

(Published in the Official Gazette Series I No.33 dated 14/11/1985)

Notification

LD/8/3/84(D) (Part),

The following Act which was passed by the Legislative Assembly of the Union Territory of Goa, Daman and Diu on the 5th day of, August, 1985 and assented to by the Administrator of Goa, Daman and Diu on 8th October, 1985, is hereby published for the general information of the public.

B. S. Subbana, Under Secretary
(Drafting).

Panaji, 29th October, 1985.

The Goa Daman and Diu Barge (Taxation on Goods) Act, 1985

(Act No. 22 of 1985)

AN

ACT

to provide for levy of tax on goods carried in barges in inland waters of the Union Territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu 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 Goa, Daman and Diu Barge (Taxation on Goods) Act, 1985.

(2) It extends to the whole of the Union Territory of Goa Daman and Diu.

(3) It shall be deemed to have come into force from the 1st day of July, 1978.

2. Definitions. - In this Act, unless the context otherwise requires, -

(1) "barge" means every description of water craft, mechanically propelled and which is used or capable of being used as a means of transport of goods;

- (2) "Government" means the Government of Goa, Daman and Diu;
- (3) "goods" include minerals and anything carried by a barge except living persons, but does not include personal luggage of crew travelling in the barge and the equipment ordinarily used with the barge;
- (4) "month" means a calendar month;
- (5) "prescribed" means prescribed by the rules made under this Act;
- (6) "registered owner" means a person in whose name a barge is registered under any law for the time being in force;
- (7) "tax" means the tax referred to in section 3;
- (8) "Tax Officer" means such officer as the Government may, by notification in the Official Gazette, appoint to be the Tax Officer for the whole of the Union territory of Goa, Daman and Diu, or for any area or areas thereof for the purposes of this Act and the Government may appoint more than one officer as Tax Officer for the whole of the Union territory of Goa, Daman and Diu or, for any area thereof.

3. Levy of tax on Goods. -On and from the date of commencement of this Act, there shall be levied and paid to the Government on the goods transported by barges, through such inland waterways or canals as may be notified by the Government, a tax at the rate of ^{[1][2]}'one rupee per tonne' or part thereof of the goods:

Provided that no tax shall be payable under this Act on goods belonging to the Government or Central Government.

4.Submission of returns, - (1) In respect of every barge owned by him, the registered owner or his representative shall deliver or cause to be delivered to the Tax Officer or to such prescribed officer as the Tax Officer may specify, a monthly return in the prescribed form and manner.

(2) When any return is received by a prescribed officer, he shall forward it to the Tax Officer within the prescribed period and in the prescribed manner.

5. Tax to be paid every month into Government Treasury. - The tax payable during any month in accordance with the returns submitted under

section 4 shall be paid into the Government treasury by the registered owner or his representative and the receipt evidencing such payment forwarded to the Tax Officer on or before such date or dates of the month immediately succeeding as may be prescribed.

6. Procedure where no returns are submitted, etc. - In the following cases, that is to say, _

(a) where no returns have been submitted by the registered owner or his representative in respect of any barge for any month or portion thereof; or

(b) where the returns submitted by the registered owner or his representative in respect of any barge for any month or portion thereof appear to the Tax Officer to be incorrect or incomplete, the Tax Officer shall, after giving the registered owner a reasonable opportunity in case (a) of making his representation, if any, and in case (b) of establishing the correctness and completeness of the returns submitted by him or through his representative, determine the sum payable to the Government by the registered owner by way of tax during such month or portion thereof:

Provided that the sum so determined shall not exceed the maximum tax which would have been payable to the Government if the barge had carried its full complement of goods during such month or portion thereof.

7. Taxes escaping assessment, - If for any reason, the whole or any portion of the tax leviable under this Act for any month has escaped assessment, the Tax Officer may, at any time within three years from the expiry of that month, assess the tax which had escaped assessment, after issuing a notice to the registered owner and making such enquiry as the officer may consider necessary.

8. Penalty for non-payment of tax. - Where the whole or any portion of tax payable to the Government in respect of any barge for any month or portion thereof in pursuance of sections 5, 6 and 7 has not been paid, in time, the Tax Officer may, levy in addition to the tax so payable, a penalty not exceeding fifty per cent of the, maximum tax which would have been payable to the, Government if the barge had carried its full complement of goods during such month or portion thereof.

9. Recovery of tax, etc. - (1) In the cases referred to in section 6, 7 and 8, the Tax Officer shall serve on the registered owner a notice of demand in the manner prescribed, for the sums payable to the Government and the sums specified in such notice may be recovered from the registered owner as arrears of land revenue.

(2) Where the sums specified in the notice of demand are not paid within fifteen days from the date on which the notice was served on the registered owner, the barge in respect of which the tax is due and its accessories may be distrained and sold under the appropriate law relating to the recovery of arrears of land revenue, whether or not such barge is in the possession or control of the registered owner:

Provided that no distraint shall be made in pursuance of this sub-section except at the instance or with the consent of the Government or such officer as may be authorized by the Government in this behalf:

Provided further that no such distraint shall be made in pursuance of this sub-section unless the amount of tax due in respect of any barge exceeds five thousand rupees.

(3) Distraints under sub-section (2) may also be made by such officers or Class of officers as the Government may, by general or special order, direct and the officer making any such distraint shall forward the proceedings thereof together with the distrained articles to the Collector for further action under, sub-section (2).

10. Appeal against demand. - (1) Any registered owner objecting to a notice of demand served on him under section 9 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 satisfactory proof of the payment of the tax admitted by the appellant to be due;

(2) The prescribed authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as it thinks fit.

11. Maintenance of accounts and registers. - Every registered owner shall keep and maintain accounts and registers in such forms as may be prescribed in respect of barges and the goods transported therein.

12. Power to order production of accounts. - The authority prescribed under sub-section (1) of section 10, the Tax Officer or any officer empowered in this behalf by the Government may, by order, require any registered owner to produce such accounts, registers and documents, and to furnish such information relating to the barge or the goods transported as may be specified in the order.

13. Powers of entry and inspection, - (1) Any officer authorised by the Government in this behalf may at all reasonable times enter into, inspect and search any barge or any place ordinarily used by the registered owner for keeping such barge or keeping accounts of his business for the purposes of seeing or verifying whether the provisions of this Act or any rules made there under are being complied with.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

14. Composition of tax, - (1) The Tax Officer may on an application made by the registered owner or his representative and subject to such conditions as may be prescribed, permit him to compound the tax assessable on him under this Act, by paying in lieu thereof, as fees an amount equivalent to the tax leviable on ninety percent of the assessed quantity of goods to be transported by a barge.

(2) The permission granted under sub-section (1) shall be in force for the period for which it is granted and in respect of that period, the provisions of this Act regarding submission of returns, accounts or other documents, the assessment to tax or any other matter incidental thereto shall not apply in relation to the grantee.

15. Drawback, set off, refund, etc., - (1) The Tax Officer may, subject to such circumstances and conditions as may be prescribed, drawback, set off or refund the whole or any part of the tax levied and collected under this Act to the registered owner, regard being had to the nature of the goods carried, the destination to which, and the purposes for which the goods are carried and such other factors as may be specified.

(2) The Tax Officer shall refund to the registered owner, in such manner as may be prescribed, the amount of tax and penalty, if any, paid by

such registered owner in excess of the amount due from him. The refund may be either by cash payment or at the option of the registered owner, by deduction of such excess from the amount of tax and penalty, if any, due in respect of any other period:

Provided that, the Tax Officer shall first apply such excess towards the recovery of any amount due in respect of which a notice under section 9 has been served on the registered owner, and shall then refund the balance, if any.

16. Offences, penalties and competent Court.-

(1) Any person who -

(a) being a registered owner, submits or allows to be submitted an incorrect or incomplete return under section 4 or fails to submit a return as required under that section; or

(b) being a registered owner, fraudulently evades or allows to be evaded, the payment of any tax due from him; or

(c) being a registered owner, fraudulently makes or allows to be made any wrong entry in, or fraudulently omits or allows to be omitted any entry from any statement submitted, or any accounts or register maintained by him ; or

(d) willfully acts in contravention of any of the provisions of this Act or any rules made thereunder or any lawful orders passed in accordance therewith;

shall on conviction, be punishable with fine which may extend to five hundred rupees, and if the Magistrate so directs in his order, the person convicted shall pay in addition as if it were a fine, such specified amount as the Magistrate may determine to be the amount which the person convicted had evaded to pay.

(2) No offence punishable under this Act shall be inquired into or tried by any court inferior to that of Judicial Magistrate of the First Class.

17. 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 liable to be proceeded against and 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, as the case may be, shall be deemed to be guilty of that offence and shall also be liable to be proceeded against and punished accordingly.

Explanation, - For the purposes of this section,-

(a) "company" means a body corporate, and includes a firm or other association of individuals;

(b) "director" in relation to a firm, means a partner in the firm.

18. Composition of offences. - (1) The Tax Officer may, either before or after the institution of proceedings for any offence punishable under section 16, accept from any person charged with such offence by way of composition of the offence, where the offence charged consists of the evasion of the tax, a sum of money not exceeding double the amount of the tax so recoverable, and in other cases, a sum of money not exceeding two hundred and fifty rupees.

(2) On payment of such sum as may be determined by the Tax Officer under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence.

19. Officers to be public servants. - All officers acting under this Act shall be deemed to be public servants, within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Prevention of Corruption Act, 1947 (Central Act 2 of 1947).

20. Bar of certain proceedings. - (1) No prosecution or other proceedings shall be instituted in a criminal Court without the previous sanction of the

Government against any officer or servant of the Government, for any act done or purported to be done under this Act or the rules made thereunder.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceedings, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

21. Limitation for suits and prosecutions. -No suit or other proceedings shall be instituted against the Government and no suit, prosecution or other proceedings shall be instituted against any officer or servant of the Government in respect of any act done or purported to be done under this Act, unless the suit, prosecution or other proceedings is instituted within one year from the date of the act complained of.

22. Power to make rules, - (1) The Government may by notification in the Official Gazette and subject to the condition of previous publication make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for, -

(a) the prescribed officer to receive monthly returns and the period within which and the manner in which such officer shall forward the returns to the Tax Officer under section 4;

(b) the manner of serving notice of demand under section 9;

(c) the authority to which an appeal may be preferred under sub-section (1) of section 10;

(d) the maintenance of accounts and registers and the submission of returns and statements by the registered owners under section 11;

(e) the circumstances and conditions subject to which the Tax Officer can draw back, Set off or refund the whole or part of the tax under section 15;

(f) any other matter which is required to be prescribed under this Act.

M. RAGHUCHANDER.

Law Secretary to the Government of
Goa, Daman and Diu,
Law Department (Legal Affairs
Branch).

Secretariat,
Panaji-Goa,
Dated:- 29th October, 1985.

[1] Substituted vide notification no.7-17-93/LA dated 15/10/1993, published in the official gazette Sr.I No.30 dated 21/10/1993.

[2] Substituted vide notification no.7/5/2012-LA dated 23/08/2012, published in the extraordinary official gazette Sr.I No.21 dated 23/08/2012.

Notification

No. 1/21/86-ILD

In exercise of the powers conferred by clause (g) of section 2 of the Goa, Daman and Diu Barge (Taxation on Goods) Act, 1985 (22 of 1985), the Government hereby appoints the Captain of Ports, Panaji and Deputy Captain of Ports, Mormugao to be Tax Officers for the purpose of the said Act for the whole of the Union Territory of Goa, Daman and Diu.

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary
(Industries and Labour).

Panaji 10th October, 1986.

(Published in the Official Gazette Series - II No.30 dated 23/10/1986)

Notification

No. 1/21/86-ILD

In exercise of the powers conferred by section 3 of the Goa, Daman and Diu Barge (Taxation on Goods) Act, 1985 (Act 22 of 1985), the Government hereby ^(@)notifies the Cumbarjua Canal for the purpose of the said Act.

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary
(Industries and Labour).

Panaji. 10th October, 1986.

(Published in the Official Gazette Series - II No.30 dated 23/10/1986)

(@) the word 'notified' corrected as 'notifies' vide corrigendum

*no.No.1/21/86-ILD dated 16/6/1987 published in the official gazette Series II
No.13 dated 25/06/1987*

Department of Inland Waterways

Office of the Captain of Ports

Notification

No. 1/21/86-IWT

Read:- Notification No. 1/21/86-ILD dated 10-10-1986, published in,
the Official Gazette, Series II, No. 30 dated 23-10-1986.

In exercise of the powers conferred by section 3 of the Goa, Daman and Diu Barge (Taxation on Goods) Act, 1985 (Act 22 of 1985), hereinafter called as the "said Act" the Government of Goa hereby notifies all Inland Waterways and all remaining canals in the State of Goa, for the purposes of levy of a tax as specified in said section 3 of the said Act.

This notification shall come in force from the date of its publication in the Official Gazette.

By order and in the name of the Governor of Goa.

Capt. A. P. Mascarenhas,

Captain of Ports and Ex Officio Joint Secretary.

Panaji, 25th March, 2003.

(Published in the Official Gazette Series - II No.52 dated 27/03/2003)

(Published in the Extraordinary Official Gazette Series - I No.42 dated 15/01/1987)

GOVERNMENT OF GOA, DAMANAND DIU
Industries and Labour Department

Notification
1/21/86-ILD

Whereas the draft of certain rules which the Government of Goa, Daman and Diu proposes to make in exercise of the powers conferred by section 22 of the Goa, Daman and Diu Barge (Taxations on Goods) Act, 1985 (Act No. 22 of 1985) was published as required by sub-section (1) of the section 74 of the said Act in the Official Gazette, Series I, No. 31, dated 30-10-1986, under the Industries and Labour Department's Notification No. 1/21/86-ILD dated 10-10-1986 inviting suggestions and objections from all persons likely to be affected thereby till 30 days from the date of publication of the said Notification in the Official Gazette;

And whereas the said Gazette was made available to the public on 30-10-1986;

And whereas suggestions and/or objections received from the public on the said draft have been considered by the Government.

Now, therefore, in exercise of powers conferred by section 22 of the Goa, Daman and Diu Barge (Taxation on Goods) Act, 1985 (Act No. 22 of 1985), the Government of Goa, Daman and Diu hereby makes the following rules, namely: –

1. *Short title and commencement.* - These rules may be called the Goa, Daman and Diu Barge (Taxation on Goods) Rules, 1987.

(2) They shall come into force at once.

2. *Definitions.* - In these rules, unless the context otherwise requires,—

(a) "Act" means the Goa, Daman and Diu Barge (Taxation on Goods) Act, 1985 (Act No. 22 of 1985);

- (b) "Form" means a form appended to these rules;
- (c) "Goods" means mineral ores;
- (d) "Month" means a calendar month;
- (e) "Registered Owner" includes his authorised representatives;
- (f) "Section" means a section of the Act;
- (g) "Tonne" means a metric tonne.

3. *Submission of returns.* --(1) Every registered owner of a barge shall fill up and deliver or cause to be delivered to the Tax Officer, a quarterly return in Form - I so as to reach him on or before the 12th day of the month immediately following the quarter to which the return relates during which the barge passed through the Cumbarjua canal:

Provided that for the period from 1-7-1978 until the commencement of these rules, the quarterly returns shall be submitted within 60 days from the date of such commencement.

(2) The quantity of goods carried by a barge shall be determined on the basis of the Dead Weight carrying capacity of the barge.

4. *Payment of Tax,*-- The tax payable under section 5, shall be paid in cash or by challans on or before the 15th day of the month immediately following the quarter to which the tax relates;

Provided that for the period from 1-7-1978 until the commencement of the rules, the corresponding tax shall be paid in cash or by challans within ninety days from the date of such commencement.

5. *Penalty for non-payment of tax.*-- (1) Where the whole or any portion of the tax payable to the Government in respect of any quantity of goods carried by the barge for any month or portion thereof in pursuance of sections 5, 6 and 7 of the Act has not been paid within the stipulated period, the Tax Officer shall, before imposing any ^[1]“penalty under section 8 of the Act”, serve a notice calling upon the registered owner or his representative to show cause within fifteen days from the date of receipt of such notice as to why the penalty should not be imposed. He shall record a brief memorandum of the facts of the case and finding with a brief statement of his reasons for such finding. After the expiry of fifteen days thereof, the Tax Officer shall

serve a notice of demand on the registered owner or his representative, if deemed fit.

(2) A notice of demand shall be served by any of the following methods, namely:-

(a) by delivery or tender of a copy of the notice to the registered owner or his representative or any other person duly authorised to receive notice on his behalf;

(b) by post under a certificate of posting or by registered post:

Provided that if upon any attempt having been made to serve any such notice by any of the above mentioned methods, the Tax Officer is satisfied that the registered owner is keeping out of way for the purpose of avoiding service or that for any other reason the notice cannot be served by any of the above mentioned methods, he may direct that the notice may be served by affixing a copy thereof on some conspicuous part of the registered owners place of business and such service shall be as effective as it has been served on the registered owner personally.

6. *Appeal.* -- (1) An appeal against the notice of demand shall lie to the Secretary, Industries and Labour Department, Secretariat, Panaji.

(2) Every appeal against the notice of demand shall be made in form of a memorandum setting forth the name and address of the applicant, registration number of the barge, the grounds of objection to the notice of demand, the name and designation of the Officer who passed the order and shall contain relief prayed for and shall be accompanied by satisfactory proof of the payment of tax admitted by the appellant to be due. Every such memorandum of appeal shall be signed and verified by the appellant or by his authorised agent and shall be accompanied by a certified copy of notice of demand appealed against.

7. *Maintenance of accounts and registers.* -Every registered owner of a barge shall keep and maintain a register showing the movement of barges through the Cumbarjua Canal in Form II.

8. *Powers of entry and inspection.* - The Tax Officer or any other person duly authorised by him in writing may, at all reasonable times, enter into, inspect and search any barge or any place ordinarily used by the registered owner for keeping such barge or keeping accounts of his business for the purposes of seeing or verifying whether the provisions of the Act or any rules made thereunder are being complied with.

9. *Composition of Tax.* - (1) The registered owner intending to compound the tax assessable on him for any period, may apply to the Tax Officer for composition of tax payable, for that period, before the commencement of that period and pay in lieu thereof, as fees an amount equivalent to tax leviable on ninety per cent of the assessed quantity of goods to be transported by a barge and accepted by the Tax Officer.

(2) On production of receipt evidencing payment of the amount of tax under sub-rule (1), the Tax Officer shall issue to the registered owner of the barge a certificate in Form III for the period for which tax is compounded.

10. *Drawback, set off, refund, etc.* - (1) When a registered owner of a barge claims that he has been charged or has paid more amount than is due or that he is entitled to refund in terms of sub-rule (4) and claims the drawback, set off or refund under section 15, he shall submit an application to the Tax Officer stating the ground on which the refund is claimed.

(2) Application under sub-rule (1) shall be made within a period of one year from the date of payment of the respective amount.

(3) If, on receipt of the application under sub-rule (1) the Tax Officer, after making such enquiry as he deems necessary, is satisfied that a refund is admissible, he shall calculate the amount of refund due and allow the registered owner either to deduct the excess from the amount of tax and penalty, if any, due in respect of any other period or issue to him a certificate of refund in Form IV.

(4) When a tax on barge has been compounded for a period and it is proved to the satisfaction of the Tax Officer that the barge has not passed with goods through the Cumbarjua Canal during the period of composition or part thereof, refund shall be made according to the following scale:-

a) When a barge has not passed through the Canal for a full period of composition of tax ... 80% of the tax paid.

b) When the barge has not passed through the Canal for half the period of composition of the tax or more ... 40% .of the tax paid.

(5) No refund shall be admissible if a barge does not pass through the Cumbarjua Canal for less than half the period for which the tax is compounded.

FORM I

[See rule 3 (1) of the Goa, Daman and Diu Barge (Taxation on Goods) Rules, 1987]

The Tax Officer,
Panaji/Mormugao.
Sir,

As required under the Goa, Daman and Diu Barge (Taxation on Goods) Rules, 1987, I/We submit the return in respect of my/our barge(s), which passed through the Cumbarjua Canal, with goods during the month of

Sr.No.	Name of barge	O.No.	Quantity of goods In DWT Tonnes	Departure from loading point			Passed under Banastarim bridge (towards Mormugao)	
				Date	Time	Place	Date	Time
1	2	3	4	5	6	7	8	9

Yours faithfully,

FORM II

[See rule 3 (2) and 7 of the Goa, Daman and Diu Barge (Taxation on Goods) Rules, 1987]

Name of Barge _____

Official No. of Barge: _____

Trip No.	Name of master of Barge	Name of loading point	Goods loaded		Departure from loading point		Passed under Banastarim Bridge		Arrived at Mormugao or unloaded site		Signature of Barge Master	Remarks
			Description	Quantity in tonnes	Date	Time	Date	Time	Date	Time		
1	2	3	4	5	6	7	8	9	10	11	12	13

FORM III

[See rule 9 (2) of the Goa, Daman and Diu Barge (Taxation on Goods) Rules, 1987].

No. _____

Certificate of Composition of Tax

Certified that tax payable under the Goa, Daman and Diu Barge (Taxation on Goods) Rules, 1987 in respect on the undermentioned barge (s) owned by _____ has been compounded for the period from _____ to _____ .

Sr.No.	Name of the barge	Official No.	Remarks
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Date:

Place:

Tax Officer
Mormugao/Panaji

FORM IV

[See rule 10 (3) of the Goa, Daman and Diu Barge (Taxation on Goods) Rules, 1987].

Certificate of Refund

No. _____

To,
The Treasury Officer,
Panaji.

Sir,

I, _____ Tax Officer, Panaji/Mormugao, hereby certify that Shri/Sarvashri _____ having paid on _____ an amount of Rs _____. (Rupees _____ only) as tax on Goods transported by, barge(s) _____ is entitled to a refund of Rs _____ (Rupees _____ only) on account of reasons mentioned at item No. _____ of the following items:

1. That the goods for which tax is paid are exempt from payment.

2. That he/they has/have paid more tax than is due from him/them.

3.

....

....

A note of refund has been made on the original document. Please pay to _____ Rs _____ (Rupees _____ only) on account of the refund.

Date:

Place:

Tax Officer
Panaji/Mormugao

By order and in the name of the Administrator of Goa, Daman and Diu.

Subhash V. Elekar, Under Secretary (Industries and Labour).

[1] corrected vide corrigendum NO.1/21/86-ILD dated 28/5/1987 published in the official gazette Sr. I No.11 dated 11/6/1987