

under sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

COMMENTS

The hierarchy of the sales tax authorities is as under :-

Commissioner of Sales Tax
Assistant Commissioner of Sales Tax
Sales Tax Officers
Assistant Sales Tax Officers
Sales Tax Inspectors

For implementing the provisions of the Act and Rules, the territory of Goa, Daman and Diu is divided into six wards, each under the charge of either Sales Tax Officer or Assistant Sales Tax Officer, with following jurisdiction.

- i) Panaji ward - Tiswadi and Ponda.
- ii) Mapusa ward - Bardez, Pernem, Bicholim, Satari.
- iii) Margao ward - Salcete, Quepem, Sanguem and Canacona.
- iv) Vasco da Gama ward - Mormugao.
- v) Daman ward - Daman.
- vi) Diu ward - Diu.

All the non-resident dealers are to be registered in Panjim ward.

The Commissioner of Sales Tax is the head of the administration with all the powers and duties prescribed under the Act.

Tribunal.

13 A. (1) Subject to the provisions of this section, the Government shall constitute a Tribunal consisting of one member or as many members as it thinks fit to discharge the functions conferred on the Tribunal by or under this Act:

Provided that where the Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has

1 Inserted by Act No. 6 of 1970 w. e. f. 1-7-1970.

been a member of the Central Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

- (2) If the Tribunal consists of more than one member, the Government shall appoint one of the members of the Tribunal to be the Chairman thereof.
- (3) The qualifications of the member or members constituting the Tribunal and the period for which such member or members shall hold office, shall be such as may be prescribed.
- (4) The Government may terminate the appointment of any member of the Tribunal before the expiry of the term of his office if such member—
 - (a) is adjudged as an insolvent, or
 - (b) engages during his term of office in any paid employment outside the duties of his office, or
 - (c) is or becomes, in any way concerned or interested in any contract or agreement made by or on behalf of the Government or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom, or
 - (d) is in the opinion of the Government, unfit to continue in office by reason of infirmity of mind or body, or
 - (e) is convicted of an offence involving moral turpitude:

Provided that before terminating the appointment of any member under this sub-section, such member shall be given a reasonable opportunity of making representation.

- (5) Any vacancy in the membership of the Tribunal shall be filled up by the Government as soon as practicable.
- (6) If the Tribunal consists of more than one member, the functions of the Tribunal may be discharged by any of the members sitting either singly or in benches of two or more members, as may be determined by the Chairman.
- (7) Where the Tribunal consists of more than one member and they are divided on any matter arising for decision before them, the decision shall be the decision of the majority, if there be a majority; but if the members are equally divided, they shall state the point or points on which they differ and the case shall be referred by the Chairman for hearing on such point or points to one or more of the other members of the Tribunal, and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case, including those who first heard it.
- (8) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award costs, and the amount of such costs shall be recoverable from the person who is ordered to pay the same as an arrear of land revenue.
- (9) The Tribunal shall for the purpose of regulating its procedure and disposal of its business make regulations not inconsistent with the provisions of this Act and the rules made thereunder.

Provided that the regulations so made shall not have effect until they are approved by the Government and published in the Official Gazette.

- (10) Notwithstanding anything contained in this section, the Government may, by notification in the Official Gazette, confer on any Tribunal constituted or functioning under any other law for the time being in force, the powers

conferred on a Tribunal by or under this Act and thereupon such other Tribunal shall be deemed to be a Tribunal constituted under this section in relation to the said law notwithstanding anything inconsistent in such other law:

Provided that the provisions of sub-section (3) and (4) shall not apply to the Tribunal on which powers are so conferred.

- (11) Any proceedings before the Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code.

45 of 1860

COMMENTS

Under this new section inserted w. e. f. 1-7-1970 Government is empowered to constitute a Tribunal which may consist of one member or as many members as Government may think fit to discharge the functions conferred on it under sub-sections (2A), (2B), (2C), (3B), (4) of section 27 and sub-sections (2) and (5) of section 28.

The Administrative Tribunal of Goa, Daman and Diu is functioning as Tribunal constituted under this Act vide Notification No. Fin (Rev)/2-36/Part/1310/70 dtd. 17-7-1970.

Incidence of tax.

4. (1) With effect from such date as the Government may, by notification in the Official Gazette, appoint, being not earlier than thirty days after the date of the said notification, every dealer whose gross turnover during the year immediately preceding the commencement of this Act exceeded the taxable quantum shall be liable to pay tax under this Act on all sales effected after the date so notified:

Provided that a dealer who deals exclusively in one or more classes of goods specified in the second schedule shall not be liable to pay any tax under this Act.

- (2) Every dealer to whom sub-section (1) does not apply, shall,

if his gross turnover calculated from the commencement of any year exceeds the taxable quantum at any time within such year, be liable to pay tax under this Act, ¹ [on the expiry of one month from the date] on which such gross turnover first exceeds the taxable quantum, on all sales effected after such expiry.

² Provided that a non-resident dealer or a casual trader shall be liable to pay tax on all sales effected after the date on which his gross turnover first exceeds the taxable quantum;

- (3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this latter period his liability to pay tax shall cease.
- (4) Every dealer whose liability to pay tax under this Act has ceased under the provisions of sub-section (3), shall, if his gross turnover calculated from the commencement of any year again exceeds the taxable quantum at any time within such year, be liable to pay such tax ³ [on the expiry of one month from the date] on which such gross turnover again first exceeds the taxable quantum on all sales effected after such expiry:

⁴ Provided that a non-resident dealer or a casual trader shall be liable to pay tax on all sales effected after the date on which his gross turnover again exceeds the taxable quantum.

1 Amended by Act No. 12 of 1973 w. e. f. 1-11-1974.

2 Inserted by Act No. 12 of 1973 w. e. f. 1-11-1974.

3 Amended by Act No. 12 of 1973 w. e. f. 1-11-1974.

4 Inserted by Act No. 12 of 1973 w. e. f. 1-11-1974.

¹ (5) In this Act the expression 'taxable quantum' means:—

- (a) in relation to any dealer who imports or brings for sale any goods into Goa, Daman and Diu, or to whom any goods are despatched from any place outside Goa, Daman and Diu, for sale or who manufactures or produces any goods for sale, and the value of goods imported or brought, or manufactured, or produced by him or despatched to him, during the year is not less than Rs. 1500/- (Rupees one thousand five hundred),—ten thousand rupees;
- (b) in relation to any dealer who imports or brings for sale any goods into Goa, Daman and Diu or to whom any goods for sale are despatched from any place outside Goa, Daman and Diu, or who manufactures or produces any goods for sale, and the value of goods imported or brought, or manufactured or produced by him, or despatched to him, during the year is less than Rs. 1500/- (Rupees one thousand five hundred),—twenty thousand rupees;
- (c) in relation to a non-resident dealer who has no place of business in the territory of Goa, Daman and Diu but who sells goods in the territory and a casual trader,—rupees one thousand five hundred;
- (d) in relation to any other dealer,—thirty thousand rupees.

Provided that if the Government is of opinion that having regard to the difficulty in maintaining accounts or for other sufficient cause the taxable quantum in respect of any class of dealers falling under clause (a), (b) or (c) should be increased, the Government may fix in respect of such class of dealers such taxable quantum, not exceeding thirty thousand rupees as may be specified in the notification.

¹ Substituted by Act No. 12 of 1973 w. e. f. 1-11-1974.

