

Returns, Assessment, Payment, Penalty, Recovery and Refund of Tax

42. Draw-back, set-off, refund, etc.-¹[bst1] [(1)The State Government may by rules provide, that--

(a) in such circumstances and subject to such conditions as may be specified in the rules a draw-back, set-off or refund of the whole or any part of the tax.-

(i) paid or levied or leviable under any earlier law in respect of any earlier sales or purchase of goods which are held in stock by a dealer at the commencement of this Act, be granted to such dealer, or

(ii) paid or levied or leviable in respect of any earlier sale or purchase of goods under this Act or any earlier law, be granted to the ²[bst2] [Purchasing dealer, or]

³[bst3] [(iii) paid or levied or leviable under the Maharashtra Tax on Entry of Motor Vehicles into Local Areas Act, 1987, be granted to a dealer whose principal business is of buying or selling motor vehicles.]

⁴[bst4] [(iv) paid or levied or leviable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2003 (Mah. IV of 2003) be granted to a dealer,]

NOTES :- DRAWBACK, SET-OFF, REFUND ETC.: Consequential amendment is made to eligible the dealer to get drawback, set-off, & refund etc. in case of Entry Tax.

Clause (iv) to sub-section (1) of section 42 is added with effect from 01-10-2002

"Paid or levied or leviable under the Maharashtra Tax on Entry of Goods into Local Areas Act, 2003 be granted to a dealer." (Also Refer Tr. Cir. No. 11T of 2004, dated 8th July, 2004.)

(b) for the purpose of the levy of tax under any of the provisions of this Act the sale price or purchase price shall in the case of any class of sales or purchases be reduced to such extent, and in such manner, as may be specified, in the rules.

⁵[bst5] [(2)Where no tax has been charged separately, the rate of tax applicable for the purposes of calculating the amounts of draw-back, set-off or refund in respect of any earlier sale or purchase of goods, or for the purposes of reduction of sale or purchase price for levy of tax, or for the purposes of calculating the amount of reimbursement under section 44, shall be the rate set-out against the goods in the relevant Schedule :

Provided that, where, under any notification issued under this Act, any of the sales or purchases of goods has been exempted from the payment of whole of sales tax (or purchase tax), the rate of tax applicable shall be nil; and where it is exempted from payment of any part of sales tax (or purchase tax), the rate of tax applicable shall be the rate at which the payment of tax is to be made by virtue of such exemption.]

⁶[bst6] [(3)Notwithstanding anything contained in this Act or the Rules made thereunder, the amount of draw-back, set-off or as the case may be, refund shall not exceed the amount of tax received in respect of any sale or purchase of same goods, into the Government Treasury, except where purchase tax is payable by the claimant dealer on the purchase of same goods effected by him:

Provided that, where tax levied or leviable under the Act, is deferred or deferrable under any Package Scheme of Incentives implemented by the State Government, then it shall be deemed to have been received in the Government Treasury for the purpose of this sub-section."

1. Original Section 42 Re-numbered as Sub-section (1) by Mah. Act No. 10 of 1991. dt. 27-3-1991 restrospectively w.e.f. 1-1-1960.

[bst2]

2. These words were Substituted for the words "purchasing dealer" by Mah. Act No. 9 of 1988 w.e.f. 22-4-1988.

[bst3]

3. Sub-clause (iii) was Added by Mah. Tax Laws (Levy & Amendment Act) Mah. Act No. 9 of 1988 w.e.f. 28-4-1988.

[bst4]

4. The sub-clause (iv) was added and shall be deemed to have been added w.e.f. 1st October 2002 by Mah. Act No. 13 of 2004, dated 29th June 2004. s.29. (Refer T. Cr. No. 11T of 2004, dt. 8-7-2004)

[bst5]

5. Sub-sections (2) & (3) were Inserted by Mah. Act No. 10 of 1991 w.e.f. 1-1-1960.

[bst6]

6. Sub-section (3) was substituted and shall be deemed always to have been substituted by the Maharashtra Tax Laws (Levy and Amendment) Act No. XXI of 1998 dated 11-8-1998. s.15. (Refer T. Cr. No. 7-T of 1998 dated 5-5-1998). Prior to substituted Sub-section (3) stood as under :-

"(3)For the removal of doubt it is hereby declared that, in no case the amount of draw-back, set-off or refund shall exceed the amount of tax in respect of the same goods paid, if any, into Government treasury"