

CHAPTER II

RATIONALEE OF TURNOVER TAX

- 2.1 Introduction
- 2.2 History of Turnover Tax
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2.1 INTRODUCTION -

In this chapter we propose to discuss the rationale of turnover tax in its historical perspective. The purpose of this discussion is to go into the origin of turnover tax and to examine the rationale behind the present state of the turnover tax.

2.2 HISTORY OF TURNOVER TAX -

In Maharashtra state the turnover tax in its present form has been in operation since the budget of 1986-87, more particularly from 1st July 1986. However, the concept of turnover tax as Municipal Turnover Tax was suggested originally by "Road Transport Taxation Committee" in 1965. The Road Transport Taxation Enquiry Committee was appointed by the Govt. of India in the Ministry of Transport in 1965 to undertake a detailed examination of all aspects of taxation on motor vehicles with a view to recommending procedural, legal and constitutional remedies necessary for ensuring the development of Road Transport. While dealing with the same, the committee had suggested abolition of octroi tax and its substitution by the Multipoint Turnover Tax. Subsequently study group on octroi appointed by govt. of Maharashtra, also suggested the Multiple Turnover Tax. We reproduce below the extracts from the report of the Wankhede Study Group.

i "As stated earlier, after considering the various alternatives, the Study Group has come to the conclusion that for

raising the necessary amount in the event of the abolition of octroi, the best alternative method is to levy a multipoint turnover tax. In recommending this scheme the study group was guided by the fact that any scheme for providing compensation to the local bodies should not ~~only~~ guarantee the actual amount collected by the local bodies in the base year, but the source should be elastic and expanding enough to assure them at least as much growth in their receipts from this sources at which the collection from octroi would have increased from year to year. On the basis of the available data it was observed that since the turnover tax will be largely on the turnover of the commodities dealt in by the dealers registered under the Bombay Sales Tax Act, 1959, the growth rate of such turnover is larger than the growth rate of the octroi collected by the local bodies in the past few years. We therefore feel that this turnover tax ensures to the local bodies the reasonable rate of growth in their revenues and moreover it will also be simple and will not put any unduly high or unreasonable burden on any section of the trading and manufacturing community in the State. The scheme in the nut shell will be as follows -

For the purpose of this turnover tax all the dealers presently covered under the Bombay Sales Tax Act, 1959, Bombay Motor Spirit ~~Taxes~~ Taxation Act, 1958 and the Sugarcane Purchase Tax Act should be covered.

Because of certain statutory provisions of the different Acts such as the Central Sales Tax Act and the provisions of the

Additional excise duties in lieu of sales tax, presently the following turnover of the dealers covered under the Bombay Sales Tax Act will have to be excluded from the coverage of the proposed levy-

(i) Turnover of exports

(ii) Turnover of declared goods

(iii) Turnover of commodities such as textile, tobacco and sugar, covered under the additional excise duty in lieu of Sales Tax.

The study Group thought that the articles subject to additional excise duties in lieu of sales tax as well as the articles covered under the Central Sales Tax Act as declared good should also be brought under the proposed levy. In this respect we recommend to the State Government to represent to the Central Government to allow it to cover these two types of turnovers since though they are presently exempted from sales tax, they are not exempted under the octroi schedule of the different local bodies. Since these are already covered under the different octroi schedules of the local bodies it is felt that the Government of India may not object to bring these commodities under the coverage of the multipoint turnover tax in lieu of octroi purposed by us. Till the time such reference is made to Government of India and its decision in this respect is received, the following scheme of turnover tax for raising the necessary revenue in lieu of octroi is proposed.

All the dealers presently covered under the Bombay Sales Tax Act, Sugarcane Purchase Tax Act and the Bombay Motor Spirit

Taxation Act should be covered under the proposed levy. However, in case of the Bombay Sales Tax Act the coverage of the dealers is as follows -

(i) In case of importers whose annual turnover is not less than Rs. 10,000 and the annual taxable turnover is not less than Rs. 2,500.

(ii) In case of manufacturers whose annual turnover is not less than Rs. 10,000 and the annual turnover of taxable goods is not less than Rs. 2,500.

(iii) In case of other dealers whose annual turnover is not less than Rs. 30,000 and whose annual turnover of taxable goods is not less than Rs. 2,500.

From the above description regarding the coverage of the dealers in the present Bombay Sales Tax Act, it will be clear that every dealer to be liable to be covered under this Act requires to have atleast Rs.2,500 worth of turnover of taxable goods during the year. Since the Study Group proposed to bring all the commodities including the commodities exempted under the Bombay Sales Tax Act under the purview of the proposed levy, We recommend that this particular condition of a minimum turnover of taxable goods should be done away with from the Bombay Sales Tax Act and the different types of dealers with a minimum prescribed turnover should be covered under the Bombay Sales Tax Act. This will not only increase total turnover to be covered under the proposed levy, but will also do away covered under the proposed levy, but will also do away with the anomalous situation that a dealer having taxable turnover of



Rs. 2,500 per year, is likely to be exempted from the purview of the proposed levy. On the conservation basis it is estimated that if this stipulation of the taxable turn over is eliminated, the total turnover of the dealers registered under the Bombay Sales Tax Act will increase atleast by Rs. 30 crores and to that extent it will reduce the burden of the proposed levy-on other dealers covered under the scheme. The study Group also recommends that the Statutory Corporations etc. should also be covered under the scheme of the new turnover tax and no exemption should be given to the Government of Corporation such as food corporation of India etc. in respect of this Act.

On the basis of the available statistics presented by the bureau of Economics and Statistics, Government of Maharashtra, the total turnover of the traders registered under the Bombay Sales Tax Act after deducting from it the turnover of.

- (i) Declared goods
- (ii) Exports
- (iii) Goods subject to additional excise duty and
- (iv) Turnover of Gold and Bullion

Work out at Rs. 4,130 crores for 1970-71. The Bureau also estimated that the turnover of the dealers covered under the Motor Spirit Taxation Act works out to Rs. 160 crores for that year. Similarly the turnover of the dealers covered under the Sugarcane Purchase Tax Act is estimated at Rs.55 crores. Thus the total turnover that will be covered under the proposed levy, as shown in the

statement No. II works out at Rs. 4,375 crores for the year 1970-71 and if the amount to be raised as shown in the statement No. I is taken to be Rs. 29.46 crores, the rate of the turnover tax works out at 67 percent and if rounded up comes to 70 paise for the turnover of Rs.100. The amount that will be raised at this rate is estimated at Rs. 30.62 crores as indicated in the statement No. II. The statement below shows the details of the turnover that is to be covered under this scheme and the rate of the turnover tax that is needed to be levied to raise the necessary amount.

STATEMENT III

In this scheme it is assumed that in case of dealers covered under the Sales Tax Act, the turnover tax will be levied on the total turnover after deducting from it the turnover of exports, declared goods, goods subject to Additional Excise Duties in lieu of Sales Tax and Gold and Silver.

	(Rs. in crores)
(1) Estimated turnover, in 1967-68, liable for turnover tax under the Sales Tax Act.	3,5000
(2) Estimated turnover for 1970-71	4,130
i) Add turnover of commodities under Motor Spirit Taxation Act.	160
ii) Add turnover of the dealers that will be Registered under the Bombay Sales Tax Act, 1959 after removing the condition of purchase or sale of taxable goods worth atleast Rs. 2,500.	30

(3) Estimated turnover for turnover tax in 1970-71.	4,375
(4) Rate of turnover tax to raise Rs. 29.46 crores on the turnover of Rs. 4,375 crores	0.6734 paise per rupee (to be rounded off to 70 paise for turnover of Rs. 100)
(5) The estimates of amount likely to be collected in 1970-71 at the rate of 70 paise per Rs.100 of turnover.	30.62

As proposed earlier if reference is made to Government of India to allow this State Government to include the turnover of declared goods and turnover of commodities subject to additional excise duty the total figure for 1970-71 is estimated at RS. 6,499 crores as shown in statement below and for raising the amount of Rs. 29.46 crores, the rate of turnover tax will work to 45 paise per turnover of Rs. 100. But if the rate ~~will~~ ~~is~~ rounded to 50 paise per turnover of Rs. 100, the amount that could be collected works to Rs.32.49 crores.

STATEMENT III

In this scheme it is assumed that for the purpose of turnover tax the turnover of declared goods and that of turnover of commodities covered under the additional excise duty in lieu of sales tax will be covered, but turnover of exports and of gold and bullion will be excluded from the dealers registered under the State Sales Tax Act.

	(Rs. in crores)
(1) Estimated turnover in 1967- 68, liable for turnover tax under State Sales Tax Act	5,300
(2) Estimated turnover for 1970-71	6254
i) Add turnover of commodities under Motor Spirit Taxation Act.	160
ii) Add turnover of the dealers that will be registered under the Bombay Sales Tax Act 1959 after removing the condition of purchase or sales of taxable goods worth atleast Rs. 2,500.	30
(3) Estimated turnover to be covered for turnover tax in 1970-71.	<u>6,499</u>
(4) The estimate of amount likely to be collected in 1970-71 at the rate of 50 paise per Rs. 100 of turnover.	
(5) Rate of turnover tax to raise Rs. 29.46 crores on the turnover of Rs. 6,499 crores.	0.4533 paise per rupee (to be rounded off to 50 paise for turnover of Rs. 100).

It can thus be seen from the above that, the Wankhede Study Group recommended the Multi-point Turnover Tax as an alternative for octroi in Maharashtra State. The recommendence of the Wankhede Study Group were that accepted by the Govt. of Maharashtra in

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- i. - Government of Maharashtra "Report of the Study Group on Octroi" 1970. (S. K. Wankhede-Committee) 7.8.1 pp. 54-58.

this regard octroi still continues to be a major source of revenue for the Local Govts. Several committees have since been appointed to examine the possibility of substitute octroi but no committee has been able to suggest a suitable alternative.

On the background of this, what is very important to realise is the fact that, the Govt, of Maharashtra, in the budget for 1986-87, suggested the introduction of Turnover Tax.

LEGAL STATUS OF TURNOVER TAX -

As stated above, the present Turnover tax is a result of the budget proposal made by the Finance Minister of Maharashtra Govt. on July 13, 1986, the Bill was passed in the assembly of Maharashtra State and the Bombay Sales Tax Act was amended.

The relevant part of the section is reproduced here -

ii

(Levy of turnover tax on goods specified in schedule C in case of certain dealers -

(1) Where the turnover of either of all sales or of all purchases by any dealer liable to pay tax under section 3 has exceeded twelve lakhs of rupees in any year, there shall be levied a turnover tax on the turnover of sales effected by him of goods specified in schedule C at the rate of one and a quarter percent, but after deducting from such turnover -

a) Resales of goods on the purchase of which the dealer is liable to pay purchase tax under section 14 ;

b) Resales of goods, purchased by the dealer from a Registered dealer, otherwise than on a declaration furnished under section 11 or 12, if the requirements of section 12 A are satisfied ;

c) Resales of goods purchased by the dealer from a dealer liable to pay tax under section 4, if a certificate as provided in sub-section (2) of section 12 A is furnished;

d) Sales of goods or resales of goods, to which clause (b) or clause (c) does not apply, to an Authorised dealer, a Recognised dealer or a commission agent holding a permit, who purchases on behalf of a principal, upon such dealer or commission agent, as the case may be, furnishing a declaration as provided in section 12;

e) Sales or resales of goods, in respect of which notification under section 8A is issued, to a Registered dealer furnishing a declaration under clause (a) of the provision of section 8A.

f) Sales of goods wholly exempt from payment of tax under section 41;

(2) The turnover tax shall be paid by the dealer before furnishing the return for the period in which the turnover either of all sales or of all purchases as computed from the commencement of the year first exceeds twelve lakhs of rupees. The tax so payable shall be for the period from the commencement of the year to the end of the period covered by such return and the dealer shall continue to be liable to pay the turnover tax for that year for all the subsequent periods till the end of the year.

(3) Notwithstanding anything contained in this Act, no dealer shall be entitled to collect any sum by way of turnover

tax payable by him under this section.)

NOTES -

Section A was deleted by Mah. Act xxxii of 1981. In the place of deleted section 9 a new section 9 has been inserted by Act 28 of 1986 which provides for the levy of turnover tax on sales of goods specified in Schedule C in case of dealers liable to pay tax under section 3 whose turnover either of all sales or of all purchases has exceeded Rs. 12 lakhs in any year. Such dealers are subjected a turnover tax of one and quarter percent on their turnover computed in the manner prescribed under the section.

The turnover of tax as in the case of Additional tax is not to be collected from the purchasers.

The tax is leviable at the rate of one and a quarter percent, after deducting from the turnover the following sales or research.

The following resales or sales of goods are to be deducted from the turnover for the purpose of section 9.

RESALES OF GOODS

1) On the purchase of which the dealer is liable to pay purchase tax under section 14 (i.e. purchase tax payable for contravention of terms of declarations under section 8A, 11 or 12))

2) Purchased by the dealer from a Registered dealer otherwise than on a declaration under sections 11 or 12 if the dealer produces bill or cash memo containing a certificate as provided in section 12A.

3) Purchased by the dealer from a dealer who is registered

under the Central Sales Tax Act, 1956, if the dealer produces bill or cash memo containing a certificate as provided in section 12 A (2).

4) To an Authorised dealer, a Recognised dealer or a Commission Agent holding a permit on declarations as provided in section 12.

5) Resales of goods in respect of which notification is issued under section 8A to a registered dealer on such registered dealer furnishing a declaration under clause (a) to proviso to section 8A.

The following sales are to be deducted -

- i) Sales of goods wholly exempt from tax under section 41.
- ii) Sales of goods in respect of which a notification is issued under section 8A to a registered dealer on such registered dealer furnishing a declaration under clause (a) to the proviso to section 8 A.
- iii) Sales of goods to an Authorised dealer, a recognised dealer or a commission agent holding a permit, when such dealer or commission agent, as the case may be, furnishing a declaration as provided in section 12.

The turnover tax shall be paid by the dealer before furnishing the return for the period in which the turnover either of all sales or of all purchases as computed from the commencement of the year first exceeds twelve lakhs of rupees. The tax so payable shall be for the period from the commencement of the year to the end of the period covered by such return and the dealer shall continue

to be liable to pay the turnover tax for that year for all the subsequent periods till the end of that year.

Thus, the legal status as given in section A of Bombay Sales Tax Act has been given above. Based on this and on certain other details obtained from various secondary sources the following are the main features of the present system of Turn-over Tax in Maharashtra.

2.4 FEATURES OF TOT -

1. The liability of paying the turnover tax shall begin from the amount ~~of~~ turnover of a dealer exceeds the limit of Rs. 12 lakh in an accounting year.
2. Following transaction shall not bear the TOT.
 - a) Tax exempted sales
 - b) Resale of the goods purchased from a registered trader/ dealer.
 - c) Resale of the goods purchased from dealer registered only under ~~the~~ Central Sales Tax.
 - d) Sale of the goods exempted from sales tax under section 14. ~~of~~ 1.
 - e) Sale or purchase of the goods purchased under section 14
 - f) Inter state sales.
 - g) Exports of the goods.
 - h) Declared goods (Schedule 'B')

ii. - The Bombay Sales Tax Act, 1959

(As amended up-to-date) Law Times. Modi and Modi Bldg.
No. 2, 1st floor, 16, Meadows Street, Fort, Bombay
400 023 Tel. 27 15 52

@ pp. 41- 41A - 41B

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3. As per section A (3), TOT shall not be shifted to the customers.

4. As per the decision of Bombay High Court in case of M/s Bata India Limited, the other taxes levied upon the customer by a trader shall be exempted from the total sales value for calculating any other tax.

As such the T.O.T. will also be calculated the basis of net value of sales.

5. As per section 9 of the Bombay Sales Tax Act, the T.O.T. shall be levied only on the sales of the goods under schedule C. However, for calculating the turnover limit of Rs. 12 lakhs even the purchases of the dealer shall be taken into consideration.

6. The T.O.T. will be levied on the sales and not only sales tax.

7. As the T.O.T. is not included in section 15 A, the additional tax normally paid on sales tax shall not be paid on the T.O.T.

8. The evasion of T.O.T. shall be punished by the tax authorities either in the form of penalty or it will be considered as a criminal offence.

9. No set off is permitted for the T.O.T.

10. No tax concession will be given in the payment of the T.C.T. when it crosses the turnover limit of Rs. 12 lakhs. It means if the turnover of the dealer in the first 11 months of the accounting years is less than Rs. 12 lakhs, and it crosses Rs. 12 lakhs in the last month, the T.O.T. will have to be paid on the entire turnover of the year.

11. The amount received as the labour charges or works, contract shall not bear the Turnover Tax.

12. The trader who has acquired the tax exemption for package scheme under notification 136 will not be required to pay the Turnover Tax.

Thus the Turnover Tax shall be paid according to the above rules and regulations.

2.5 CONCLUSION -

The historical review presented in this chapter of turnover tax shows that originally the turnover tax was suggested as a substitute for the octroi and not as an additional tax but the Government of Maharashtra has introduced the turnover tax in 1986 as additional tax along with octroi. ~~The~~ The obvious result of this decision is that the turnover tax has become an additional burden for the trading community.

- APPENDIX -

SCHEDULE C

Goods other than declared goods, the sale or purchase of which is subject to sales tax or purchase tax and the rates of tax.

NOTE - In this schedule, where in any entry, the expression "sold at a price" is used, it shall for the purpose of determining the rate of tax applicable to any goods covered by the entry, mean the sale price of the goods excluding the amount of tax, if such tax is separately charged.

PART I

Serial No.	Description of goods	Rate of sales tax	Rate of purchase tax	period.
1	2	3	4	5
1	Bullion and specie	2%	2%	1/7/1981
	Explanation - The expression "Bullion" in this entry means gold or silver of fineness of not less than fifty percent(1)			to date

1	2	3	4	5
2.	Article made of gold or silver or of both of fineness of not less than fifty percent, not containing per precious stones or pearls whether real, artificial or cultu- red of a value exceeding one tenth of the value of each article	2%	2%	1/7/1981 to date
3.	Articles and utensils made of Kansa (bell metal)	2%	2%	1/7/1981 to date
4.	Betel leaves but not pan, Tambal, vida or patti prepared therefrom specified in entry 37 of schedule	2%	2%	1/7/1981 to date
5.	Betelnuts	2%	2%	1/7/1981 to date
6.	Fish sold in sealed containers	2%	2%	1/7/1981 to date
7.	Fish sold in sealed metallic containers	2%	2%	W. e.f. 1/4/1984
8.	Fruit seeds and vegetables seeds (other than oil seeds, dhania, Methi and Suva).	2%	2%	1/7/1981 to date

contd. ..

1	2	3	4	5
8.	seeds of lucerne and other fodder grass, seeds of the sann hemp; bulls, corns, rhizomes, sucke ers and tubers (other than edible tubers), bud grafts, cutting, grafts, layers, seeding and plants			
9.	Kakavi or kakab	2%	2%	1/7/1981
10.	Kumkum in any form other than that specified in entry 28 in schedule A	2%	2%	1/7/1981 to date
11.	Mangalsutra with black glass beads but without any precious stones wh- en sold at a price exceeding two thousand rupees each.	2%	2%	w.e.f. 1.4.1984
11.	Mangalsutra with black glass beads sold at a price exceeding one thousand rupees each.	2%	2%	1/7/1981 to 31/3/84
12.	Meat including fish and poultry when sold in sealed container.	2%	2%	1/7/1981 to 31/3/84
12.	Meat including fish and poultry when sold in sealed metallic container.	2%	2%	w.e.f. 1/4/1984
13.	Oil cakes	2%	2%	1/7/1984

1	2	3	4	5
14. Poultry feed and concentrates exclusively meant for poultry but excluding feed supplements.	2%	2%	1/7/1981 to 31/3/84	
14. * Poultry feed excluding feed supplements.	2%	2%	w. e. f. 1/4/1984	
15. Safety Matches (excluding matches ordinarily used as fireworks)	2%	2%	1/7/1981	
16. Readymade garments and other articles of personal wear (excluding hosiery goods and garment and articles to which entire 39 and 40 of schedule A or entry 64 of part II of this schedule applies) prepared from any textile fabrics.	2%	2%	1/7/1981 to 31/3/84	
16. Readymade garments and other articles of personal wear (excluding hosiery goods and garments and articles to which entry 39 of schedule A or entry 64 of part II of this schedule applies) prepared from any textile fabrics	2%	2%	W. e. f. 1/4/1984	

1	2	3	4	5
17.	Hosiery goods	4%	4%	1/7/81to
18.	(i) Agricultural and implements other than tractors, oil engines electric, motors, pumps and electric pumping sets and implements specified in entry 1 of schedule A	4%	4%	1/7/84to
19	(ii) Components, parts and accessories of agricultural machinery and implements other than components, parts and accessories of tractors, oil engines, electric motors, pumps, electric pumping sets and implements specified in entry 1 of schedule A	4%	4%	1/7/81to
8				
19.	Aromatic Chemicals and natural and synthetic essential oils; and their compounds	4%	4%	1/7/81to 31/3/84
19.	Aromatic chemicals and their residue and natural and synthetic essential oils; and their compounds	4%	4%	w.e.f. 1/4/1984
20.	Artificial silk fibre, yarn thread and waste of any of them	4%	4%	1/7/81to 31/3/84

1	2	3	4	5
20. Artificial silk fibre, yarn, thread and waste of any of them but excluding stitching tapes.		4%	4%	w.e.f. 1/4/1984
21. Caustic soda and soda ash		4%	4%	1/7/1981
22. Cotton waste and cotton yarn waste.		4%	4%	1/7/1981
23. Cotton thread		4%	4%	1/7/1981
24. i) Medicines (other than those specified in any other entries in this schedule in any other schedule) of the following description -		4%	4%	1/7/1981
Any medicinal formulation or preparation ready for use, internally or externally, for treatment or mitigation or prevention of diseases in human beings or animals.		4%	4%	1/7/1981 to 31/3/82
24. i) Medicines (other than toothpowder or tooth paste, cosmetics, toilet articles and scops, whether used as medicine or otherwise and also other than the medicated goods specified in any other entries in this schedule or in any other schedule) of the following description -		4%	4%	w.e.f. 1/4/1984

1	2	3	4	5	1
	Any medicinal formulation or preparation ready for use, internally or externally, for treatment or mitigation or prevention of disease in human beings or animals.				
24.	ii) Water for injection -	4%	4%	1/7/1981	
25.	i) Gunny bags and hessian, jute twine	4%	4%	1/7/1981	
	ii) Coir yarn or string (Kathya dori)	4%	4%	1/7/1981	
25.	A) Mahua flowers	4%	4%	w.e.f. 1/4/1984.	
25.	B) Glassware, chinware, glazed earthenware or articles made of porcelain other than those specified in entry 20, sub-entry (b) of entry 23, sub-entry (a) of entry 44, and entry 49 of part II of this schedule.	4%	4%	w.e.f. 1/4/1984	
25.	c) Glass ampoules	4%	4%	w.e.f. 1/4/1984	
26.	i) Kerosene if used for other than house hold purpose	4%	4%	1/7/1984	
	ii) Leco (brand name of lignite marketed by Neyveli Lignite corporation)	4%	4%	1/7/1981 to 30/4/1982	
26.	Sub-entry (ii) deleted	4%	4%	from 1/5/82	
27.	Mathematical instrument boxes, colours boxes other than those specified in entry 32 of schedule A and slide rules.	4%	4%	w.e.f. 1/4/1984	

1	2	3	4	5	6
27. Mathematical instrument boxes, colour boxes and slide rules other than those specified in entry 32 of schedule A		4%	4%	1/7/1981 to 31/3/1984	

NOTE -

This schedule consists of 102 total different kinds of commodities which have varying rates of sales tax ~~of~~ ~~and all of them~~ and all of them bear the turnover tax.