

ALL INDIA ASSOCIATION OF INDUSTRIES

MEMORANDUM **ON** **IMPLICATIONS OF LOCAL BODY TAX ON TRADE AND INDUSTRY**

Introduction

Octroi Vs. Local Body Tax

During the 66 years of independence, the Govt. has imposed 42 types of direct and indirect taxes on the common man, traders and industrialists with an average of 18 months before the imposition of a new tax. Also, the SME sector and entrepreneurs have to maintain 37 types of licenses and their fees charged yearly, collected by municipal corporation along with Octroi and recently **heavily increased Property Tax**. Maharashtra Government has also increased **VAT by 1% on schedule "C" goods**. Hence levy of Local Body Tax amounts to "Double Taxation".

The LBT will be the 43rd tax on the trade and industry, already implemented during 2010-11 in some parts of Maharashtra and outside Mumbai municipal corporation such as Mira-Bhayander, Vasai-Virar, Kalyan- Dombivili and finally to be introduced in Mumbai.

In fact Trade / Industry Associations have been opposing Octroi since 1987 to be repealed from the State of Maharashtra. So far the Government of Maharashtra has formed 17 committees in last 25 years to resolve this problem of octroi and find a substitute tax with different organizations yet, till date the result is not in favour of trade and industry. We had been assured that Octroi would be abolished when VAT was to be introduced 10 years ago; however we continue to pay Octroi. Subsequently, professional tax and surcharge on sales tax were introduced and levied in lieu of Octroi yet, inspite of these two new taxes being levied, octroi still continued.

The agitation has been inconclusive because of lack of interaction between industrialists, traders, associations, federations and the Regulators/ Government.

The Government of Maharashtra never took the traders, industrialists and the MSME sector into confidence.

Local Body Tax (LBT) - A Disincentive for Trade and Business in Maharashtra

While the Govt. of Maharashtra has, at last, decided to abolish the Octroi Act, the levy which is sought to replace it, the LBT is fraught with many threats that could impede the growth of the State and create harassment for traders, micro and small medium enterprises as -

- It gives arbitrary and excessive powers to the **untrained Municipal staff** to go after the traders and harass them ;
- Unnecessary **additional and counterproductive paper-work** is envisaged, in terms of compliances to be specially provided for LBT maintenance of LBT specific records for 10 years, filing of returns.etc.
- There is a growing apprehension even legitimate fear among the traders that LBT will encourage **back-door 'inspector-raj'**, through the widespread powers to Municipalities to seize, check and raid business premises, check documents and goods of traders business premises, check documents and goods of traders.
- LBT will create many and **multiple centres of tax collection** and will further encourage corruption.
- Goods carrying Vehicles may be detained by the local authorities for want of "compliance", which will cause **further delay and raise the cost of doing business** in Maharashtra.
- As per the LBT rules, the Tax will be levied on every transaction, although the goods are imported in the city only once ! This is a clear case of **'multiple taxation' for the same goods** or commodities
- Another deterrent and retrograde provision of LBT is that - there is **no provision for Appeal under this Act**, and the decision of Municipal Commissioner will be final.

Due to the above-mentioned cumbersome, time-consuming and regressive provisions, it is felt that if the LBT is implemented in its present form, the business sentiments in Maharashtra will be even more adversely affected. There is an urgent need to reconsider the levying of LBT by the Government of Maharashtra.

While we as a Industry Association, are always for a transparent, account – based and consistent system of taxation and levies, the proposed **LBT is a complicated and regressive mechanism to raise revenue for the Municipal authorities**. Like the Gujarat –model, a surcharge could be levied on VAT, which the State Govt. can eventually transfer to the local Municipal Administration.

The Trade and Industry seeks the following –

- The composition scheme to be extended from 1- 5lakh to 1- 10lakh to be registered for LBT.
- The LBT tariff should be maximum of 1% for all industrial inputs irrespective of the type of raw material .
- The local municipal corporation should have the right to lower the LBT tax rate fixed over the maximum by the urban development department irrespective of the time duration.
- The goods or commodities not attracting VAT should be exempted from LBT and no registration be required.
- Industries doing job work { raw material supplied by third party } wherein the shape of the raw material changes should be exempted to pay LBT on the raw material cost if the same is supplied back to the third party.
- LBT should be exempted on raw material for industries doing manufacturing for deemed exports.
- The goods exported from the corporation area limit within 2 years { currently six months } 90 % refund of the paid tax will be refunded.
- The assesment of LBT should be only on the basis of purchase register and balance sheet.
- The assesment period of LBT should not be more than 5 years.
- The assesment of LBT should be done by the Municipal Commissioner or Deputy Municipal Commissioner
- The assesment of LBT cannot be outsourced to third party agency by the municipal corporation.
- There should not be any nakas at the entry point of the muncipal corporation limit.

Adverse Implications of Local Body Tax on Trade and Industry

1. Registration Procedure

Every trader, shopkeeper, industrialist, job workers (labor jobs), service oriented industries, transporters, warehouses, logistics, showrooms, small vendors, hotels and restaurants and builders and many more has to obtain a registration from local municipal corp.

2. LBT Tariff-

- LBT Tariff and rates based under Central Excise Nomenclature and their chapter heading, sub heading and commodities
- LBT rate will be levied from **1% to 7%** depending upon the type of raw material.
- It is a purchase tax and cannot be passed on to others by way of sell invoice or cannot have a set off.
- Export though merchant exporters will not be entitled to claim set off in return and have to pay LBT on that amount. While central excise, income tax and sales tax dept. give full credit and consider it as export.

3. Monthly L.B.T Payment-

All the registered dealers have to pay LBT before 10th of every month by way of challan and amount to be deposited in the bank account of the municipal corp. *In case of Late payment of LBT even for one day, will be charge @2% interest for entire month and then after amount to heavy penalty and interest @ 3%.*

4. Half yearly Return-Form E I

Registered dealers have to file half yearly return ending on 31st October in the 1st week of November along with-

- Copy of L.B.T Registration Certificate.
- The payment challans of previous 6 months.
- Total purchase party wise with their Name, Address and LBT No. and VAT-TIN No. by way of purchase register or Excel in Sheets.(Month wise/Item wise)
- Total sale party wise with their Name, Address and LBT No. and VAT-TIN No. by way of sale register or Excel in Sheets. .(Month wise/Item wise).
- Registered dealers have to show their purchases to be divided into Local (in the same Municipal limit) which is not liable and outside the municipal territory, liable for LBT.
- In case of export to other countries U/R 32.Details of goods imported.

5. Export though merchant exporters will not entitle to claim set of in return and have to pay LBT on that amount.

Annual Return-Form E II

- All papers incorporated in the Half yearly return to be attached with the final return form.
- Yearly Sales Tax return copy.
- Audited Balance sheet.
- Total sale invoice copy (Hard copy).
- Total purchase party wise with their Name, Address and LBT No. and VAT-TIN No. by way of purchase register or Excel in Sheets.(Month wise/Item wise).

6. Yearly Assessment

- Copy of LBT Registration Certificate
- Form E-1 Return (half yearly)
- Form E-2 Return (Annual)
- Audited balance sheet, profit and loss A/C, Tax Audit Report
- LBT Payment Challan (showing all information clearly)
- Purchase invoice for verification
- VAT/CST Return (Form 231)
- Purchase Register including **purchase of fixed assets** (month wise/item wise as shown in annexure A, showing month wise subtotal)
- Sales register month wise.
- Stock register month and item wise .
- Part IV- Month wise detail of goods imported for processing on job work basis, sub-rule 4 of Rule 28.
- Part V- Month wise detail showing job work along with **LR copies showing goods inwards and out words.**
- Part VI – details of goods imported for export U/R 32, copy of exemption certificate U/R 32.
- Claim for LBT Refund under U/R 32 (Export within 6 months).
- **Bank statement** of all bank accounts for the period of assessment.
- Detail of **fixed assets purchase**

7. Powers allotted to municipal staff-

- By unlawful means of force and threats they hand over LBT registrations to small vendors like Pan-Beedi Shops, Tea and milk vendors, estate agents, couriers and home based coaching classes who do not have VAT-TIN No., shop and establishment license or Pan Card.
- They do not accept **NIL** return like sales Tax and Income Tax.
- They pressurize assesses to pay a minimum amount of Rs. 2000-5000 yearly.
- Municipal staffs by going against provision of law accompanied by a ***group of bouncers enter premises*** of the traders and industrialists without prior notice to collect over dues, short payment, non payment and demand immediate on-spot payment to meet their yearly target.
- Immense power to **seal your premises, seize plant** and machinery, raw material and finished goods.
- Search of office and residence.
- Issue arrest warrant in case of non-cooperation and pending heavy dues.
- ***There is no provision of appeal under this Act.*** Hence the decision given by Commissioner will be final. This is a deterrent provision.

REPURCUSSIONS OF LOCAL BODY TAX ON COMMON MAN AND SMALL TRADERS AND HOME INDUSTRY.

The traders are protesting against the imposition of LBT on small traders who do local business and had hardly anything to do with Octroi till recent past. Traders like tailors, vegetable sellers and Pan Shops etc who run out of the home will pass on the LBT to the consumer thus this could lead to consumer price inflation. The good result for the hurdles may be seen in municipal areas where octroi was removed. The same is now needed to Municipal Corporation areas in Maharashtra to raise business and industries by speedy transport of materials and competition with other states. It can be by firm and honest decision, to remove octroi and in its place impose surcharge on VAT. A better way could be to tax at one point only instead multiple different taxes under different heads.

There are some apprehensions about the penal provisions. Like LBT on food grains, clothing etc. The State Government can discuss with the traders and come to amicable solution.
