser including name, address and LBT No. of the purchaser.

# Notification of Sch A (R 23)

- Before 1<sup>st</sup> Jan the comm. shall submit list of commodities on which he intends to levy LBT in next FY including the rate thereon with justification thereof to the Govt. The Govt. shall determined the LBT in respect of each commodity and notify the same in Official Gazette before 20<sup>th</sup> Feb of that year. After such notification in Official Gazette, the comm. can levy the LBT as mentioned in Official Gazette on commodities mentioned in Sch A at the rate specified.

# Tariff Value / FMV Fixation (R 24, 25)

- Comm. has got power to fix tariff value of the goods, where he is satisfied that the importer are showing lesser value of the goods. The comm. Shall display such tariff on the notice board of the corporation and thereafter such rate will be applicable for collection of LBT.
- The comm. can determine the FMV of goods by giving reasonable opportunity of being heard in cases of:
  - a) Pur / Sale Price is less in case of the Transaction between related person.
  - b) Pur Price is not ascertainable.
  - c) Goods have not been obtained by of sale or pur.



# Inspection of Goods (R 26)

- Comm. or officer authorised by him has got power to stop the vehicle and inspect the goods carried in it, and examine the content of such vehicle, inspect all the paper relating to such goods and can question the driver about name and address of the consigner or consignee or his own.
- If the driver is unable to give such details asked for it will be presumed that he is the owner of such goods and be liable to pay LBT in respect of such goods.

# Lump sum Payment of LBT (R 27)

- If the t/o of pur of a dealer are less than 5 lakhs he can apply in **Form R** for lump sum payment. If such application is correct the comm. will give him permission to pay lump sum LBT for such period by such date as may be specified in his order. Such amount should be paid within 15 days from the receipt of the order. The lump sum payment for following t/o is as follows:
- < 1 lakh = Nil, 1 to 2 lakhs = 2000, 2 to 3 lakhs = 3000, 3 to 4 lakhs = 4000, 4 to 5 lakhs = 5000
- If lump sum payment is not made within stipulated time in the order, the dealer may pay the same with int. within subsequent 3 months otherwise such order shall be deemed to be withdrawn.

# Lump Sum Payment of LBT (R 27)

- If during the year in which the lump sum payment order is in force and t/o of all the pur of such dealer exceeds the limit of such slab he shall pay differential amount of LBT for difference in slab. If the t/o exceeds Rs. 5 lakhs the differential amt payable by him will be calculated as a normal dealer.
- If the comm. has reason to believe that the pur t/o of the dealer has exceeded the limit declared by him in Form R and not complied with above rule after giving opportunity of heard cancel such permission and proceed to recover from him LBT, Int. and penalty by serving order in respect of same on such dealer.

## Exemption from payment (R.28)

- If the goods are imported on behalf of state or central govt. and a certificate from an officer is given within six months certifying that goods so imported are for public purpose & are not used/intended to be used for earning profit.
- If the goods are exported out of city limits for processes mentioned and re-imported without effecting any change in form or ownership of the goods, the value of goods moved out shall be allowed to be deducted from value of goods re-imported and LBT will be applicable on processing charges only.

## Exemption from payment (R.28)

- If a dealer imports any goods for allowed processes and re-export them to the same person in same form within a period of six months no LBT will be payable if a) dealer shows the value of such goods in the return of the relevant period. b) pays a security deposit as guarantee as determined by comm. (Regular processor can keep a standing deposit fixed by comm.).
- **Allowed process include only**: grinding, dying, bleaching, painting, printing, finishing, doubling, embroidering, metallising, electroplating.
- Building and mounting bodies over vehicle chassis.

## Exemption from LBT payment (R.28)

- If goods sold outside city are received back within six months due to rejection the same will bear no LBT if the sale of such goods was included in the turnover of the respective period.
- If the dealer is exporter out of India shall be exempt from levy of LBT in respect of goods used for purpose of such export.

## Notification 0209/CR-65/2009/UD-34

- No tax up to one lack and lump sum payment of 2% for turnover above one lack.
- Any builder/ contractor undertaking const. within corp. limit has to pay LBT: up to 4 floors Rs.100 per sq. meter 5 to 7 floors Rs. 150. 8 & above 200 per sq. meter. He should pay 50% on applying for grant of commencement certificate.
- Dealer undertaking work in corp. limit has option to pay lump sum .25% of total contract value instead of on value of goods imported.

## Submission of Returns (R.29)

- Half yearly return for first six months in form E-I & annual return in form E-II within 15 days from end of such period shall be filed.
- A dealer liable for lump sum payment u/r 27 shall furnish annual return in form E-II every year till the order of comm. is in force.
- Comm. has power to specify different periods & dates for different dealers by an order in **Form no. G.**
- Comm. has also power to exempt from dealer from furnishing returns, furnishing consolidated returns & returns for different periods.



## Submission of Returns/ Security Dep. (R.29/30)

- If dealer after furnishing return discovers any omission or incorrect statement furnish revised return before expiry of one month from last date for filing org. return.
- If the business is discontinued by dealer in between the yr. shall furnish return in form E-I within ten days from the end of the month in which the business discontinued.
- Comm. May require a defaulting dealer failing to pay taxes for three times to make a security deposit for proper realisation of LBT lia. after giving him opportunity to represent.

## Security Dep. (R.30)

- Comm. has got power to change the amount of deposit provided it is not more than amt. of LBT payable.
- Comm. Can by order & for sufficient cause forfeit the whole or part of sec. dep. for realisation of LBT which has remained unpaid.
- Comm. has power to ask the dealer to make up the deficiency in deposit within time allowed.
- Comm. may on application refund the amount of deposit by an order if it not required for the purpose of these provisions.

## DDQ (R 31)

- On appl. made by the dealer, comm. can decide about the particular goods on which tax is payable and rate of LBT payable, provided no asst proceedings have commenced u/r 33 or 34.
- Comm. may give prospective or retrospective effect for such order.
- if any order is already passed on any such questions it shall not be entertained again.

# Refund in case of Export (R 32)

- If the dealer exports outside the city the goods imported by him otherwise than under a contract of sales then 90% of LBT on import shall refunded to him by an order in **Form M** if following conditions are fulfilled
  - a) Details of Goods Imported are given in relevant return and LBT paid thereon.
  - b) The goods are exported outside the city within 6 months from import.
  - c) the return for the said period shows these sale
  - d) goods are exported without change in form.
- Comm. may allow payment of 10% LBT for dealer regularly importing & exporting A sch. goods.

# Assessment (R 33)

- The amt of LBT shall be assessed separately for every FY.
- If returns filed are correct and complete the asst may be completed on the basis of such returns.
- Comm. may do the asst. by issuing the notice in **Form H** if
  - a) dealer has failed to furnish the return,
  - b) comm. is not satisfied that returns are not correct and complete and requires production of further evidence in respect thereof.
  - c) The dealer has claimed refund in return.
  - d) Has applied for cancellation of RC
  - e) Person is liable to pay tax but fails to apply for reg. or is directed to file the returns by an order in **Form G**.

# Assessment (R 33)

- If the dealer fails to comply with the notice best judgment asst. can be done by comm.
- The period for such asst. is 5 years from the end of FY by issuing notice in Form H giving minimum 15 days time.
- The Asst. Order shall be in **Form I**.
- The order may incorporate the penalty, int. u/r 48 or forfeiture of the taxes.
- Certified copy of the asst. along with the notice of demand in **Form J** shall be served on assessee free of charge.
- Addl. copies on payment of Rs. 25
- The asst. papers (record) shall be preserved for 10 yrs following the FY to which asst. relates or 3 yrs from the completion of the proceedings.

# Reassessment (R 34)

- Comm. can reassess the dealer within 3 yrs from completion of the asst. after recording the reasons in writing by issuing a notice in **Form K** for following reasons
  - a) LBT payable has escaped asst.
  - b) Asst. is made at lower rate.
  - c) Deduction / claim has been wrongly granted / allowed.
  - d) Refund is wrongly granted.

# Rectification (R 35)

- Comm. may within 2 yrs from the date of passing the order on his own or on application by the dealer rectify the mistake apparent on face of record. Such order shall be passed in subsequent 2 yrs.
- If rectification has effect of increasing the LBT or reducing the refund notice should be given to the dealer in **Form P** and give him opportunity of being heard.
- If by rectification LBT amt get reduced it shall be refunded to such person.
- If by rectification LBT amt get enhanced then, if unpaid it shall be recoverable as arrears of property tax.



# Appeals (R 36)

- Every appeal filed against order shall be in **Form S** giving name and address of appellant, date of order of asst., give clear statement of facts, relief prayed for and accompanied by proof of having deposited disputed amt of LBT, quantum of relief sought.
- It shall be verified by the appellant or his authorised agent.
- The appeal shall be accompanied by certified copy of order and presented by the appellant or sent to the appellant authority by Reg.post

# Appeals Hearing (R 37)

- The appellant authority shall give min. period of 10 days while fixing the date of hearing for appeal.
- If the appellant does not appear on appointed date or adjourned date the authority may decide the appeal ex parte or dismiss the appeal.
- If appellant within 30 days of such dismissal applies for reinstatement of appeal because of non receipt of notice or any other reason the appellate authority may set aside such order.
- The appellate authority shall decide the case and pass an order regarding his decision.
- The appellate authority shall maintain a reg. showing filing of appeal in chronological order and relief sought.

# Order / R/off / Payment (R 38, 39, 40)

- Copy of the appellate order shall be given to the appellant as well as assessing officer.
- The amt of LBT, int., penalty etc. shall be rounded off to the nearest rupee.
- Any LBT, int., penalty etc payable according to returns or otherwise in a month shall be paid before 10<sup>th</sup> (**20<sup>th</sup>**) of subsequent month.
- The comm. may prescribed different dates and interval for such payments.
- If any tax etc remains unpaid it shall be recoverable as arrears of property tax by serving of notice in

**Form L.**

# Recovery Proceedings / Spl. mode of Recovery (R 41, 42)

- If in appeal order the amt demanded from the dealer has increased, the comm. shall give the notice for enhance dues and recover the same.
- If dues are reduced or if the refund is increased it should be intimated to the dealer and refund shall be made in accordance with the provision of rule 44.
- If any amount remains unpaid by the dealer who is liable to pay LBT, comm. can follow procedure of recovering the said amt from the debtors from the amt the said dealer has to recover as his dues by following proper procedure.

# Provisional Attachment (R 43)

- If comm. is of opinion that for protecting the revenue it is necessary, may after giving the dealer opportunity of being heard, attach provisionally by notice in writing any property belonging to such dealer against whom proceedings are pending, search or inspection is undertaken or attach any money due or which may become due.
- Such order shall have effect of 6 months which can be extended totally for 2 yrs.
- Such notice can be amended or revoked by the comm.

# Refund / Withholding Refund / Composition / Notice (R 44, 45, 46, 47)

- Comm. Shall refund LBT, paid by such dealer in excess of the amt due from him by an order in **Form M**.
- The refund may be by way of cash payment or deduction of such excess payment from any amt due in respect of any other period.
- If comm. is of the opinion that such refund will adversely affect the revenue can withhold the refund till such time as he may determine.
- The comm. has got power to permit any dealer to pay in lieu of amt of LBT payable by him in respect of any period a lump sum determined by way of composition in accordance with sec. 152 N.
- Notice for production of a/cs and documents shall be in **Form N**.

# Penalty & Interest (R 48)

- Failure to issue bill by selling dealer = double (equal) the amt of LBT payable if the goods sold had been imported by the selling dealer.
- Failure to a) apply for registration in time (10/5 times of LBT payable in urd period), b) comply with the notice in respect of the proceeding (Rs. 10000/5000), c) to disclose any entry of the goods on which LBT is payable, claimed inaccurate deduction or refund, disclose fully and truly all the material (5/2 times the amt of LBT found payable)

# Penalty & Interest (R 48)

- If the amt of LBT payable is not paid in time interest payable is 2% p.m. for first 12 months after the last date by which such amt is due (and 3% p.m. during the time when default continues after 12 months)  
Deleted
- Any part of the month shall be counted as full one month.
- In case of asst. dues int. @ 2% p.m. is payable on the amt due as per order from the end of FY till the date of order.
- Provided the total amt of int. payable shall not exceed original amt of LBT.



# Penalty & Interest (R 48)

- If dealer knowingly produced any documents, bills etc the effect of which is non payment of LBT / Less payment of LBT on goods imported the comm. may impose penalty equal to twice (equal) the amt of such amt evaded for first occasion or five times for subsequent occasion.
- If the dealer produces any false declaration or certificate which is false or fails to abide by or acts in contravention of recital of terms of such declaration penalty is 5 (2) times amt of LBT which would have been payable.

## Various Forms under LBT

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ANY QUERIES?

THANK YOU