

## DELHI SALES TAX ON RIGHT TO USE GOODS ACT, 2002

12 DELHI GAZET-IE : EXTRAORDINARY No. (allowing Act or Legislative Assembly of the National Capital Territory of Delhi passed the Bill of the Delhi on 23-7-2002 and hereby general Delhi sales Tax to Use Act, 2002 (Ordinance No. 13 of 2002). Cases passed by the Legislative Assembly of the National Capital Territory of Delhi on the 15th April, 2002). TO LEVY AND COLLECT TAX ON THE TRANSFER OF THE RIGHT TO USE GOODS FOR ANY PURPOSE (WHETHER OR NOT FOR A SPECIFIED PERIOD) FOR CASH, DEFERRED-PAYMENT OF OTHER VALUABLE CONSIDERATION IN THE NATIONAL CAPITAL TERRITORY OF DELHI BY THE ASSEMBLY OF THE NATIONAL OF DELHI IN THE FIFTY-THIRD YEAR OF THE REPUBLIC OF INDIA AS FOLLOWS:—

PRELIMINARY 1. Short title and extent.—This Act may be called the Delhi Sales Tax on Right to Use Goods Act, 2002 and it shall extend to the whole or the National Capital Territory of Delhi.

(3) It shall come into force on such date as Government in the Official Gazette appoints this Act.

2. Construction of certain expressions.—(a) "date" means the date on which this Act comes into force; (b) "Commissioner" means the Commissioner of Sales Tax appointed under sub-section (1) of section 9 of the Sales Tax Act, 1975 (43 of 1975); (c) "dealer" means any person whether for commission, remuneration or otherwise transfers right to any goods for any purpose whether or not for a specified period or for deferred payment of other valuable consideration; and includes the Government or the Central Government which so transfers right to use such goods; and, solely, but not association of which so transfers right to use such goods to its members; a manager, partner, broker, commission agent, agent or any other agent by whatever name called, and, whether of the description as hereinbefore mentioned or not, who so transfers the right to use (d) (h) (i) (j) (k) (l) (m) (n) any goods belonging to any principal or "nemin mens Capital Territory" Act of the Delhi (f) "goods" includes all materials, articles, commodities and all other kinds of movable property, but does not include newspaper, actionable claims, shares, stock, or any Government securities; (g) "Lieutenant Governor" means the Lieutenant Governor of the National Capital Territory of Delhi; (h) "person" includes any company or an association of persons or body of individuals, whether incorporated or not, and also a Hindu undivided family, a partnership firm, a body corporate or an authority owned or controlled by, or the Government of or the Government of India or Union Territory and cooperative society, whether registered or not; (i) "possession" includes actual or constructive possession, as on-net or transfer of beneficial interest or principal, as whether disclosed or not; (j) "registered dealer" means a dealer registered under section 7 of this Act; (k) "rule" means: under this with its grammatical variation and other expressions means any transfer of right to use any goods for any purpose (whether for a specified period) for cash, deferred or any other valuable consideration, and the seller or transferee accordingly; (l) "price" means the amount or value consideration received or receivable for transfer or the right to use any goods for or on behalf of or for a specified period, payable under this Act; (m) "transferee" means the person to whom (n) right to use goods is transferred; (o) "transferor" means who transfers right to use goods; (p) "sales" means the aggregated amount of net price received and 3 DELHI-GAZETTE : EXTRAORDINARY 13 year price deal or the than the right to use any goods:—(t) "year" means the financial year. Q. All words and used, defined in this Act but defined in the Delhi Sales Tax Act shall have the same meanings as assigned (Q. term in the Delhi Act).

CHAPTER II—INCIDENCE AND LEVY OF TAX

3. Incidence.—Subject to the provisions in this Act (hereinafter made thereunder), a tax shall be leviable on the turnover of sales in respect of (a) the transfer of right to use any goods agreed to before the appointed day but the right to use the goods is exercised on after the appointed day; or (b) the transfer of the right to use any goods agreed to prior to appointed day wherein the right to use has been continued after the appointed day. In 112 except in or (the sale price received or receivable in respect of such use on or after the appointed day for the transfer or the right to use any goods agreed to (on or after appointed day) or tax.—The Government may by order in writing direct that this Act shall apply to the sale of goods provided such shall be levied if turnover or net price is less than lakh rupees during the year provided further that no tax shall be levied under this Act on the turnover of sales in the course of export or the goods out of the territory of India; and in the case of import of the goods into the territory of India or in the case of inter-state trade or commerce or outside the State of Union Territory provided also that: where in respect of any goods or class of goods the Government is of the opinion that it is expedient in public interest so to do, it may, by notification in the Official Gazette direct that in the case of such or class of goods subject to such

conditions as may be such modified except if the 'IIC' is plainable unacr (his section. as maybe in IIC notification : Provided also' where respect of any class of goods covered by the Opinion 111+1 it is expedient IIC public interest so to do. it in the direct but the payable under this Act in goods or class or subject to such returns and conditions; } z--/02-3 ds may in (the notification. S Liability of dealer—) Every dealer whose turnover of sales made during (a) (hereinafter called 'the day 01 March, 2002' commencing on the 1st day of April, 2002) has exceeded or exceeds limit of four lakh units such liability under sub-section (1), be liable to pay tax under this Act on the turnover of sales made by him after the appointed day: Provided that a dealer from clause (b) above, applies and whose turnover or sales, exceeds the limit of four lakh rupees and the appointed day shall be liable to pay tax, respect or sales take place up to the time when his turnover of sales as computed from the day of April, 2001 first exceeds such limit. (2) Every dealer whose turnover of sales during a year commencing on the 1st day of April, being a year subsequent to the year in which the dealer is liable to pay tax under this Act, exceeds the four lakh units such liability under this Act from the said date : Provided that a dealer shall not be liable to pay any tax in respect of turnover of sales placed during the period commencing the 1st day of April or the 1st day of the year in which the turnover of sales as computed from the 1st day of April first exceeds the four lakh rupees. (3) Every dealer liable to pay tax under this Act and dealer who has been registered under section 1 shall continue to be so liable until the expiry of three consecutive years each of which his turnover has failed to exceed limit of four lakh rupees and such further period as prescribed or his registration certificate is duly cancelled. as the Government may and upon expiry of such period or upon such cancellation or his registration, the dealer may be liable to pay tax other tax already or leviable shall cease until his turnover of sales again exceeds the four lakh rupees. (4) The dealer who is liable to pay tax in the same year in which he ceased to be in respect of or which takes place during the period commencing on the date of cessation of liability and ending on the day on which his turnover of sales first exceeds such limit, shall be liable to pay tax under the provisions of this Act and the rules made thereunder. (5) The tax shall be paid by every dealer who is liable to pay tax under this Act. (6) The dealer in with 4 on the turnover in respect of IIC transfer of the right, to be effected by him CHAPTER REGISTRATION, RETURNS, PAYMENT OF TAX AND ACCOUNTS 7. Certificate of dealer who is liable to pay under this Act shall be any goods unless he possesses a valid certificate of registration as provided under this Act, (2) Every dealer required to be registered under section (1) apply to the Commissioner for registration within such time, in such manner and in such form as may be prescribed by the Commissioner, after such inquiry as he may think fit is satisfied that the application (or registration) is correct. he shall register the applicant and grant him a certificate of registration 'in such manner and as may be prescribed : Provided that if the Commissioner is of the opinion that the application is not in order or the particulars furnished have been given incorrect, he may refuse to be recorded in writing, by an Order passed by him, the prescribed period, reject the application. (4) The Commissioner may, considering the information furnished or otherwise call for or received under any of the provisions of the Act amend from time to time the registration in the manner and within such time as may be prescribed. (5) If any person upon an application made by him (his behalf been registered as a dealer under this Act and hereafter it is found that he has been so registered under the provisions of section 1, he shall be liable to pay tax on the turnover of sales made from the date on which his registration certificate becomes effective until it is cancelled notwithstanding that he may not be liable to pay tax under section 3. Where a registered dealer of sales of a registered dealer during any year exceeds the limit of four lakh rupees applies for his registration certificate, in the prescribed manner the Commissioner shall cancel the same from such date as may be fixed by him. (7) Where the Commissioner is satisfied that any registered dealer has discontinued sale and has failed to apply under section 1 (6) for the cancellation of his 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 or the date from which the dealer has discontinued sale : Provided that cancellation of registration or registration or an application of the dealer or: DELHI GAZETTE : EXTRAORDINARY shall not affect the liability of the dealer to pay any interest or penalty due from or to any person from the date of cancellation whether such tax (including interest and penalty) is assessed before or after the cancellation. (8) The provisions of section 18 of the Delhi Tax Act and the rules framed thereunder shall be prescribed of security or. case may be, additional security required under this Act, 8, Returns, payment of taxes and interest: Every dealer registered under this Act and dealer who is liable to pay tax under this Act shall be liable to pay tax in the prescribed manner, shall such

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**9. Assessment-AI) Whee all the returns year have.**been furnished and tax due accordin such returns paid within prescribed period. Conunissioner shall summary assessmcm wi requiring the prdsence of lthe dealer within a period Df year the end financial year to which-the re p:rtain and in rnaking such.a summary assessment Contnlissioncr shall llave the authority to adjustments as well ns interest that riiglü due ror b?laced payment of lthe tax (2) Notwithstanding anything contained in sectiou < I or-nol.a return been ru mished the nx dye amordingto such return paid within lthe pe lthe Commission:r, if hc gs nor \*Itisfied wick 5 .1V1 filed or cmfsidersit to ensure •ü•e has undersi.l!ed his ot saie5. Lhe 'mer a notice requiring Li m, a dale Io be led Illcrein his;qff.ec.and produce Or to bc pcdücced {here aliy evidence Which . r my relyin or I hcreturq.and - ssiDner jnteia:e therlc•. Provided chat no noliF underlhis sub-section shall the dealer ancr lite c:vöity yeätsfrom • end of the finercial year the pertain, O) On Spesified in the n0L;ee, as Soon thertaner, Commissöncr 'lull, ancr considering a:tlich raay be asses the amoun: due from the dealer. dealer fails to isslled under Coninlissioncv• assess io lthe bea Of his judgment or - (5) information which has imo Lis rion. the Commissioner is gatisfied agy ee!er hasbeen tr#ay u (Iderthis Acl in rc.\*ct or hpsfaiied to hintsclr regismedund,x p:eced in sucti ns may >æcribcd to ü5scæ; to tie best .or hisftdgmnt of lax doe from IIC dalei in such period subscqueql periodsand ip•takihäsuch a;scsmcnt give the dealer a masonnble øs-pni:niry and the Commissioileq ifhc is sa•jsfied that (he nl\*dc without t hat tax so •assessed, a Stffu gxceeding t•.Ece that • ONO assessment vndn dicproviston olstmecücn be made thcexpity from end year in respect ur which or parl of which tas is ed. selion O) for ar,y yearorpon nissionc' Wiese whole or any deafer if tesrx;cl orany•petioå has ped aesssmetu to hiv. tecn tinder or Een asszsy=d rate than the ratc a' which essable. lthe Comm'issicner q. within from die final Older assessment. in a case has concealed, omitted or (a disclose gully llic Of and ' :kb) wilhin on the deaterfind after giving (bc denlcr on or,poqwnit\_•, or and making such inquiry Considers to dclerninc tothe h\$[0Chi\$ judgment, the am3um 'hedealer in ard of thig Acl shall, may be- apply 15 No order or rmsscsmnt or IEOMputation bc made undex sub (l)ärter—— ya-lrs from lbe dili Sf finäl •order of assc5-9DzgL spæified ih f i); gf date notice-under sub-section(S); whichever is later

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(14) The order ordeLcmion or seizure under ) shall tcmiin in rorc-so longas the person concerned docs not furnish inrormation lAuiied under clause (a) of sub-sccLion ( IO) or moka properaqranuement ror inspecclion the goods under the said sub•stiliön, ( IS) lRany person. who lt-anspons or holds in cus- (Ody .ror dclivry to. 01 on tx•halCof\_ any dealer any goods, on LX2ing required by Commission:r, uudec clause {a) of sub-section (IO) (o do. rails Ko give any inrormalion likeJy 10 bc in his in respec( of such Or rails to permit i nslreclion lhercor.•as thecnsç may bc, Oul prejudice to any cther action which may bc u'ken against such pxson. apresumption Inay raised lItaL Lhc resp:cl or which lie has railed to (urish inronna: ti011 or permiL inspec'ion. wciemeantror salaby him and he is a dcaler i iabtc pay Ill is-Act ind Lhv provi- sions ot (his Ac[shalJ apply accordingly. 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IIIc n»ay bc to bc auctioned by Elie Cannmissioner ;IS500n as it is practicable: aner Ot- dcr or detention or seizurco( such goods is mndeand the amount so realised by (he auction of goods shallbe in lhe GovcnuncnLTfMSuryimmCdiately. (IS)

Where an order imposing is passed under, or under sub-section (12) and person liable shall pay interest penalty within the prescribed period. The goods so seized may be sold by public auction and the proceeds deposited in Government Treasury. Auction of goods (Or made under sub-section (17) Or Sub-section (18) shall in manner prescribed for disposal under sub-section (6) of the Sales Tax Act. (40) Any person entitled to the sale of goods authorized under the provisions of this On application made to the Commissioner and the net proceeds of the sale shall be paid to him. The net proceeds of the sale shall be paid to the person entitled to the sale. The amount of tax and the penalty under Act - (21) No action shall be taken for the recovery of claim by any person against Commissioner or officer authorized in this behalf for any loss done : either in discharge of his duties under this (22) Save as otherwise provided in this every search and seizure made under this section as may be carried out in accordance with the provisions of the Criminal Procedure Code 1973 (or 1974) to searches or seizures under that Code

16. Vow# to eiempt,The Govgrnmeni 10 exc!ltp tax on right to usq any gbods by cation in the official Ga7/Elle.17. Fftrnishiag or information by Owners or Stores,ii\$ehouses. godowas, etc. (l)

**official Ga7Ællc.17.** FURNISHING or information by Owners or Stores, ii\$ehouses. godowas, etc. (1) Notwith aiiylhiåg to thēcontt:ary 'contained in any law for being ili rorcc; every owner or ani. other person control ot a cold store. warehouse; godown or any placg who store goods fdfhiré Or main cause 10 be maintained a cocr&t and complete a indicating the full parlictllars pcrSou whase are slored and the quantity, value, date of rcccipl livgry or such gwds. (2) Such accounts shall, on detnand, p lthe Conuni sSioncr or anyorficcr audMized in this bchair who .raay Vike Or causc•to betaken cxlrßCLS Lherg requiresl.tch estHels to b: as hc Ina} pfrlsider necessary. • (3) Tany ofanyolher person having m or a cold Store. warehouse, or any other placc. who •stores .gopd\$T0r'hire ot reword, conlra•, •any or provisions Orsüb-scc lion (1) Or sub-section in a manner likely Lo Icad to evasion or any tax under this the Commissioner may. without preju - IO Olher wliich may Lak-cn against such or having•control a cold store; •godown or any Olli?r Such place under any other . Sion ortbis Act, direct. after giving an opponnnnity or. . ing beard. suchowncr.OrLhe\*rS0lt having cold store. godown ot any Olhet such shall pay by penal\*' asun excceding lbrcc a limes lax. on the goods in rc which default is committed under sub-swtiop (1) Or section (2n- c 11AMERvr OFFENCES AND PENALTIES 18. Offences. {1 ) Whrgany person- (a) liable be registered undct (his ACL faih hinscJL. Z. IVO (c) Idi (D DFLHI GAETTE : EXIRAORDINARY 19 liable to fleche return, rails to file return orpay lthe duc agcording such return wiQ1in LF,g lime slipulaled logcllher with incercl acctued (hercon. i! aliyjknowirigly prepares ot pto- duces false acccunL•. registers\_ or documenLs, false rélilrns in relation to his busi• makes false disclosurcor averm:nt in any slatenléllt required to bu record:d or in any declaration required to be' filed under this -Acl or thernlcs framed thercund:r; intentionally avoids-or evades Or congeals ordel iberately conceals his lurnover cr tax li- abilit\$ in dc!ibernlcy disregards notice cfelemand or (hils to pay amount in term5 of any\_notiqe or demand and pcrid&d of six months has tapscd since lthe receipt of the notice of mand by hirn•\_ preventsot cislnlctsin any manner the Corn- :nis5i01'.eror any officer authorized•by him in this behalf under llii5 Agt,. to etitcr. inspect and search piacc orbusiness or arhy Otlit±r place where the goods or the-acpurus. regis:- ters and decuntenfs arc believed to be kgpt. or prevents or obstructs. the Commissiprier ot such omcer to seize the or aécounts. registers ard documents: faits makedeductiOn or tax a! sourgcor.ar- deducliåg rails tö deposit amount dc- ducted as required unger section or (his. chlcrs a transaction V.'j1Qany other•per• son witl!oel obl.?iningfrom hilna tax cleannee certificate tinder section 13 orghis Act: fails lo maintain accounts in the manner as required under section I I or this Act; haids or person in Lhe c0Jpmission or any such OffcpcC as aroresaid; Rcsllhl be punishable pith simple ilnptisoni•ncll! for which may cx'lend to six months or with fine which 10 lwglly thousand rupees, or with both, 97: Explanation. - A1' offence •andcrdause (d) ortllis Zion sbatl be deemed lo be a conlinuing offcnep fid I is (2) Where an offcnceunder.this iscommil- Willi regard to a business\_ even' person. WILO was-re- ible for theconduct or Jhe.business%ll the time when was conuniued or Who wasanswerable for a lapse in any luvaction oromisSiOn, shall 10 be proceededagainsl and punished under this . (1) Witltcul prejudice to the provisions contained in ion nn offcncc under this section is cpMmitAl by-a firm or a company and il is found lhal the Offence bas coltimuied with [he consent cr conniv- anceof. Cr iS atribulable neglect on lthe part any par.Lnct of the firm ot Chairman. Managing Director o,' Di • regor6f thecorr.pany. such partner. Director or Director shall personally liable lo bc prD• ceeded against and punished under this section. (4) Ans prbceeding under Ibis Acl inchzding 'lepro. cecding of rectification cir re• covery Other than [he proceeding ror imposijjoa of pcn- ally. Xl:all bc cart-icd prgi-ndicc to any lion

under this section. (5) If a dealer contravenes any of the provisions or the rules made thereunder, he shall be liable to pay a fine not exceeding five hundred rupees for each day during the period of continuance of the contravention or failure, as the case may be, in addition to the penalty provided under this Act for such contravention or failure. (6) Nothing shall prevent the dealer from continuing to carry on his business during the period of continuance of the contravention or failure. (7) No court shall take cognizance of any offence punishable under this Act or the rules made thereunder, except with the previous sanction of the Commissioner. and no court inferior to that of a District Magistrate shall try any such offence.

**19. Investigation of dealer subject to such conditions as may be prescribed.**—The Commissioner may authorise any officer not below the rank of an Assistant Sales Tax Officer to investigate all or any of the offences punishable under this Act. (2) Every officer so authorised shall, in the conduct of such investigation, exercise all the powers conferred by the Code of Criminal Procedure, 1973 in relation to the investigation of a cognisable offence. CERTAIN PROVISIONS OF THE DELHI SALES TAX ACT APPLICABLE TO. Authorities under the Delhi Act empowered to assess, etc. tax under this Act—Subject to the other provisions of this Act and the rules framed thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce direct tax, interest and penalty under the Delhi Sales Tax Act, shall assess, reassess, collect and enforce payment of DELHI EXTRAORDINARY, interest and penalty payable by a dealer under this Act; a tax, interest or penalty payable under the Delhi Sales Tax Act and the rules framed thereunder; and the provisions of the Delhi Sales Tax Act and the rules framed thereunder relating to the assessment, collection, recovery, appeals, revision, reference, funds, penalties, charging or payment of interest and the interest or interest furnished by a dealer as confidential, reassessment of escaped turnover or sales, etc. of tax, maintenance accounts; interest on loan; search and liability in case of a dealer to the High Court of Delhi, Compounding of offences and other miscellaneous matters shall apply accordingly. The provisions of the Delhi Sales Tax Act regarding proceedings under the said Act, in so far as they relate to inconsistent provisions of the Delhi Sales Tax Act shall apply mutatis mutandis to the proceedings under the said Act, CHAPTER MISCELLANEOUS AND RULES 11 \_ Officers and servants appointed public servants—All officers and servants appointed under this Act shall be deemed to be public servants within the meaning of Indian Penal Code, 1860 (45017860)

22. Order of suits in civil court—No suit shall be brought in any civil court or set aside or modified in any manner under this Act or the rules framed thereunder or any other proceeding suo motu or otherwise by the Government or any officer of the Government for any reason whatsoever done or intended to be done or attempted to be done under this Act.

**23. Delegation of powers to officers and servants.**—Subject to such restrictions and conditions as may be made by order in writing, the Government may confer on any officer or servant of the Government under sub-section (7) of section 15 to any officer not below the rank of an Assistant Sales Tax Officer, 24. Power to hold public hearing in the official Gazette and subject to the condition of previous publication, make carrying out the purposes of this Act. Provided that if the Government is satisfied that circumstances exist which render it necessary to do so, it may dispense with the condition of previous publication of any order to be made under this section. (2) In addition to the powers conferred by the foregoing rules may provide (c) officers expressly authorised in this Act to be prescribed, procedure for registration of dealers: compelling the submission of returns and documents, enforcing the provisions of the Act, generally, regulating the procedure to be followed, and the means to be adopted under this Act, any other matter including levy of fees which there is no provision or no provision in this Act and for which provision is, in the opinion of the Government. Sary for giving effect to the purpose of the Act. (3) In making any order the Government may make such provision as it may think fit that a breach of the order may be made in such manner as may be prescribed, in such manner as may be prescribed, and when the breach is committed, penalty not exceeding five hundred rupees imposed for every day of default during the continuance of such breach, (4) Every rule made under this Act shall be laid before the Assembly of Delhi in session for a total of thirty days which may be comprised in one session. If more

successive sessions. and if, before of session immediately following the session successive sessions Legislative agrees in making any modification in the rule or the Assembly agrees that such rule should not be the rule shall have effect only in the year for which it is made; and so, that any modification or annulment shall be prejudicial to the validity of anything previously done under that rule.

**25. Power to cully arises in giving to the provisions or the Government may, by order in the Official such provisions not inconsistent with the provisions of this Act as appear to it to be necessary removing the difficulty: provided that no order shall be made for a period of two years from the date of the order. Every order made under this section shall, as may be made, be laid before the Government or the Council of Ministers.**

