



The Nagaland Value Added Tax Act, 2005

Act 4 of 2005

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THE NAGALAND VALUE ADDED TAX ACT, 2005

(Act No.4 of 2005)

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An

Act

to levy tax on sale of goods in Nagaland on the basis of value added to such goods at each stage of sale of such goods and on purchase of certain goods in Nagaland in specified circumstances and to provide for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for levy of tax on sale of goods in Nagaland on the basis of value added to such goods at each stage of sale of such goods and on purchases of certain goods in Nagaland in specified circumstances and to provide for matters connected therewith or incidental thereto.

It is hereby enacted in the fiftysixth year of the Republic of India, by the Legislature of Nagaland as follows:

Chapter I

Preliminary

1. Short title, extent and commencement .-

- (i) This Act may be called the Nagaland Value Added Tax Act, 2005.
- (ii) It extends to the whole of the State of Nagaland.
- (iii) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date or dates as the State Government may, by

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notification, appoint, and different dates may be appointed for different provisions of this Act.

2. **Definitions.** - In this Act unless the context otherwise requires:

- (i) **“Act”** means the Nagaland Value Added Tax Act, 2005;
- (ii) **“Appellate Tribunal”** means the appellate tribunal appointed under Section 4.
- (iii) **“Assessee”** means any person by whom tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceedings under this Act have been taken for the assessment of tax payable by him;
- (iv) **“Assessing Authority”** means any person not below the rank of a Superintendent of Taxes authorized by the Government or by any authority empowered by the Government to make any assessment under this Act;
- (v) **“Business”** includes,-
 - (a) any service
 - (b) any trade, commerce, or manufacture;
 - (c) any adventure or concern in the nature of service, trade, commerce, manufacture,
 - (d) any transaction in connection with, or incidental or ancillary to such service, trade, commerce, manufacture, adventure or concern;

- (e) whether or not such service, trade, commerce, manufacture, adventure, concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such service, trade, commerce,

manufacture, adventure, or concern and any transaction in connection with, or ancillary or incidental to, such trade, commerce, manufacture, execution of works contract, adventure or concern;

- (vi) **“Capital Goods”** means -

- (a) machine, machinery, plant, equipment, apparatus, tools, appliances or electrical installation used for producing, making extracting or procuring of any goods or for bringing about any change in any substance for the manufacture of final products,

- (b) components, spare parts and accessories of such machine, machinery, plant, equipment, apparatus or electrical installation used for purposes as stated in clause (a).

- (vii) **“Casual Trader”** means a person who whether as principal, agent or in any other capacity, has occasional transactions involving buying, selling, supplying or distributing goods in the State, whether for cash or for deferred payment, or for commission, remuneration, or other valuable consideration;

- (viii) **“Commissioner”** means the Commissioner of taxes appointed under sub-section (1) of section 3;

- (ix) **“Dealer”** means any person who carries on the business of buying, selling, supplying or distributing goods, executing works contract, delivering any goods on hire-purchase or any system of payment by instalments; transferring the right to use any goods or supplying by way of or as part of any service, any goods directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration, or other valuable consideration and includes;
- (a) a casual trader;
 - (b) a commission agent, a broker or a del credere agent or an auctioneer or any other mercantile agent, by whatever name called;
 - (c) a non-resident dealer or an agent of a non-resident dealer, or a local branch of a firm or company or association or body of person whether incorporated or not, situated outside the State;
 - (d) Government, a local authority, a statutory body, a trust or other body corporate which or who whether or not in the course of business sales, supplies or distribute directly or otherwise goods for cash or for deferred payment or for commission, remuneration or other valuable consideration;
 - (e) a Co-operative Society, club or any association which sells goods to its member;
 - (f) a person who, whether in the course of business or not:-

- (i) sells goods produced by him by manufacture, agriculture, horticulture or otherwise; or
- (ii) transfers any goods, including controlled goods whether in pursuance of a contract or not for cash or for deferred payment or for other valuable consideration;
- (iii) supplies, by way of or as part of any service or in any other manner whatsoever, goods, being good or any other articles for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;
- (x) **“Declared goods”** means goods declared to be of special importance in inter-State Trade or Commerce under Section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956);
- (xi) **“Deputy Commissioner”** means any person appointed to be a Deputy Commissioner of Taxes under this Act.
- (xii) **“Deputy Commissioner (Appeals)”** means any person appointed to be a Deputy Commissioner (Appeals) under this Act;
- (xiii) **“Goods”** means all kind of moveable property (other than newspaper, actionable claims, electricity, stocks and shares and securities) and includes live stock, all materials, commodities and articles and every kind of property (whether as goods or in some other form) involved in the execution of a works contract, and all growing crops, grass or things attached to, or forming part of the land

which are agreed to be severed before sale or under the contract of sale;

(xiv) **“Government”** means State Government of Nagaland;

(xv) **“Input Tax”** means the tax paid or payable under this Act by a registered dealer to another registered dealer on the purchase of goods in the course or business for resale or for the manufacture of taxable goods or for use as containers or packing materials or for the execution of works contract;

(xvi) **“Input Tax Credit”** or **“Input Tax Rebate”** in relation to any period means the setting off of the amount of input tax, or part thereof, by a registered dealer against the amount of his output tax;

(xvii) **“Interest Due”** means the amount of interest which remains unpaid after the expiry of the date specified in the notice of demand issued in this behalf under this Act or the rules made there under;

(xviii) **“Manufacture”** with all its grammatical variations and cognate expressions means producing, making, extracting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed;

(xix) **“Output Tax”** means the tax charged or chargeable under this Act by a registered dealer for the sale of goods in the course of business;

(xx) **“Person”** includes :-

- (a) an individual ;
- (b) a joint family;
- (c) a company ;
- (d) a firm;
- (e) an association of persons or a body of individual; whether incorporated or not;
- (f) the Central Government or the Government of Nagaland or the Government of any other State or Union Territory in India;
- (g) a local authority;

(xxi) **“Place of Business”** means any place where a dealer carries on the business and includes :-

- (a) any warehouse, godown or other place where a dealer stores or processes his goods;
- (b) any place where a dealer produces or manufactures goods;
- (c) any place where a dealer keeps his books of account;
- (d) in case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent;
- (e) any vehicle or vessel or any other carrier wherein the goods are stored or used for transporting the goods;

- (xxii) **“Prescribed”** means prescribed by Rules made under this Act;
- (xxiii) **“Purchase”** with all its grammatical variation and cognate expressions shall be construed from the word **“Sale”**;
- (xxiv) **“Registered dealer”** means a dealer registered under this Act;
- (xxv) **“Reverse Tax”** means that portion of input tax of the goods for which credit has been availed but such goods are used subsequently for any purpose other than resale of manufacture of taxable goods or execution of works contract or use as containers or packing materials within the State;
- (xxvi) **“Sale”** with all its grammatical variation and cognate expression means every transfer of the property in goods, other than by way of mortgage, hypothecation, charge or pledge, by one person to another in the course of trade or business for cash, deferred payment or other valuable consideration and includes:-
 - (a) transfer, otherwise than in pursuance of a contract of property in goods for cash, deferred payment or other valuable consideration;
 - (b) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

- (c) delivery of goods on hire purchase or any other system of payment by installments;
- (d) a transfer of the right to use any goods for any purpose, whether or not for specified period for cash, deferred payment or any other valuable consideration;
- (e) a transfer of goods by any unincorporated association or body of person to a member thereof for cash, deferred payment or any other valuable consideration;
- (f) a supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or any other valuable consideration;
- (g) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or any other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and purchase of those goods by the person to whom such transfer, delivery or supply is made, but does not include a mortgage, hypothecation, charge or pledge.

Explanation :

- (a) A sale or purchase of goods shall not be deemed to have taken place inside the State if the goods are sold :-

- (i) in the course of inter-State Trade or Commerce; or
 - (ii) outside the State of Nagaland; or
 - (iii) in the course of import or export of goods;
- (b) where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of this explanation shall apply as if there were separate contract in respect of the goods at each of such places.
- (xxvii) **“Sale Price”** means the amount of valuable consideration received or receivable by a dealer for the sale of any goods less any sum allowed as cash discount, according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods or services at the time of or before delivery thereof, excise duty, special excise duty or any other or taxes except the tax imposed under this Act.
- (xxviii) **“State”** means the State of Nagaland;
- (xxix) **“Tax”** means the tax payable under this Act;
- (xxx) **“Tax Invoice”** means a document listing goods sold with price, quantity and other details as specified in this Act and includes a statement of account, bill, cash register, slip receipt or similar record, regardless of its form;
- (xxxi) **“Taxable Turnover”** means the turnover on which a dealer shall be liable to pay tax as determined after making

such deductions from his total turnover and in such manner as may be prescribed;

- (xxxii) **“Turnover”** means the aggregate amount for which goods are either bought or sold, supplied or distributed by a dealer either directly or through another, on his own account or on account of others, whether for cash or for deferred payment or for other valuable consideration.

Explanation -

- (1) The turnover in respect of delivery of goods on hire purchase or on any system of payment by instalments shall be the market price of the goods so delivered.
- (2) The turnover in respect of the transfer of the right to use any goods shall be the aggregate amount received or receivable by the dealer as consideration for such transfer.
- (3) Subject to such conditions and restrictions, if any, as may be prescribed in this behalf;
 - (a) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof,
 - (b) any cash discount on the price allowed in respect of any sale or any amount refunded in respect of articles returned by customers shall not be included in the turnover; and

(c) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer; the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former.

(xxxiii) **“Value Added Tax”** means a tax on sales or purchases levied under this Act.

(xxxiv) **“Vehicle”** includes every wheeled conveyance used for the carriage of goods solely or in addition to passengers.

(xxxv) **“Vessel”** includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner.

(xxxvi) **“Year”** means the financial year beginning from 1st April and ending with 31st March.

Chapter - II

AUTHORITIES AND APPELLATE TRIBUNAL

3. Taxing Authorities :-

(1) The State Government may, for carrying out the purposes of this Act, appoint a Commissioner of Taxes and such other persons to assist him as it thinks fit. The Commissioner shall have all the powers and shall perform

all the duties conferred or imposed upon him by or under this Act.

- (2) The Commissioner shall have superintendence over all officers and persons employed in the execution of this Act and the Commissioner may-
 - (a) call for returns from such officers and persons;
 - (b) make and issue general rules and specify forms for regulating the practice and proceedings of such officers and persons;
 - (c) issue such orders, instructions and directions to such officers and persons as it may deem fit, for the proper administration of this Act.
- (3) The Government shall appoint as many Additional Commissioners, Deputy Commissioners, Assistant Commissioners, Superintendents of Taxes and such other person as the Government may think fit for the purpose of performing the functions respectively assigned to them by or under this Act. Such Officers shall perform the said functions within such local limits as the Commissioner may assign to them.
- (4) All officers and persons employed for the execution of this Act shall observe and follow the orders, instructions and directions of the Officers superior to them.
- (5) The Commissioner may by order in writing :-

(a) transfer any case or cases relating to any assessee or class of assesses pending before an Assessing Authority to another Assessing Authority having jurisdiction to deal with such case or cases; or

(b) specify one of the Assessing Authorities having jurisdiction over an area, which shall deal with any case or cases relating to any assessee or class of assesses.

Where any case is transferred to an Assessing Authority under clause (a) of sub-section (5), such Assessing Authority may deal with the case either de novo or from the stage at which it was transferred.

(6) (a) The Additional Commissioners shall perform their functions in respect of such areas or of such dealers or classes of dealers or of such cases or classes of cases as the Commissioner may direct;

(b) the Deputy Commissioners shall perform their functions in respect of such areas or of such dealers or classes of dealers or of such cases or classes of cases as the Commissioner may direct;

where any direction issued under clause (b) assigned to two or more Deputy Commissioners, the same area or the same dealers or classes of dealers or the same cases or classes of cases, they shall perform their functions in accordance with any order which Commissioner may make for the distribution and allocation of the work to be performed,

- (7) (a) The Assistant Commissioners of Taxes shall perform their functions in respect of such areas or of such dealers or classes of dealers or of such cases or classes of cases as the Commissioner may direct;
- (b) where any direction issued under clause (a) have assigned to two or more Assistant Commissioners of Taxes, the same area or the same dealers or classes of dealers or the same cases or classes of cases, they shall perform their functions in accordance with any order the Commissioner may make for the distribution and allocation of the work to be performed;
- (8) (a) The Superintendents of Taxes shall perform the powers and functions in respect of such areas or of such dealers or classes of dealers or such cases or classes of cases or a combination thereof as the Commissioner may direct;
- (b) where any direction issued under clause (a) have assigned to two or more Superintendents of Taxes, the same area or the same dealers or classes of dealers or the same cases or classes of cases, they shall perform their functions in accordance with any order the Commissioner may make for the distribution and allocation of the work to be performed.
- (9) (a) The Commissioner may, by general or special order in writing, direct that the powers conferred on the Superintendents of Taxes by or under this Act, shall in respect of any specified cases or classes of cases, or any

specified dealers or classes of dealers may be exercised by the Assistant Commissioners of Taxes;

(b) where an order under clause (a) is issued, then for the purposes of any case or dealer in respect of which any such order applies, reference in this Act or in any Rule made thereunder to the Superintendents of Taxes or prescribed authority shall be deemed to be references to the Assistant Commissioners of Taxes.

(10) In this Section, the word “case” in relation to any dealers specified in any order or direction issued thereunder means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and include also all proceedings under this Act which may have commenced after the date of such order or direction in respect of any year.

4. Appellate Tribunal.-

The Government may appoint an Appellate Tribunal consisting of a Chairperson and as many other members as it think fit to perform the functions assigned to the Appellate Tribunal by or under this Act.

5. Delegation of the Commissioner’s powers and function:-

Subject to such restrictions and conditions as may be prescribed, the Commissioner may by order in writing, delegate any of his powers and functions under this Act and

the Rules made thereunder to any person appointed under sub-section (3) of section 3.

6. Persons appointed under Section 3 and members of Appellate Tribunal to be public servants:

The Commissioner and all officers appointed under Section 3 including the members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code.

7. Indemnity :

No suit, prosecution or other legal proceedings shall lie against any government servants employed for execution of the provisions of this Act and Rules made thereunder for anything which is in good faith done or intended to be done thereunder.

Chapter - III

THE INCIDENCE LEVY AND RATE OF TAX

8. Incidence of tax :-

(1) Every dealer -

(a) whose gross turnover of sales or purchases during the year immediately preceding the commencement of this Act exceeded the taxable limit, or

(b) to whom clause (a) does not apply, and

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(i) whose gross turnover first exceeds the taxable quantum during any period of twelve consecutive months, or

(ii) who has become liable to pay tax under the Central Sales Tax Act, 1956, or

(iii) who is registered as a dealer under the central Sales Tax Act, 1956 or under this Act at any time after the commencement of this Act, shall be liable to pay tax in accordance with the provisions of this Act.

(2) Every dealer is liable to pay tax under sub-section (1) on purchases and sales affected by him-

(a) in case of clause (a) of sub-section (1) with effect from the date of commencement of business;

(b) in case of sub-clause (i) of clause (b) of sub-section (1), with effect from the date immediately following the day on which his gross turnover first exceeded the taxable limit during a period of any twelve consecutive months, and

(c) in case of sub-clause (ii) and (iii) of clause (b) of sub-section (1), with effect from the date of registration or the date on which he becomes so liable whichever is earlier.

(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 limit and his liability to pay tax under this Act shall cease on the expiry of the period specified above.

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(4) Every dealer who has ceased to be liable under sub-section (3) shall be again liable to pay tax under this Act with effect from the date immediately following a period not exceeding twelve consecutive months during which his gross turnover again exceeds the taxable quantum.

(5) For the purpose of this Act, taxable limit means in relation to any dealer who-

(a) Imports for sale any goods into the State of Nagaland on his own behalf or on behalf of his principal including casual trader - Nil

(b) Manufactures or produces any goods for sale- Rs 300000

(c) Is engaged in any other business other than clause (a) and (b)-Rs.300000

(d) Involved in the execution of works contract-Rs 300000

(6) For the purpose of calculating the gross turnover to determine the liability to pay tax under the Act-

(a) except as otherwise expressly provided, the turnover of all sales or as the case may be the turnover of all purchases shall be taken, whether such sales or purchases are taxable or not, and

(b) the turnover shall include all sales and purchases made by a dealer on his own account and also on behalf of principals whether disclosed or not,

(7) Whereby any order passed under this Act, it is found that any person registered as a dealer ought not to have been so

registered, then notwithstanding any thing contained in this Act, such person shall be liable to pay tax for the period commencing from the date of his registration and ending with the date of such order, as if he were a dealer.

(9) Levy of tax on sale :-

(1) The tax payable by a dealer liable to pay tax under section 8 shall be levied on his taxable turnover of sales.

(2) Taxable turnover of sales in relation to a dealer liable to pay tax on sale of goods under sub-section (1) of section 8 shall be the gross turnover of sales during any period which remains after deducting there from -

(a) sales of goods declared as exempt from tax in schedule I.

(b) sales of goods, which are shown to the satisfaction of the Commissioner to have taken place-

(i) In the course of inter-State Trade or Commerce, or

(ii) out side the State of Nagaland;

(iii) in the course of the import of goods into or export of the goods out of the territory of India.

Explanation :- Section 3,4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in sub-clause (i), sub-clause (ii) or sub-clause (iii).

(c) Such other sales on such conditions and restrictions as may be prescribed.

10. Levy of tax on purchase :-

Every dealer who in the course of his business purchases any goods :

(i) from a registered dealer in the circumstances in which no tax under Section 9 is payable by that registered dealer on the sale price of such goods, or

(ii) from any other person, shall be liable to pay tax on the purchase price of such goods, if after such purchase, the goods are not sold within the State of Nagaland or in the course of Inter-State Trade and Commerce or in the course of export out of the territory of India, but are -

(a) sold or disposed of otherwise, or

(b) consumed or used in the manufacture of goods declared to be exempt from tax under this Act, or

(c) after their use or consumption in the manufacture of goods, such manufactured goods are disposed of otherwise than by way of sale in the State of Nagaland or in the course of Inter-State Trade and Commerce or export out of the territory of India; or

(d) used or consumed otherwise, and such tax shall be levied at the same rate at which tax under Section 9 would have been levied on the sale of such goods within the State on the date of such purchase.

11. Levy of taxes on containers and packing materials.-

Where any goods packed in any container of packing material in which such goods are packed shall be deemed to have been sold or purchased along with the goods and the tax under Section 9 or Section 10 shall be levied on the sale or purchase on such container or packing material at the rate of tax, if any, applicable to the sale or, as the case may be, the purchase of the goods itself:

Provided that no tax under Section 9 or Section 10 shall be levied where the container or packing material is sold or purchased along with the goods declared as exempt from tax under this Act.

12. Rate of Tax.-

(1) The tax payable by a dealer under this Act shall be levied on the taxable turnover at such rate not below the floor rate and subject to such conditions as the Government may from time to time impose.

(2) The works contract of any nature whatsoever shall be levied tax on the gross value of the works contract subject to conditions as may be prescribed.

(3) Every dealer who is required to be registered as specified and further subject to the conditions specified in this Act, shall collect, account for and pay, on his taxable turnover relating to all taxable sales, tax at the rate as specified in the Schedules appended to this Act.

(4) The tax payable by a dealer on the turnover of taxable sales as referred to in sub-section (1), shall be levied-

(a) at the rate of zero *per centum* of such part of his turnover of sales as represents sales of any goods specified in schedule-II;

(b) at the rate of one *per centum* of such part of his turnover of sales as represents sales of any goods specified in schedule-III;

(c) at the rate of four *per centum* of such part of his turnover of sales as represents sales of any goods specified in schedule-IV;

(d) at the rate of twelve and half *per centum* at single point of such part of his turnover of sales as represents sales of any goods specified in schedule - V.

(5) The rate of tax on works contract shall be at the rate of 4% or at such rate as may be notified by the State Government from time to time.

(6) The State Government after giving in the Official Gazette such previous notice as may be considered reasonable of its intension to do, may, by like notification, add or amend or otherwise modify, any of the schedules and thereupon the schedules shall be deemed to be amended accordingly.

13. Exemptions, Zero-rate of tax and Re-imbursement of tax in certain cases :-

(1) The sale of goods as specified in Schedule-I shall be exempt from tax under this Act subject to conditions and exceptions set out therein.

(2) The State Government after giving in the Official Gazette such previous notice as may be considered reasonable of its intention to do, may, by like notification, add to, amend or otherwise modify, the said Schedule and there upon the said Schedule shall be deemed to be amended accordingly.

(3) Zero-rate of tax in certain cases :

When calculating the output tax in relation to the following cases of dealers, the rate of tax shall be zero rated :

(i) Export from India, i.e, the tax applicable to the exported commodities would be zero and credit/refund would be available for VAT paid on inputs going into such exports.

(ii) Sales from Domestic Tariff Area to Special Economic Zones would be eligible for the same treatment as in sub-section (1) of this section.

(iii) Exports of export oriented Units under and EHTP/STP Units would be taxed at zero (0%). Supplies from DTA to such Units would be zero-rated and the supplying Unit would get credit/refund for VAT paid on inputs used by them.

(iv) Sales from SEZ Units and units under FTZ's would be exempt from levy of VAT.

(v) Goods and services provided by EPZ/EPIP would be taxed at zero%.

(4) Reimbursement of tax in certain cases :

Tax collected under this Act on official and personal purchases made by foreign diplomatic missions and their diplomats as well as United Nations and its Organizations including other International Organization and their diplomats shall be reimbursed in such manner and subject to such conditions as may be prescribed.

14. Output Tax :

(1) Output tax in relation to a registered dealer means the tax payable under this Act in respect of any sale of goods by that dealer in the course of his business.

(2) Subject to the provision of Section 17, a dealer shall be liable to pay the output tax under this Act which shall be levied on the taxable turnover at the rate and subject to such conditions as may be prescribed from time to time.

15. Input tax :

Input tax in relation to a registered dealer means the tax charged under this Act by the selling dealer to such dealer on the sale to him of any goods for resale or use in manufacturing or processing of goods for sale but shall not include tax paid in respect of goods specified in Schedule VI used or disposed of in the circumstances mentioned against such goods.

Provided that where the goods purchased in the State are used or disposed of partly in the circumstances mentioned in Schedule- VI and partly otherwise, the input tax in respect of such goods shall be computed pro rata:.

Provided further that if the input tax in respect of any goods purchased in the State has been availed of but such goods are subsequently used or disposed of in the circumstances mentioned in Schedule- VI, the input tax in respect of such goods shall be reversed.

16. Net tax payable :

(1) The net tax payable by a registered dealer for a tax period shall be the difference between the out tax plus purchase tax, if any, and the Input Tax, which can be determined from the following formula :

$$\text{Net tax payable} = (O + P) - I$$

where 'O' denotes the output tax payable for any tax period as determined under section 14, 'P' denotes the purchase tax paid by a registered dealer for any tax period as determined under section 10 and 'I' denotes the input tax paid or payable for the said tax period as determined under Section 15.

(2) The net tax payable by a dealer liable to pay tax but not registered under this Act for a tax period shall be equal to the output tax payable for the said tax period as determined under section 14.

(3) If the amount calculated under sub-section (1) is a negative quantum-

(a) the same shall be adjusted against the tax liability, if any, under the central Sales Tax Act, 1956 at the option of the dealer for the said tax period and only the remaining amount of the Central Sales Tax shall be payable; or

(b) any amount of credit remaining after such adjustment shall be carried forward to the next tax period.

17. Input Tax Credit :

(1) Subject to the provisions of this Act for the purpose of calculating the net tax payable by a registered dealer for any tax period after being registered, an input tax credit as determined under this Section shall be allowed to such registered dealer for the tax paid or payable in respect of all taxable sales or any other sales or purchases as may be prescribed, under Section 10 during that period.

(2) The input tax credit to which the registered dealer is entitled to shall be the amount of tax paid by the registered dealer to the seller, on his turnover of purchases made during the tax period, intended to be used for the purposes and subject to the conditions as specified in sub-section (3), sub-section (4) and sub-section (5) and calculated in such manner as may be prescribed.

(3) Subject to such conditions and restrictions as may be prescribed, partial inputs tax credit may be allowed in such cases as may be notified by the Government.

(4) Input tax credit shall be allowed for purchase of goods made within the state of Nagaland from a registered dealer holding a valid certificate of registration and which are intended for the purpose of -

(a) sale or resale by him in the State of Nagaland; or

(b) used as raw material or as capital goods in the manufacturing and processing of goods other than those exempt from tax under this Act intended for sale in the state of Nagaland; or

(c) sale in course of export out of the territory of India; or

(d) sale in the course of Inter-State Trade or Commerce under the CST Act, 1956 in full paid or payable; or

(e) goods used for transfer of stocks other than by a way of sale outside the State of Nagaland in respect of input tax credit paid in excess of four percent;

(f) use as raw materials in manufacture or processing of goods where the finished products are dispatched outside the State of Nagaland other than by way of sales in respect of tax paid in excess of four percent on the raw materials used directly in manufacture of finished products; or

(g) for use as containers for packing of goods other than those exempt from tax under this Act for sale or resale in the State of Nagaland.

Provided that if purchases are used partially for the purposes specified in this sub-section, input tax credit shall

be allowed proportionate to the extent they are used for purposes specified in this sub-section.

(5) Input tax credit on capital goods shall be limited to plant and machinery directly connected with the manufacturing or processing of the finished products and input credit as admissible under this Section shall commence from the date of commencement of commercial production and shall be adjusted against tax payable on output over a period of three years:

Provided that in case of closure of business before the period specified above, no further input tax credit shall be allowed and input tax credit carried forward, if any, shall be forfeited.

(6) Input tax credit shall not be claimed by the dealer until the tax period in which the dealer receives the tax invoice in original containing the prescribed particulars of the sale evidencing the amount of Input Tax :

Provided that for good and sufficient reasons to be recorded in writing and in the prescribed manner the Commissioner may allow such credit subject to such conditions and restriction as may be specified.

(7) A registered dealer who intends to claim input tax credit under sub-section (1) shall, for the purpose of determining the amount of input tax credit, maintain accounts, and such other records as may be prescribed in respect of the purchases and sales made by him in the state of Nagaland.

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(8) No Input Tax Credit under sub-section (1) shall be claimed or be allowed to a registered dealer -

(i) in respect of any taxable goods under this Act purchased by him from another registered dealer for resale but given away by way of free sample or gift;

(ii) who has been permitted by the Commissioner to make payment of presumptive tax at a percentage of the turnover of sales in lieu of tax as provided under Section 21;

(iii) in respect of capital goods other than those directly used for manufacturing or processing of goods for sale;

(iv) in respect of goods brought from outside the State against the tax paid in other States;

(v) in respect of goods remaining unsold at the time of closure of business;

(vi) in respect of goods purchased on payment of tax, if such goods are not sold because of any theft;

(vii) where the tax invoice is-

(a) not available with the dealer, or

(b) there is evidence that the same has not been issued by the selling dealer from whom the goods are purported to have been purchased;

(viii) in respect of goods purchased from a dealer whose certificate of registration has been suspended;

(ix) in respect of purchases of the following taxable goods;-

(a) air conditioning units, air coolers, fans and air circulators unless the registered dealer is in business of dealing in such goods;

(b) all automobiles including commercial vehicles, two and three wheelers and spare parts for repair and maintenance thereof unless the registered dealer is in the business of dealing in such automobiles or spare parts;

(c) Crude Oil unless the registered dealer is in the business of dealing in such products;

(d) food, beverages and tobacco products, unless registered dealer is in the business of providing such food, beverages and tobacco products;

(e) goods purchased and accounted for in business but utilized for the purpose of providing facility to the employees including any residential accommodations; and

(f) such goods or classes of goods as specified in schedule-VII.

(x) In respect of sales exempt from tax as specified in schedule-I.

(9) If goods purchased are intended for use specified under sub-section (4) or loss of goods arising out of theft or destruction for any reason or the stock of goods remaining unsold at the time of closure of business and are subsequently used, fully or partly, for purposes other than those specified under the said sub-section, the input tax credit availed at the

time of such purchase shall be reduced from the tax credit for the period during which the said utilization has taken place;

Provided that if part of the goods purchased are utilized otherwise, the amount of reverse tax credit shall be proportionately calculated in a manner that is just and reasonable.

(10) The methods that are used by a registered dealer in a year to determine the extend to which goods are used, consumed or supplied or intended to be used, consumed or supplied, in the course of making taxable sales, shall be fair and reasonable in the circumstances. The Commissioner may, after giving sufficient reason in writing, reject the method adopted by the registered dealer and calculate the amount of input tax credit after giving the registered dealer concerned an opportunity of being heard.

18. Input Tax Credit exceeding tax liability :-

(1) If the input tax credit of a registered dealer other than an exporter selling goods outside the territory of India determined under Section 17 of this Act for a period exceeds the tax liability for that period, the excess credit shall be set off against any outstanding tax, penalty or interest under this Act.

(2) The excess input tax credit after adjustment under subsection (1) may be carried over as an input tax credit to the subsequent period or periods.

Provided that the input tax credit shall not be carried forward for a period of more than two years after close of

the concerned financial year. Unadjusted input tax credit beyond two years shall have to be refunded.

(3) In case where input tax credit is carried forward, a quarterly credit statement may be forwarded to the dealer concerned and the claims reconciled accordingly.

(4) Declaration of stock of goods held on the appointed day- In case of dealers registered under this Act with effect from the appointed day all tax paid goods purchased on or after April 1st 2004 and remaining still in the stock as on April 2005, will be eligible to receive input tax credit, subject to submission of required particulars and documents on inventory. VAT will be levied on the goods when sold on or after April 1st, 2005 and input tax credit will be given for the sales tax already paid under the earlier laws in the previous years. Such tax credit will be available over a period of six months after an interval of three months needed for verification as may be prescribed.

19. Adjustment of Input Tax Credit :

Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of sub-section (1) of Section 23 or if he returns or rejects goods purchased, as a consequence of which, the input tax credit availed by him in any period in respect of which the purchase of goods relates, becomes less or excess, he shall compensate such less credit or excess credit by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned subject to conditions as may be prescribed.

20. Burden of proof :

In respect of any sale or purchase affected by a dealer the burden of proving that he is not liable to pay tax under Section 9, Section 10 or that he is eligible to input tax credit under section 17 shall be on him.

21. Levy of presumptive tax on registered retailers :

All registered retailers whose gross turnover of sales does not exceed rupees ten lakhs, subject to such conditions and restrictions as may be prescribed shall, pay in lieu of the tax as specified under Section 9 or Section 10, a tax at such percentage of the entire taxable turnover of sales and purchases as the Government may, by order, notify, subject to the condition that no input tax credit shall be available to such dealers :

Provided that payment of tax under this Section shall not apply to a registered retail dealer who imports goods from outside the State for the purpose of carrying out his business.

Provided further that a registered retail dealer may, by exercising option in the prescribed manner, elect to pay tax as specified under Section 9 or Section 10 of this Act in lieu of the provisions of this Section.

22. Powers of Government to amend schedules :

The Government after giving by notification not less than 14 days notice of the intention to do so, may, by like notification, add to, amend or alter any schedule to this Act.

23. Credit notes and debit notes :

(1) Where a tax invoice has been issued and the amount shown as tax charged and the tax invoice exceeds the tax payable under this Act in respect of that sale, the registered dealer making the sale shall provide the purchaser with a credit note containing the requisite particulars as may be prescribed.

(2) Where the tax invoice has been issued and the tax payable under this Act in respect of the sales exceeds the amount of tax charged in that tax invoices, the registered dealer making the sale shall provide the purchaser with a debit note containing the requisite particulars as may be prescribed.

(3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchaser and a debit note will be issued by the purchaser to the selling dealer containing the particulars as may be prescribed.

Chapter - IV

REGISTRATION OF DEALERS, AMENDMENT AND CANCELLATION OF REGISTRATION CERTIFICATES.

24. Compulsory registration of dealer :

- (1) No dealer shall, while being liable to pay tax, carry on business as a dealer unless he has been registered and possesses a certificate of registration :

Provided that a dealer liable to pay tax shall be allowed one month time from the date from which he is first liable to pay such tax to get himself registered.

- (2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority and such application shall be accompanied by a declaration in the prescribed form duly filled in and signed by the dealer specifying therein the class or classes of goods dealt in or manufactured by him.
- (3) If the said authority is satisfied that an application for registration is in order, he may, in accordance with such manner, grant registration to the applicant and issue certificate of registration in the prescribed form which shall specify the class or classes of goods dealt in or manufactured by him.

Provided that the registering authority shall not grant registration unless and until the dealer furnish all particulars pertaining to the business of the dealer as may be prescribed.

- (4) Where the application for registration is made under this Section, the prescribed authority may grant him the certificate of registration from the date of filing such application.

Provided that the prescribed authority may grant to such dealer the certificate of registration from the date of commencement of his liability to pay tax where the application for registration is made within thirty days of such date.

- (5) The prescribed authority may, from time to time, amend any certificate of registration in accordance with information furnished or otherwise received, and such amendment may be made with retrospective effect in such circumstances and subject to such restrictions and conditions as may be prescribed.

- (6) When -

- (a) any business in respect of which a certificate of registration has been granted to a dealer on an application made, has been discontinued, or
- (b) a dealer has ceased to be liable to pay tax, or
- (c) an incorporated body is closed down or if it otherwise ceases to exist; or
- (d) the owner of an ownership business dies leaving no successor to carry on business; or
- (e) in case of a firm or association of persons if it is dissolved or

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- (f) a person or dealer is registered by mistake, or
- (g) a dealer fails to furnish return and pay tax and interest according to such return or returns within the time extended.

The prescribed authority shall cancel the registration of such dealer.

- (7) The cancellation of registration will take effect from the end of the period in which it is cancelled unless it is to take effect from a different date as ordered by the prescribed authority.
- (8) When any dealer to whom certificate of registration is granted, has failed to pay any tax, penalty or interest payable under this Act or has failed to furnish return, the certificate of registration of such dealer may be suspended by the appropriate assessing authority in the manner as may be prescribed.

Provided that the certificate of registration of a dealer shall not be suspended if he has furnished return or returns within the date prescribed in the notice and has paid tax, penalty or interest payable under this Act by such date, as the Commissioner may extend upon an application filed by the dealer within 15 days from the date by which he is required to file such return or returns or make payments of tax, interest or penalty as the case may be.

- (9) Suspension of certificate shall be restored will be withdrawn and registration certificate shall be restored on an application made by the dealer on furnishing evidence of payment of all

taxes and on furnishing of overdue return or returns within 45 days from the date of suspension.

- (10) If certificate of registration of a dealer is suspended or if the suspension is withdrawn, the information will be made public through publication in Official Gazette and insertion of notice in Newspapers.
- (11) Registration by Commissioner: Where a dealer liable to be registered has failed to inform the competent authority of his liability to be registered, he shall be deemed to be registered, and shall be registered by the prescribed authority under this section, as if an application for registration had been made.

25. Voluntary registration of dealers .-

- (1) Any dealer, whose gross turnover of sales during a year exceeds rupees fifty thousand, may notwithstanding that he is not liable to pay tax, apply in the prescribed manner to the prescribed authority for registration under this Act.
- (2) Every dealer who has been registered on application made under this Section shall, for so long as his registration remains in force, be liable to pay tax under this Act.
- (3) The registration of a dealer on application made under this Section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.
- (4) Subject to the provisions of sub-section (3) a dealer registered on application made under this Section may apply

in the prescribed manner, not less than six months before the end of a year, to the authority which granted him his certificate of registration, for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made, and the said authority shall, unless the dealer is liable to pay tax under this Act cancel the registration accordingly.

- (5) When the gross turnover of sales of any dealer registered on application made under this Section has, for three successive years after the period of three years referred to in sub-section (3) failed to exceed the taxable quantum, the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, cancel the registration of such dealer.

26. Security to be furnished in certain cases :

- (1) The Commissioner may, at the time of grant of certificate to a dealer, for good and sufficient reasons to be recorded in writing, require the dealer to furnish in the prescribed manner such security or such additional security as may be specified by him for securing proper and timely payment of tax or any other sum payable by him under this Act.
- (2) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, demand from any person other than a registered dealer who imports into the State of Nagaland, any consignment of goods, a reasonable security for ensuring that there is no evasion of tax.

- (3) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, forfeit the whole or any part of the security or additional security referred to in sub-section (1) or sub-section (2) furnished by a dealer, for-
- (a) realizing or recovery of tax or any other sum due, or
 - (b) recovery of any financial loss caused to the State Government due to negligence or default in not making proper use of or not keeping in safe custody, blank or unused forms of way bills.
- (4) Where the security furnished by a dealer, is forfeited in whole or is rendered insufficient, such dealer shall, on demand by order of the Commissioner, furnish fresh or further security amount or shall make up the deficiency, as the case may be, in such manner and within such period as may be specified by the Commissioner.
- (5) The Commissioner may, on application by a dealer, who has furnished security as required, refund in the prescribed manner any amount of security or part thereof if such security is not required for the purposes for which it was furnished.
- (6) Security shall be furnished by a dealer, in such manner and by such time as may be specified in the order requiring furnishing, or demanding, such security.
- (7) No order shall be passed under this section without giving the dealer an opportunity of being heard.

27. Imposition of penalty for failure to get registered :

- (a) If a dealer, who is required to get himself registered within two months from the date from which he is first liable to pay tax fails to get himself so registered the prescribed authority may, after giving the dealer an opportunity of being heard, by order impose by way of penalty a sum, not less than five thousand rupees and not exceeding ten thousand rupees, for each month of default.
- (b) If any penalty is imposed under sub-section (1) the prescribed authority shall issue a notice in the prescribed form directing the dealer to pay such penalty by such date as may be specified in the notice, and the date to be specified shall not be less than fifteen days from the date of service of such notice and the penalty so imposed shall be paid by the dealer into a Government Treasury or in a manner as may be prescribed.

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the date of such payment as specified in the notice in this behalf or allow such dealer to pay the penalty imposed in such number of installments as he may determine.

Chapter - V

RETURNS, ASSESSMENT, RECOVERY AND REFUND :

28. Periodical returns and payment of tax-

- (1) Every registered dealer shall furnish return in such form for such period, by such dates and to such authority, as may be

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prescribed :

Provided that the Commissioner may, subject to such conditions and restrictions as may be prescribed, exempt any such dealer or class of dealers from furnishing such returns or permit any such dealer-

- (a) to furnish them for such different periods; or
 - (b) to furnish a consolidated return relating to all or any of the places of business of the dealer in the State of Nagaland for the said period or for such different periods and to such Authority, as he may direct.
- (2) If the Commissioner has reason to believe that the turnover of sales or the turnover of purchases of any dealer is likely to exceed or has exceeded the taxable limit as specified in sub-section (5) of section 8, he may, by notice served in the prescribed manner, require such dealer to furnish return as if he were a registered dealer, but no tax shall be payable by him unless his gross turnover exceeds the taxable limit provided under sub-section (5) of section 8.
 - (3) If any dealer having furnished returns under sub-section (1) or sub-section (2), discovers any omission or any other error in the return so filed, he may furnish a revised return before the expiry of two months next following the last date prescribed for furnishing the original return relating to the tax period.
 - (4) Every dealer required to file return under sub-section (1) or sub-section (2) shall pay the full amount of tax payable

according to the return or the differential tax payable according to the revised return furnished, if any, into the Government Treasury or in such other manner as may be prescribed and shall furnish along with the return or revised return, as the case may be, a receipt showing full payment of such amount.

- (5) Where a deduction of an amount of tax is made under sub-section (3) of Section 92 from the payment of any sum to a dealer for execution of works contract, and such amount is deposited under sub-section (4) of that Section, the deduction of such amount shall be deemed to be a payment of tax by such dealer made by him on the date of such deduction, and he shall furnish along with his return required under sub-section (1) of this Section, in respect of such amount a copy of the certificate of deduction referred to in sub-section (4) of Section 92, duly certified by such dealer, as proof of such payment of tax:

Provided that where a dealer does not receive a certificate of deduction under sub-section (4) of Section 92 on or before the prescribed date of furnishing a return period, he shall furnish the return stating the fact in writing, and he shall undertake to furnish the copy of such certificate of deduction within fifteen days from the issue of such certificate to him under sub-section (4) of Section 92.

- (6) Every return under this Section shall be signed and verified-
- (a) in case of an individual, by the individual himself, and where the individual is absent by some person duly authorized by him in this behalf;

- (b) in the case of a Hindu Undivided family, by the Karta,
- (c) in the case of a company or local authority, by the principal officer or chief executive thereof;
- (d) in the case of a firm, by any partner thereof not being a minor;
- (e) in the case of any other association, by the person competent to Act on behalf of the association.

Explanation :- For this purpose the expression "Principal Officer" shall have the meaning assigned to it under clause (35) of Section 2 of the Income Tax Act 1961.

29. Return defaults -

- (1) If a dealer required to file return under sub-section (1) or sub-section (2) of Section 28-
 - (a) fails without sufficient cause to pay the amount of tax due as per the return for any tax period; or
 - (b) furnishes a revised return under sub-section (3) of Section 28 showing a higher amount of tax to be due than was shown by him in the original return; or
 - (c) fails to furnish return;
 - such dealer shall be liable to pay interest in respect of
 - (i) the tax payable by him according to the return; or
 - (ii) the difference of the amount of tax according to the revised return; or

- (iii) the tax payable for the period for which he has failed to furnish return; at the rate of 2% per month from the date the tax payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier.
- (2) Month shall mean thirty days and the interest payable in respect of a period of less than one month shall be computed proportionately.
- (3) If a registered dealer, without sufficient cause, fails to pay the amount of tax due and interest along with return or revised return in accordance with the provisions of sub-section (1), the Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay in addition to the tax and the interest payable by him a penalty, at the rate of 3% per month on the tax and interest so payable from the date it had become due to the date of its payment or to the date of order of assessment, whichever is earlier.
- (4) If a registered dealer or any other dealer required to furnish return under sub-section (2) of Section 28; without any sufficient cause:-
 - (a) fails to comply with the requirements of the notice issued under sub-section (2) of Section 28; or
 - (b) fails to furnish any return by the prescribed date as required under sub-section (2) of Section 28; or
 - (c) being required to furnish revised return, fails to furnish the revised return by the date prescribed under sub-section (3) of Section 28; or

- (d) having paid the tax payable according to a return in time, fails to furnish along with the return proof of payment made in accordance with sub-section (4) of Section 28.

The Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay, in addition to any tax, interest and penalty under sub-section (3) payable or paid by him, a penalty of a sum of rupees one thousand per day of default subject to a maximum of rupees one lakh.

- (5) Any penalty imposed under this Section shall be without prejudice to any prosecution for any offence under this Act.
- (6) For the purposes of this Act, any return signed by a person who is not authorized under sub-section (5) of Section 28 shall be treated as if no return has been filed.

30. Collection of tax only be registered dealer :

No person who is not registered dealer shall collect in respect of any sale of goods by him in the State any amount by way of tax under this Act and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the Rules made there under and not beyond the rate specified.

Notwithstanding anything contained in this Section, a registered dealer who has been permitted by the Commissioner to pay presumptive tax under Section 21 shall not collect any sum by way of tax on the sale of goods during the period to which such payment relates.

31. Rounding off of the amount of tax or penalty :-

The amount of tax or penalty payable or refundable for any period under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee then, if such part is fifty paise or more, it shall be increased to one rupee and, if such part is less than fifty paise, it shall be ignored.

32. Scrutiny of returns :-

- (1) Each and every return in relation to any tax period furnished by a registered dealer to whom notice has been issued by the Commissioner under Section 28 shall be subject to scrutiny by the Assessing Authority to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein, and full payment of tax and interest by dealer during such period.
- (2) If any mistake is detected as a result of such scrutiny made as per the provisions of sub-section (1) the Assessing Authority shall serve a notice in the prescribed form on the dealer to make payment of the extra amount of the tax along with the interest as per the provisions of this Act, if it is payable by the date specified in the said notice.

33. Tax audit :-

- (1) The Commissioner or any other tax officer as directed by him may undertake tax audit of the records; stock in trade and the related documents of the dealer, who are selected

by the Commissioner in the manner as may be prescribed for the purpose.

- (2) The tax audit shall be generally taken up in the office, business premises or warehouse of the dealer.
- (3) For the purpose of tax audit under sub-section (1) the Commissioner or any other tax officer directed by him shall examine the correctness of return or returns filed and admissibility of various claims including input tax credit.

34. Self-assessment :-

- (1) Subject to provisions of sub-section (2), the amount of tax due from a registered dealer or dealers liable to be registered under this Act shall be assessed in the manner herein after provided, for each tax period or tax periods during which the dealer is so liable.
- (2) Notwithstanding anything contained in this Section, if a registered dealer has failed to furnish return or returns under sub-section (1) of Section 28 in respect of any tax period or periods, the Commissioner shall proceed to make provisional assessment under Section 35.
- (3) If a registered dealer has filed the return in respect of any tax period within the prescribed time and the return so filed is found to be in order, it shall be accepted as self-assessment subject to adjustment of any arithmetical error apparent on the face of the said return.

35. Provisional assessment :

- (1) Where a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the Commissioner shall, notwithstanding anything contained in Section 36, proceed to assess the dealer provisionally for the period for such default.
- (2) The provisional assessment under sub-section (1) shall be made on the basis of past returns, or past records where no such returns are available, or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such a manner and by such date as may be prescribed.
- (3) If the dealer furnishes return along with evidence showing full payment of tax, interest and penalty, if any, on or before the date of payment specified under sub-section (2), the provisional assessment made under the sub-section (1) shall stand revoked to the extent of the tax demanded, interest levied and penalty imposed, on the date on which such return is filed by the dealer.
- (4) Nothing contained in this section shall prevent the Commissioner from making assessment under Section 36 and any tax, interest or penalty paid against provisional assessment shall be adjusted against tax, interest and penalty payable on final assessment under that Section.

36. Audit assessment :-

- (1) Where.-

- (a) a registered dealer has failed to furnish any return under sub-section (1) of Section 28 in respect of any period; or
 - (b) a registered dealer is selected for audit assessment by the Commissioner on the basis of any criteria or on random basis; or
 - (c) the Commissioner is not satisfied with correctness of any return filed under section 28; or bona fides of any claim of exemption, deduction, concession, input tax credit or genuineness of any declaration, evidence furnished by a registered dealer in support thereof; or
 - (d) the Commissioner has reasons to believe that details scrutiny of the case is necessary, the Commissioner may not withstanding the facts that the dealer may already have been assessed under Section 35, serve on such dealer in the prescribed manner a notice requiring him to appear on a date and place specified therein, which may be in the business premises or at a place specified in the notice, to either attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns including tax invoice, if any, or to produce such evidence as specified in the notice.
- (2) The dealer shall provide full cooperation and assistance to the Commissioner to conduct the proceedings under this Section at his business premises.

- (3) If proceedings under this Section are to be conducted at the business premises of the dealer and it is found that the dealer or his authorized representative is not available or not functioning from such premises, the Commissioner shall assess to the best of his judgement the amount of tax due from him.
- (4) If the Commissioner is prevented from conducting the proceedings under this Section, the Commissioner may demand, a sum not exceeding three hundred percent of the amount of tax so assessed, by way of penalty.
- (5) The Commissioner shall, after considering all the evidence produced in course of the proceedings or collected by him; or
- (6) If any dealer :-
 - (a) has not furnished returns in respect of any period by the prescribed date; or
 - (b) has furnished incomplete and incorrect returns for any period; or
 - (c) has failed to comply with any notice under sub-section (1) or sub-section (3); or
 - (d) has failed to maintain accounts in accordance with the provisions of this Act or has not regularly employed any method of accounting, the Commissioner shall assess to the best of his judgement the amount of tax due from such dealer.

- (7) If the Commissioner is satisfied that the dealer, in order to evade or avoid payment of tax-
- (a) has failed to furnish without reasonable cause, returns in respect of any period by the prescribed date; or
 - (b) has furnished incomplete and incorrect returns for any period; or
 - (c) has availed tax credit to which he is not entitled to; or
 - (d) has employed such method of accounting which does not enable the Commissioner to assess the tax due from him; he shall, after giving the dealer reasonable opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum equal to three times of the amount of additional tax assessed on account of the said reasons under this Section.

37. Assessment of dealer who fails to get himself registered :-

- (i) If the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act, in respect of any period, has failed to get himself registered, the Commissioner shall proceed in such a manner as may be prescribed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer reasonable opportunity of being heard.

- (2) The Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to two hundred percent of the amount of tax assessed or a sum of rupees ten thousand whichever is more.

38. No assessment after five years :-

- (1) No assessment under Section 36 or 37 shall be made after the expiry of five years from the end of the tax period to which the assessment relates:

Provided that in case of offence under this Act for which proceeding for prosecution has been initiated, the limitation as specified in this sub-section shall not apply.

- (2) Any assessment made or penalty imposed under this chapter shall be without prejudice to prosecution for any offence under this Act.

39. Turnover escaping assessment :-

- (1) Where after a dealer is assessed under Section 34 or Section 35 for any year or part thereafter, the Commissioner has reason to believe that the whole amount or any part of the turnover of the dealer in respect of any period has:

(a) escaped assessment; or

(b) been under assessed ; or

(c) been assessed at a rate lower than the rate of which it is assessable;

- (d) been wrongly allowed any deduction therefrom ; or
- (e) been wrongly allowed any credit therein;

the Commissioner may serve a notice on the dealer and after giving the dealer reasonable opportunity of being heard and making such enquiries as he considers necessary, proceed to assess to the best of his judgement, the amount of tax due from the dealer in respect of such turnover, and the provisions of this Act shall, so far as may be, apply accordingly.

- (2) No order of assessment or reassessment shall be made under sub-section (1) after the expiry of five years from the end of the year in respect of which or part of which the tax is assessable.

40. Exclusion of time period for assessment :-

In computing the period of limitation specified for assessment or reassessment, as the case may be, the time during which any assessment or reassessment proceeding remained stayed under the order of competent court shall be excluded.

41. Power of reassessment in certain cases :-

- (1) Where any order passed by the Commissioner in respect of a dealer for any period is found to be erroneous or prejudicial to the interest of revenue consequent to, or in the light of any judgement or order of any court or Tribunal, which has become final, then notwithstanding anything contained in this Act, the Commissioner may proceed to reassess the tax

payable by the dealer in accordance with such judgement or order, at any time within a period of three years from the date of the judgement or order;

- (2) where any Court or Tribunal passes an order in appeal or revision to the effect that any tax assessed under this Act or the Central Sales Tax Act, 1956 should have been assessed under the provision of a law other than that under which it was assessed than in consequence of such order, or to give effect to any finding or direction contained in such order, such turnover and part thereof, may be assessed or reassessed, as the case may be, to tax at any time within five years from the date of such order, notwithstanding any limitation period which would otherwise be applicable to the assessment or reassessment made.

42. Payment and recovery of tax, penalty and interest :-

- (1) Tax shall be paid in the manner herein provided and at such intervals as may be prescribed;
- (2) a registered dealer furnishing returns under sub-section (1) of Section 28 shall pay into Government Treasury in such manner and at such interval as may be prescribed, the amount of tax due from him for the period covered under the return along with the amount of penalty or interest or both payable by him under Section 28 and shall furnish a receipt from the Treasury showing the payment of such amount;
- (3) a registered dealer furnishing a revised return in accordance with the sub-section (3) of Section 28 which shows that a

greater amount of tax is due than was paid or payable in accordance with the original return, shall furnish along with the return a receipt showing payment of the differential amount in the manner provided in sub-section (2);

(4) (a) The amount of tax-

(i) due where returns have been filed without full payment of tax due; or

(ii) assessed under Section 34, 35 and 36 less than the sum already paid in respect of such period together with interest, if any, required to be paid and the penalty, if any imposed to be paid under sub-section (7) of Section 36 or sub-section (1) of Section 37.

(b) The amount of penalty imposed under any provisions of this Act not covered under sub-clause (ii) of clause (a); or

(c) any other dues under this Act, shall be liable to be recovered in accordance with the provisions of this Act.

(5) Where a dealer fails to make payment of the tax assessed or interest levied or penalty imposed on him or any other amount due from him under this Act within thirty days of the date of service of the notice of demand, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, direct that such dealer shall, in addition to the amount due, pay, by way of penalty a sum equal to 3% of such amount of tax, penalty, interest or any other amount due, for every month, for the period for which payment has been

delayed by him after the date on which such amount was due to be paid.

- (6) The amount that remains unpaid after the due date of payment in pursuance of the notice issued under sub-section (4) and sub-section (5) shall be recoverable as a Public Demand under the Bengal Public Demand Recovery Act, 1913.
- (7) Where in pursuance of sub-section (6), any proceeding for the recovery as Public Demand of any tax, penalty, interest, or part thereof or any other amount remaining unpaid, have been commenced and the amount of tax, penalty, interest, or any other amount is subsequently enhanced or reduced as a result of any assessment made or order passed in the appeal, revision or rectification under this Act, the Commissioner may, in such manner and within such period as may be prescribed, inform the dealer and the authority by whom or under whose order the recovery is to be made and thereupon such proceeding may be continued as if the amount of tax, penalty, interest, or any other amount as modified, enhanced or reduced, had been substituted for the tax, penalty, interest, or any other amount which was to be covered under sub-section (6).

43. Special mode of recovery :-

- (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last known address) require any person who holds or may subsequently hold any money

for, or on account of such dealer, to pay into Government Treasury in the manner specified in the notice, either forthwith or upon the money becoming due or being held or at or within the time specified in the notice not being before money becomes due or is held, so much of the money as is sufficient to pay the amount of tax due from the dealer or penalty or both, as the case may be, under this Act or the whole of the money when it is less than that amount.

- (2) The notice under sub-section (1) may, from time to time, amend or revoke any such notice or extend the time for making such payment in pursuance of the notice.
- (3) Any person making any payment in compliance with the notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the dealer and the receipted from the Government Treasury shall construe a good and sufficient discharge of the liability of such person to the dealer to the extent of the amount specified in the receipt.
- (4) Any person discharging liability to the dealer after service on him the notice under issued sub-section (1) shall, if the liability is discharged in any manner other than that required under the said notice, be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer for tax or penalty, or both, whichever is less.
- (5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the Commissioner that the money demanded or any part thereof were not due

to the dealer, or that he did not hold any money for or on account of the dealer, at the time the notice was served on him, nor is the money demanded or any part thereof is likely to become due to the dealer or be held for or on account of the dealer, then such person shall not be liable to pay into Government Treasury any such money or thereof.

- (6) Any amount of money which a person is required to pay under sub-section (1) or for which he is personally liable under sub-section (4) shall, if it remains unpaid, be recoverable in the same manner as provided under sub-section (6) of Section 42,

Provided that nothing in this section shall operate to effect any action taken or prevent any action that may be or is being taken under Section 42 for recovery from the dealer the amount due from him.

44. Collection of tax by dealer :-

- (1) If any person;
 - (a) not being a dealer liable to pay tax under this Act collects any sum by way of tax; or
 - (b) being a registered dealer, collects any amount by way of tax in excess of the tax payable by him shall be liable, in addition to the tax for which he may be liable, to a penalty of an amount equal to twice the sum so collected by way of tax.
- (2) If the Commissioner in the course of any proceeding under this Act, or otherwise has reason to believe that any person

who has become liable to a penalty, or forfeiture, or both, under sub-section (1), he shall serve on such person a notice in the prescribed form requiring him to appear and to show cause as to why a penalty or forfeiture or both of any sum as provided under sub-section (1) should not be imposed on him.

- (3) The Commissioner shall thereupon hold an enquiry as he deems necessary and shall make such order as he deems fit.

45. Sales not liable to tax :-

- (1) Notwithstanding anything contained in this Act, a Value Added Tax shall not be imposed under this Act-
 - (i) where such sales or purchase takes place in the course of Inter-State Trade and Commerce, or
 - (ii) where such sale or purchase takes place in the course of import of goods into the territory of India or export of goods out of the territory of India.
- (2) For the purpose of this Section whether a sale or purchase takes place-
 - (i) outside the State of Nagaland,
 - (ii) in the course of Inter-State Trade and Commerce; or
 - (iii) in the course of import of goods into the territory of India or import of goods out of the territory of India shall be determined in accordance with the provisions of Section

3, Section 4, and Section 5 of the Central Sales Tax Act, 1956.

46. Tax to be first charged on property :-

Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a dealer under this Act on account of tax, penalty or interest or any amount which a person required to pay under this Act shall be first charged on the property of the dealer or such person.

47. Period of limitation for recovery of tax :-

Notwithstanding anything contained in any law for the time being in force, no proceeding for recovery of any amount under sub-section (1) (b) of Section 44 shall be initiated after the expiry of five years from the date of the relevant assessment.

Provided that when an appeal or revision has been filed, the period of limitation shall run from the date on which the amount due is finally determined.

48. Refund :-

- (1) Subject to other provisions of this Act and the Rules made there under, the Commissioner shall refund to a dealer the amount of tax, penalty and interest, if any, paid by such dealer in excess of the amount due from him.
- (2) Where any refund is due to any dealer according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due or tax

payable as per the returns filed under Section 28 for any subsequent period in the year;

Provided that, the amount of tax or penalty, interest or sum forfeited or all of them due from, and payable by the dealer on the date of such adjustment shall first be deducted from such refund before adjustment.

49. Provisional refund :-

- (i) If a registered dealer has filed any return as required under this Act and the return shows any amount to be refundable to the dealer on account of sales in course of export out of the territory of India, then the dealer may apply in the manner and form prescribed to the Commissioner for grant of provisional refund pending audit and investigation to establish the correctness of the claim and consequent assessment, if any.
- (2) Subject to the provisions of sub-section (3), the Commissioner may require the dealer to furnish a Bank Guarantee or other security as may be prescribed for an amount equal to the amount of refund and receipt of such guarantee or other security, the Commissioner may grant the dealer a provisional refund that may be determined as refundable.
- (3) The Commissioner may direct that the assessment under Section 39 of such dealer in respect of the year containing the period covered by the said return to be taken up as early as practicable and adjust the grant of provisional refund against tax due, if any, as a result of that assessment.

- (4) If, on assessment, the provisional refund granted under subsection (2) is found to be in excess, then the excess shall be recovered as if it is the tax from the dealer under this Act.
- (5) Interest will be charged on such excess amount at the rate of two percent per month from the date of grant of provisional refund till the date of assessment.

50. Interest :-

- (1) A registered dealer entitled to refund in pursuance of any order under this Act (including assessment under Section 34, Section 35 or Section 36) or in pursuance of any order by any Court, shall be entitled to receive, in addition to the refund, simple interest at the rate of eight percent per annum for the period commencing after ninety days of the application claiming refund in pursuance to such order till the date on which the refund is granted.
- (2) The interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Act.
- (3) If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced; such interest shall be enhanced or reduced accordingly.
- (4) When a dealer is in default or is deemed to be in default in making the payment under Section 34, Section 35 and Section 36, be liable to pay simple interest on such amount at the rate of two percent per month from the date of such

default for so long as he continues to make default in the payment of the said tax.

- (5) Where as a result of any final order, the amount of tax including any penalty due or in default is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is modified, the interest due shall be calculated accordingly.
- (6) Where any amount of tax payable is enhanced by any such order, interest shall be payable on the amount by which the tax is enhanced after the expiry of a period of three months from the date of the order.
- (7) Where the realization of any amount remains stayed by the order of any court or authority and such order is subsequently vacated, interest shall be payable also for any period during which such order remains in operation.
- (8) The interest payable under this Act shall be deemed to be tax due under this Act.

51. Power to withhold refund in certain cases :-

- (1) Where an order giving rise to refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Commissioner is of the opinion on that the grant of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner may, withhold the refund till such time as he may determine.

- (2) Where a refund is withheld under sub-section (1), the dealer shall be entitled to interest as provided under sub-section (1) of Section 50 if, as a result of the appeal or further proceeding or any other proceeding, he becomes entitled to the refund.

52. Exemption of certain sales and purchases :-

- (1) Subject to such conditions as it may impose, the Government may, if it is necessary so to do in the public interest, by notification in the official Gazette, exempt any sales or purchases made to or by class of dealers or persons specified in the said notification from payment of the whole or any part of any tax payable under the provisions of this Act and any notification issued under this Section may be issued so as to be retrospective to any date not earlier than the 1st April, 2005 and such exemption shall take effect from the date of publication of the notification in the official Gazette or such other earlier or later date as may be mentioned therein;
- (2) where any dealer or person has purchased any goods under a declaration or certificate given by him under any notification issued under this Section and :-
 - (a) any of the conditions subject to which such exemption was granted, or
 - (b) any of the recitals or the conditions of the declaration, or certificate are not complied with for any reason whatsoever, then, without prejudice to the other

provisions of this Act, such dealer or person shall be liable to pay tax on the sale price of the goods at the rate set out against each of such goods in the schedules notwithstanding that such dealer or person was not liable to pay tax under any provisions of this Act and accordingly the dealer or the person who has become liable to pay tax under this sub-section shall file a return in the prescribed form to the prescribed Authority within prescribed time and shall include the sale price of such turnover in his return, and pay the tax in the prescribed manner. The tax due from any such dealer or person shall be assessed and recovered as if the person or dealer is a dealer liable to be proceeded against under the provisions of this Act.

- (3) If the Commissioner has reason to believe that any person or dealer is liable to pay tax under sub-section (2), the Commissioner shall, after giving a reasonable opportunity of being heard, assess the amount of tax so due.

53. Composition of tax :-

- (1) The Government may by a notification publish in the Official Gazette provide for a scheme of composition subject to such conditions and restrictions as may be provided therein, of tax payable by those dealers who are engaged in the business of selling at retail any goods or merchandise.
- (2) For the purpose of this Section a dealer will be considered to be engaged in the business of selling at retail if 9/10th of his turnover of sales consists of sales made to persons who

are not dealers and if any question arises as to whether any particular dealer is a retailer, then the officer in charge of the case shall refer the question to the Commissioner who shall after hearing the dealer if necessary, decide the question.

- (3) Nothing in this Section shall apply to a dealer who is a manufacturer or who is an importer or who has purchased any goods from a registered dealer whose sales of the said goods are not liable to tax under the provisions of this Act.

Chapter - VI

ACCOUNTS AND RECORDS

54. Maintenance of Accounts and records :-

- (1) Every registered dealer or a dealer to whom a notice has been served to furnish return under sub-section (2) of Section 28 shall maintain a true and update account of the value of goods purchased or manufactured and sold by him or goods held by him in stock, and, in addition to the books of account that a dealer maintains and keeps for the purpose referred to in this sub-section, he shall maintain and keep such registers and account in such forming the manner prescribed.
- (2) Every registered dealer or dealers referred to in sub-section (1) shall keep at his place of business all accounts, registers and documents maintained in the course of business.

- (3) Where a dealer as referred to in sub-section (1) has established branch offices of the business in the State other than the principal place of business, the relevant accounts, registers and documents in respect of each such branch shall, without prejudice to the provisions of sub-section (5), be kept by him at such branch.
- (4) If the Commissioner is of the opinion that the accounts maintained by any dealer or class of dealers do not sufficiently enable him to verify the returns referred to in sub-section (1) of Section 28 or the assessment can not be made on the basis thereof, he may by an order, require such dealer or class of dealers, to keep such accounts, in such form and in such manner as he may, subject to rules made under this Act, direct.
- (5) If the Commissioner is satisfied that any dealer is not in a position to maintain accounts in accordance with the provisions of sub-section (1), he may, for reasons to be recorded in writing, exempt such dealer from the operations of the provisions of the said sub-section.

55. Tax Invoice :-

- (1) Every registered dealer making a taxable sale to another dealer, whether registered or not, shall provide that purchaser at the time of sale with a tax invoice containing such particulars as specified in sub-section (2), and retain a copy thereof.
- (2) The tax invoice shall not be issued by a dealer in the following circumstances;

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- (a) a retail registered dealer is paying presumptive tax in lieu of VAT or
 - (b) the sale in the course of export out of the territory India; or
 - (c) the sale in the course of Inter-State Trade and Commerce; or
 - (d) the sale of goods exempt from tax
- (3) Not more than one tax invoice shall be issued for each taxable sale.
- (4) The tax invoice issued under sub-section (1) shall contain the following particulars on the original as well as copies thereof :-
- (a) The word 'Tax Invoice' in bold letter at the top or any prominent place;
 - (b) the name, address and registration certificate number of the selling registered dealer;
 - (c) the name, address and registration certificate number of the purchasing registered dealer;
 - (d) an individual serialized number and the date on which the tax invoice is issued.
 - (e) description, quantity, volume and value of goods sold and amount of tax charged thereon indicated separately;
 - (f) signature of the selling dealer or his servant, manager or agent, duly authorized by him;

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- (g) the name and address of the printer, and first and last serial number of tax invoices printed and supplied by him to the dealer,
- (5) Except when tax invoices is issued under sub-section (1), if a registered dealer sells any goods exceeding such amount in value as may be prescribed, in any one transaction to any person; he shall issue to the purchaser a retail invoice and retain a copy thereof.
- (6) The retail invoice shall contain the following particulars on the original as well as copies thereof.-
 - (a) the words 'Retail Invoice' or 'Cash Memorandum' or Bill in bold letters at the top or in a prominent place;
 - (b) the name, address and registration certificate number of the selling registered dealer;
 - (c) in case the sale is in course of export out of the territory of India, the name, address and registration number, if any of the purchasing dealer/foreign buyer and the type of statutory form, if any, against which the sale has been made;
 - (d) an individual serialized number and the date on which the retail invoice is issued;
 - (e) description, quantity, volume and value of goods sold inclusive of tax charged thereon;
 - (f) signature of the selling dealer or his servant, manager or agent, duly authorized by him;

- (g) the name and address of the printer, and first and last serial number of retail invoices printed and supplied by him to the dealer.
- (7) Tax invoice shall be issued in triplicate. The original and the first copy shall be issued to the purchaser or the person taking delivery of the goods, as may be, and the second copy shall be retained by the selling dealer.
- (8) Retail Invoice shall be issued in duplicate. The original shall be issued to the purchaser and the duplicate copy shall be retained by the selling dealer.
- (9) Every dealer referred to in sub-section (1) shall preserve books of account including tax invoices and retail invoices until the expiry of five years after the end of the year to which they relate or for such other period as may be prescribed or until the assessment reaches its finality whichever is later.
- (10) Where such dealer is party to any appeal, or revision under this Act he shall retain, until the appeal or revision is finally disposed of, every record and accounts that pertain to the subject matter of the appeal or revision.

56. Electronic record :

Every dealer who maintains the records electronically shall retain them in electronically readable format for the period specified in Section 54 along with hard copies thereof.

57. Requirement to provide information :-

Notwithstanding anything contrary to the provisions of this Act, or any other Act, for time being in force, the Commissioner may, for any purpose related to the administration or enforcement of the provisions of this Act, by notice, require any person to provide the Commissioner, within such reasonable time as is stipulated in the notice, with any information or additional information including a return under this Act, or any document including electronic records as may be specified.

58. Audit of Accounts :-

- (1) Where in any particular year, the gross turnover of a dealer exceeds forty lakh of rupees or such other amount as the Commissioner may, by a notification in the Official Gazette specify, then such dealer shall get his accounts, in respect of that year and obtain a report of such audit in the prescribed form duly signed and verified by such Accountant and setting forth such particulars as may be prescribed.
- (2) A true copy of such report shall be furnished by such dealer to the Commissioner by the end of the month after expiry of the period of six months during which the audit would have been completed.
- (3) If any dealer liable to get his accounts audited under sub-section (1) fails to get his accounts audited and furnish a true copy of the audit report within the time specified in sub-section, (2), the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on

him, in addition to any tax payable, a sum by way of penalty equal to 0.5% of the turnover as he may determine to the best of his judgment in his case in respect of the said period.

Explanation : For the purpose of this section, 'Accountant' means a Chartered Accountant within the meaning of the C h a r t e r e d Accountant Act, 1949 and includes a person who by virtue of the provisions of sub-section (2) of Section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of companies registered under the said Act.

59. Dealer to declare the names of his business manager :-

- (1) Every dealer who is liable to pay tax, and who is a Hindu Undivided Family or an Associations of persons, club or society, firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed, furnish a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be manager or managers of such dealer's business for the purposes of this Act.
- (2) Such declaration shall be furnished at the time of registration, wherever applicable and shall be revised from time to time.
- (3) The statement furnished under this sub-section shall also contain the name and address with designation in relation to the business of such persons who are authorized to receive notice and other documents under this Act and such service on whom shall be binding on the dealer.

Chapter - VII

LIABILITY IN SPECIAL CASES

60. Liability to pay tax in case of death :-

- (1) Where a dealer liable to pay tax under this Act, dies then :-
 - (a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay tax including any penalty, sum forfeited and interest due from such dealer under this Act or under any earlier law, in the like manner and to the same extent as the deceased dealer, and
 - (b) if the business carried on by the dealer discontinued whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased dealer would have been liable to pay if he had not died, the tax including any penalty, sum forfeited and interest due from such dealer under this Act, or under any earlier Law, whether such tax including any penalty sum forfeited and interest has been assessed before his death but has remain unpaid, or is assessed after his death.
- (2) Where a dealer, liable to pay tax under this Act, is a Hindu Individual Family and joint family property is partitioned amongst the various members or group of members, then each member or group of members shall be jointly and severally liable to pay the tax including any penalty, sum

forfeited and interest due from the dealer under this Act or under any earlier law, upto to the time of the partition, whether such tax including any penalty, sum forfeited and interest has been assessed before partition but has remained unpaid, or is assessed after partition.

- (3) Where a dealer, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who has a partner shall be jointly and severally liable to pay to the extent to which he is liable under Section 62, the tax including any penalty, sum forfeited and interest due from the firm under this Act or under any earlier law, upto to the time of dissolution, whether such tax including any penalty, sum forfeited and interest has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.
- (4) Where a dealer, liable to pay tax under this Act, transfers or otherwise disposes off his business in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, the dealer and the person succeeding shall jointly and severally be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, upto to the time of such transfer, disposal or change, whether such tax, including any penalty, sum forfeited and interest has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.
- (5) Where the dealer liable to pay tax under this Act :-

(a) is the guardian of a ward on whose behalf the business is carried out by the guardian, or

(b) is trustee who carries on the business under a trust for the beneficiary, then, if the guardianship or the trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer upto the time of termination, whether such tax, including annual penalty, sum forfeited and interest has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

- (6) Where the dealer liable to pay tax under this Act, is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4) then such person shall be liable to pay tax on the sales or purchases of goods made by him on and after the date of such succession and shall (unless he already holds a certificate of registration) within sixty days thereof apply for registration.

61. Certain agents liable to tax for sale on behalf of principal :

- (1) Where any person sells or purchases any taxable goods on behalf of his principal, then such person and his principal shall both be jointly and severally be liable to pay tax on the turnover of such sales or purchases.
- (2) If the principal, on whose behalf the commission agent has sold or purchased any goods, shows to the satisfaction of the Commissioner that the tax has been paid by such

commission agent on such goods under sub-section (1), the principal shall not be liable to pay the tax again in respect of the same transaction.

- (3) Where a manager or agent of non-resident dealer sells or purchases any goods on behalf of a non-resident dealer in the State, then the non-resident dealer and the manager or agent residing in the State, shall be jointly and severally liable to pay tax on the turnover of such sales or purchases.

Provided that, if any non - resident dealer shows to the satisfaction of the Commissioner that the tax payable in respect of such sale or purchase has been paid by the manager or agent residing in the State, then the non-resident dealer shall not be liable to pay in respect of same transaction.

62. Liability of partners :-

- (1) Notwithstanding anything contained in the Indian Partnership Act, 1932 or any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment and accordingly any notice or order under this Act may be served on any person who has a partner during the relevant time whether or not the firm has been dissolved and all the provisions of this Act shall apply accordingly.
- (2) Where any such partner retires from the firm, he shall be liable to pay the tax, penalty; sum forfeited and interest

remaining unpaid at the time of his retirement and any such amount due up to the date of retirement though un-assessed at that date.

63. Amalgamation of Companies :-

- (1) When two or more companies are to be amalgamated by the order of Court or of the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more such companies have sold or purchased any goods to or from each other in the period commencing on the date from which the order is to take effect and ending on the date of the order then such transaction of sale and purchases will be included in the turnover of the sales or of purchases of the respective companies and will be assessed to tax accordingly.
- (2) Notwithstanding anything contained in the said order, for all of the purposes of this Act, the said two or more companies will be treated as distinct companies and will be treated as such for all periods upto the date of the said order and the registration certificate of the said companies will be cancelled, where necessary, with effect from the date of the said order.
- (3) Words and expression used in this Section, but not defined will have the respective meanings to them in the Companies Act, 1956.

Chapter - VIII

**INSPECTION OF ACCOUNTS DOCUMENTS, SEARCH
OF PREMISES AND ESTABLISHMENT OF CHECK
POSTS.**

**64. Production and inspection of accounts and documents and
search of premises :-**

- (1) The Commissioner shall have the power :-
- (a) to enter and inspect the place of business of any dealer, or any other place where it is believed by such officer that business is being carried on or accounts are being kept by such dealer;
 - (b) to direct such dealer to produce at such time and at such place accounts, registers and documents relating to his business activities for examination;
 - (c) to enter and inspect the goods in the possession of the dealer or in the possession of any other person on behalf of such dealer, wherever such goods are kept;
 - (d) to enter and search such places, including the search of the dealer or person acting on behalf of the dealer found there, where concealment of facts relating to the business is suspected;
 - (e) to seize any accounts, register or documents from the dealer, where he has reason to suspect that a dealer is attempting to avoid or evade tax or is concealing his tax liability in any manner, after recording such reason in

writing, and give the dealer or any other person from whose custody such accounts, records of document are seized, a receipt for and, if requested, copies of the same, and may retain them in his custody for examination, enquiry, prosecution or other legal proceedings for such period as he considers necessary;

- (f) to seal any box or receptacle, godown or building or any part of the godown or building on which accounts or taxable goods are suspected to be kept or stored where the owner or the person-in-charge of the business or any other person in-charge of the business or any other person-in-occupation either leaves the premises or is not available or fails or refuses to open the box or receptacle, godown or building or any part of the godown or building when called upon to do so;
- (g) to break open the box or receptacle, godown or building or part of the godown or building where the owner or the person-in-charge of the business or the person in occupation leaves the premises or, after an opportunity having been given to him to do so, fails to open the receptacle, godown or building or part of the godown or building, and the officer acting under this sub-clause shall prepare a list of the goods and documents found therein;
- (h) to record the statement of any dealer or his manager, agent or servant, to take extracts from the records found in any premises and to put identification marks on accounts, registers, documents or goods;

- (i) to take samples of goods from the possession of any dealer, where he considers it necessary to protect the revenue against mistake or fraud, and provide a receipt for any samples so taken, and the samples shall, except where an offence is found, be returned to the dealer or be disposed of by the Commissioner with that dealer's consent;
 - (j) to seize any goods liable to tax, which are found in the possession of a dealer or in the possession of any person on behalf of a dealer and which are not accounted for in his accounts, records or documents maintained in the course of his business, and a list of goods so seized shall be prepared by such officer and a copy thereof shall be given to the dealer or any person other from whose custody such goods are seized;
 - (k) in circumstances where it is not possible to seize the accounts, records or documents under sub-section (1) or the goods under sub-section (3), the officer concerned may serve on the owner or the person who is in immediate possession or control thereof, an order that he shall not remove, part with or otherwise deal with them except with the prior consent of such officer, who may, after serving such order take such steps as are deemed necessary to secure the items referred to in the orders.
- (2) To issue an immediate assessment as specified in sub-section (2) of Section 37;
 - (3) where the records and accounts under Section 30 and 32 are maintained by electronic means, the dealer shall provide

such access to such accounts and records including hard copy record and account as may be required by the authorized officer;

- (4) the powers conferred on the Commissioner under clauses (d), (e), (f), (g), (i) and (j) of sub-section (1) of this Section shall be exercised in accordance with the provisions of the Code of Criminals Procedure, 1973 (Central Act 2 of 1974);
- (5) the account, registers, records, including computer hardware and software, and other documents seized under sub-section (1) shall not be retained by the Commissioner for a period exceeding one hundred and eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him in writing and the approval of the next higher authority is obtained and such approval in any case shall not be for more than sixty days at a time;
- (6) There shall be a presumption in respect of goods, accounts, registers and documents found at any place of business that these relate to that business, unless the contrary is proved by the dealer whose business occupies that place;
- (7) Where the Commissioner seizes goods under clause (j) of sub-section (1), he shall seize only that proportion of goods which relate to the dealer's tax liabilities including penalties and interest, if any;
- (8) The dealer or person from whom goods have been seized under clause (j) of sub-section (1) of this Section shall have

a period of seven days in which to appeal against the seizure of the goods.

65. Survey :-

- (1) With a view to identify dealers who are liable to pay tax under the Act, but have remained unregistered, the Commissioner shall from time to time cause survey of unregistered dealers to be taken.
- (2) For the purpose of the survey, the Commissioner may by general or special notice require any dealer or class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the person and dealers who have purchased any goods from or sold any goods to such dealer or class of dealer during any given period.
- (3) For the purpose of survey, the Commissioner may call for details and particulars regarding the services provided by public utilities and financial institutions including banking companies which he is of the opinion will be relevant and useful for the purposes of the survey. He may from time to time cause the result of the survey to be published in any manner that he thinks fit.
- (4) The Commissioner may, for the purposes of the survey enter therein any place where a person is engaged in business but is unregistered or has not applied for grant of the certificate of the registration, whether such place will be principal place of business or not of such business and require any proprietor

employee or any person who may at that time and place be attending in any manner to, or helping in, the business:-

- (i) To afford him the necessary facilities to inspect such books of accounts or other documents as he may require and which may be available at such place;
- (ii) to afford him the necessary facility to check or verify the cash, stock or other valuable articles or things which may be found there in, and
- (iii) to furnish such information as he may require in relation to any matter which he may consider useful for, or relevant to any proceedings under this Act.

Explanation - For the purposes of this sub-section a place where the person is engaged in business will also include any other place in which the person engaged in business or the said employee or other person attending or helping in business states that any books of the accounts or other document or any part of the case, stock or other valuable or things relating to the business are or is kept.

- (5) The Commissioner shall enter the place where the person is carrying on business only during the hours at which such place is open for business and in case of the said or any other place only after sunrise and before sunset. The Commissioner may make or cause to be made extracts or copies from books of accounts and other documents inspected by him, make an inventory of any cash, stock or other valuable articles or thing checked or verify by him,

and record the statement of any person which may be useful for, or relevant to any proceeding under this Act.

66. Establishment of check posts and inspection of goods and movement of vehicles :-

- (1) If the State Government or the Commissioner considers it necessary that, with a view to prevent or check evasion of tax under this Act in any place or places in the State, it is necessary so to do, may, by notification, direct the establishment of a check post or the erection of a barrier or both, at such place or places as may be notified.
- (2) The owner or person in-charge of a good vehicle shall;
 - (a) carry with him a good vehicle record, a trip sheet or a log book, as the case may be; and
 - (b) carry with him a bill of sale or a delivery note obtained from the prescribed authority or such other documents, containing such particular as may be prescribed, in respect of the goods carried in the goods vehicle; and
 - (c) produce the documents referred to in sub-clause (b) before any officer in-charge of check post or barrier or any other officer as may be empowered by the State Government in this behalf and obtain seal of such officer affixed thereon, and in respect of a bill of sale, shall give one copy thereof and in respect of a delivery note, shall give a copy marked as original to such officer and carry and retain with him the other copy until termination of movement of the goods; and

(d) on entering the State limits, report at the first situate check post or barrier and on leaving the State limits report at the last situate check post or barrier and shall give a declaration containing such particulars as may be prescribed in respect of the goods carried in the goods vehicle before any officer in-charge of the check post or barrier or any other officer as may be empowered by the state Government or the Commissioner in this behalf;

3 (a) at every check post or barrier or at the other place when so required by any officer empowered by the State Government or the Commissioner in this behalf, the driver or any other person in-charge of a goods vehicle shall stop the vehicle, and keep it stationary as long as may be required by the officer in-charge of the check post or barrier or the officer empowered as aforesaid, to examine the contents in the vehicle and inspect all records relating to the goods carried which are in possession of such driver or the person-in-charge, who shall, if so required give his name and address and the name and address of the owner of the vehicle;

(b) where any goods vehicle is intercepted by the officer empowered at any place other than a check post or barrier, such officer may, if he deems it necessary, direct the owner or person in-charge of the goods vehicle to take it to the nearest check post or Police Station and such owner or person in-charge of goods vehicle shall comply with such directions.

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- (4) For purposes of sub-section (2) and (3) the officer in-charge of the check post or barrier shall be an officer as may be prescribed or as may be authorized by the Commissioner;
- (5) (a) where goods are delivered to a carrier or other bailee for transmission, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. Where before delivery is taken from him a carrier or bailee to whom goods are delivered for transmission, keeps the said goods in any office, shops, godown, vessel, receptacle, vehicle or any other place of the business or any building or place, any officer empowered to exercise the powers under sub-section (3) shall have power to enter into and search such office, shop, godown, vessel, receptacle, vehicle or other place of business or building or place, and to examine the goods and inspect all documents relating to such goods. The carrier or bailee or the person in-charge of the goods or records shall give all facilities for such examination or inspection and shall, if so required, produce the bill of sale or delivery note or other document referred to in sub-section (2) and give a declaration containing such particulars as may be prescribed regarding the goods and give his name and address and the name and address of the carrier or the bailee and the consignee.
- (b) The power conferred by clause (a) shall also include :-
 - (i) the power to seal any box or receptacle, godown or building or any part of the godown or building in which accounts or taxable goods are suspected to be kept or

stored, where the carrier or bailee or person-in-charge of the place of business either leaves the premises or is not available or fails or refuse to open any box or receptacle, godown or building or any part of the godown or building when called upon to do so;

- (ii) the power to break open the box or the receptacle, godown or building or part of the godown or building where the carrier or bailee or the person in-charge of the place of business leaves the premises, or, after, an opportunity having been given to him to do so, fails to open the receptacle, godown or building or part of the godown or building and the officer acting under this sub-clause shall prepare a list of the goods and documents found therein;
- (6) (a) if any officer empowered to enter into and search any office, shop, godown, receptacle, vehicle or any other place of business or any building or place where a carrier or bailee keeps the goods delivered to him for transmission, has reason to suspect that such carrier or bailee has colluded with the owner of the goods in evading payment of any tax, he may for reasons to be recorded in writing, seized accounts, registers, records or other document of the bailee or carrier as he may consider necessary and shall give a receipt for the same. The accounts, register, records and other documents seized shall be retained by such officer only for so long as may be necessary for their examination and for any enquiry or proceedings under this Act;

- (b) the accounts, registers, records and other documents so seized shall not be retained by such officer for a period exceeding one hundred eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him in writing and approval of the next higher Authority is obtained and such approval in any case shall not be for more than sixty days at a time.
- (c) Where such officer, upon examining the accounts, registers, records or other documents seized under clause (a) have reason to believe that any dealer has attempted to evade payment of any tax, he may issue a presumptive assessment on such dealer in accordance with sub-section (7) of Section 37.
- (7) All searches and seizures under sub-section (5) or (6) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)
- (8) No person shall tamper with any seal put under clause (i) of clause (b) of sub-section (5);
- (9) where the officer in-charge of the check post or barrier, or the officer empowered as aforesaid on interception of the goods vehicle or inspection of any godown is of the opinion that further verification is necessary with respect to either accuracy of the particulars furnished in the documents accompanying the goods under transport or in transit or as to the sufficiency and the cause adduced in respect of any contravention of sub-section (2), he may verify the particulars himself or if it is necessary cause it to be verified by referring the matter to any other officer and if such verification is not

likely to be completed within a reasonable time, he may direct in writing the carrier or the person in-charge of the goods vehicle or the godown not to deliver the goods until permitted to do so by him or such other officer to whom the matter is referred for verification and allow the intercepted vehicle, if any, to pass through.

- (10) The verification under sub-section (9), shall be completed within a period of fifteen days from the date of the direction issued under that sub-section and where such verification cannot be completed within the aforesaid period the officer who has issued such direction, or as the case may be, the officer to whom the matter is referred for verification shall obtain the permission in writing from the next higher Authority to extend such period for completion the verification, however such extension shall not be permitted for a period exceeding fifteen days at a time.
- (11) Where such officer or other officer to whom the matter is referred, upon such verification is of the opinion that there is a non-compliance with sub-section (2) of this Section, he shall proceed in respect of such goods in the custody of the carrier, or the person in charge of vehicle or the godown in accordance with sub-section (12) and (14) of this Section.
- (12) Where the officer in charge of the check post or any empowered officer has issued the notice for contravention of any of the provisions of this Section, further proceeding in pursuance to such notice may, subject of such conditions in such manner as may be prescribed, be continued by any

other officer empowered by the Commissioner in this behalf, from the stage at which it is pending.

(a) The officer in-charge of a check post or a barrier or any other officer in respect of any contravention of, or non-compliance with the provisions of sub-section (2), (3), (5) or (8), for which sufficient cause is not furnished, levy a penalty which shall not be less than double the amount of leviable and not exceeding three times the amount of tax leviable in respect of the goods under transport.

(b) Where the amount of penalty leviable is more than the value of the goods, the amount of penalty leviable shall be restricted to such value.

(13) In respect of contravention of sub-section (12), where the penalty levied is not paid, the carrier or bailee or person-in-charge of the goods vehicle shall jointly and severally be liable to pay such penalty and such amount of penalty be deemed to be an amount due under the Act. Before levying any penalty under this sub-section, the officer shall give the person in-charge of the goods vehicle or carrier or bailee, or a dealer registered under the Act, as the case may be, a reasonable opportunity of being heard.

(14) Where the destination of the goods to be delivered in the State is not less than one hundred kilometres, from the check post or carrier or any other place at which the goods vehicles is intercepted, the period for affording reasonable opportunity of being heard shall not be less than five days.

- (15) (a) Where the penalty levied is not paid, the officer levying the penalty shall have power to take possession of so much of the goods as in his opinion could be sufficient to meet the amount of penalty levied and retain the same with him until the penalty levied is paid or for five days, whichever is earlier.
- (b) Where it is not practicable to take possession of only so much of the goods as would be sufficient to meet the amount of penalty levied for the reason that the goods vehicle is a tanker carrying goods in liquid or gaseous form or that the goods is a single unit not separable into any part thereof, the officer levying the penalty shall have power to take possession of the goods vehicle or the entire goods, as the case may be, and retain the same with him until the penalty levied is paid or for ten days, whichever is earlier.
- (c) After the expiry of five days, if the penalty is not paid, the officer shall dispose of the goods in public auction and adjust the sale proceeds towards penalty, the excess amount shall, after deducting the charges incurred by the State, be refunded in the manner prescribed.
- (d) Before taking possession or within five days after taking possessions of the goods or the goods vehicle, as the case may be, if the owner or the person in-charge of the goods vehicle or the dealer registered under the Act, furnishes for the amount of penalty a bank guarantee having validity until realization of the penalty or disposal of appeal, if any, made under this Act, the officer taking such possession shall forthwith return the goods or the goods vehicle to the person furnishing such bank guarantee.

- (e) In the case of perishable goods, the officer may dispose of the same before the expiry of the period of five days, if in his opinion such disposal is necessary.
- (16) (a) The person aggrieved by the levy of penalty under this Section may appeal within thirty days from the date on which the order of penalty was served on the person, to the prescribed authority.
- (b) Where the person aggrieved is a dealer registered under the Act, such person may appeal to such authority as may be prescribed.

Such appeal shall be dealt with as if it were an appeal filed under this Act, and all the provisions of the said Section shall *mutatis mutandis* apply to such appeal.

67. Transit of goods by road through the State and issue of transit pass :-

- (1) Where a vehicle is carrying goods taxable under this Act :-
 - (a) from any place outside the State and bound from any place outside the State and passes through the State; or
 - (b) which are imported into the State from any place outside the country and such goods are being carried to any place outside the State, the driver or any other person-in-charge of such vehicle shall furnish the necessary information and obtain a transit pass in duplicate containing such particulars as may be prescribed from the officer-in-charge of the first check post or barrier after his entry into the State

or after movement has commenced from the State as the case may be, or from the officer empowered for the purposes of sub-section 3 clause (b) of Section 66, upon interception of the goods vehicle after its entry into the State or after movement has commenced as the case may be;

- (2) the driver or the person in-charge of such vehicle shall deliver within the stipulated time a copy of the transit pass obtained under sub-section (1) to the officer-in-charge at the last check post or barrier before his exit from the State;
- (a) if for any reason the goods carried in a goods vehicle are, after entry into the State, or after commencement of movement, as the case may be, not moved out of the State within time stipulated in the transit pass, the owner of the goods vehicle shall furnish to the officer empowered in this behalf the reason for such delay and other particulars, if any, thereof and such officer shall after due enquiry extend the time of exit by suitably amending the transit pass;
- (b) where the goods carried by a vehicle are, after their entry into the State or after commencement of movement, as the case may be, transported out of the State by any other vehicle or conveyance, the onus of proving that the goods have actually moved out of the State shall be on the owner of the vehicle who originally brought the goods into the State;
- (3) if the driver or any other person in-charge of the vehicle does not comply with sub-section (2), it shall be presumed that the goods carried thereby have been sold within the State by the owner of the goods vehicle and shall, irrespective

- of whether he is a taxable person, be assessed to tax by the officer empowered in this behalf in the prescribed manner;
- (4) if the owner of the goods vehicle, having obtained the transit pass provided under sub-section (1) fails to deliver the same as provided under sub-section (2) he shall be liable to pay by way of penalty a sum not exceeding double the amount of tax leviable on the goods transported;
 - (5) the amount of tax and the penalty levied under this section shall be recovered in the prescribed manner.
 - (6) Where the owner of the vehicle who is assessed to tax under sub-section (4) is carrying, after such assessment, any goods taxable under this Act in a goods vehicle from any place outside the State, or within the State, as the case may be, and bound for any other place outside the State and is passing through the State, the prescribed Authority may demand from such owner an amount equivalent to two times the tax leviable on such goods under this Act as security;
 - (7) the prescribed authority after being satisfied that the goods carried in the goods vehicle in respect of which the security amount under sub-section (6) was collected has passed through the State, shall refund such security amount to the owner;
 - (8) the prescribed authority may by an order adjust the whole or any part of security amount towards any amount of tax or penalty payable under this Section by such owner;

- (9) in case where a vehicle owned by a person is hired for transportation of goods by some other person, the hirer of the vehicle shall, for the purpose of this Section, be deemed to be the owner of the vehicle.
- (10) where a transporter, while transporting goods is found to be in collusion with dealer to avoid or evade tax, the officer in charge of the check-post or the officer empowered shall detain the vehicle or carrier of such transporter and after affording him an opportunity of being heard with prior approval in writing of the Commissioner may confiscate such vehicle or carrier.

68. Automation :-

- (1) The Government shall endeavor to introduce and establish an automated data processing system for complimenting the purpose of the Act and for incidental and allied matters.
- (2) In order to make effective the said system, the State Government may from time to time make resolutions for regulating the interactions between the dealers, authorities appointed or constituted under the Act and the Government Treasury.
- (3) The regulation shall be published in the Official Gazette and may be made retrospective to any date not earlier than 1st April 2005.

69. Power to collect Statistics :-

- (1) if the Commissioner considers that for the purposes of the better administration of this Act it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection to this Act.
- (2) Upon such direction being made, a Commissioner or persons authorized by him in this behalf may by notification in the official Gazette; and if found necessary by notice in any newspapers or in such other manner as in the opinion of the Commissioner or the said person, is best calculated to bring to the notice to the attention of dealers and other person or persons, call upon all dealers or any class of dealers or persons to furnish such information of returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the Authorities to which such information or returns should be furnished the particulars which they should contain and the intervals in which such information or returns should be furnished, shall be such as may be specified.
- (3) Without prejudice to the generality of the foregoing provisions, the Government may by Rules provide that every registered dealer or, as the case may be, any class of registered dealer shall furnish, in addition to any other returns provided for elsewhere, an annual return in such form, by such date and to such authority as may be prescribed and different provisions may be made for different classes of registered dealers.

70. Disclosure of Information by a public servant :-

- (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in course of any proceedings under this Act (other than proceeding before a criminal court), or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act shall, save as provided in sub-section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act. 1872, no Court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.
- (2) If, save as provided in sub-section (3), any servant of the government discloses any of the particulars referred to in sub-section (1), he shall on conviction, be punished with imprisonment which may extend to six months or with fine or with both;

Provided that no prosecution shall be instituted under this Section except with the previous sanction of the State Government.

- (3) Nothing contained in this Section shall apply to the disclosure:-
 - (a) of any such particulars in respect of any such statement, return, account, document, evidence, affidavit or

deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947, or this Act, or any other law for the time being in force or

- (b) of any such particulars to the State Government or to any person acting in the execution of this Act or to person for the purpose of this Act; or
- (c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act or any process for the service of any notice or the recovery of any demands; or
- (d) of any such particulars to a Civil Court in any suit to which the Government is a party, which relates to any matter arising out of proceeding under this Act; or
- (e) of any such particulars to any officers appointed to audit receipts or refund of the tax imposed by this Act; or
- (f) of any such particulars where such particulars are relevant to any inquiry under this Act.
- (g) of such facts to an officer of the Central Government or any State Government as may be necessary for the purpose of enabling the Government to levy or realize any tax or duty imposed by it; or
- (h) of any such particulars to the department of Economics and Statistics.

- (i) of any such particulars to an officer of the Central Government or any State Government as may be necessary for the administration of any law in force in India.

71. Disclosure of information required under Section 70 and failure to furnish information or return under that Section:-

- (1) No information of any individual return or part thereof, with respect to any matter given for the purposes of Section 70 shall without the previous consent of the owner for the time being or his authorized agent be published in such manner as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceeding under the provisions of this Act.
- (2) Except for the purposes of prosecution under this Act or any other Act, no person who is not engaged in the collection of statistics under this Act or of compilation or computerization thereof for the purposes of administration of this Act, shall be permitted to see or have access to any information or any individual return referred to in that Section.
- (3) If any person required to furnish any information or return under Section 69 :-
 - (a) willfully refuses or without lawful excuse neglects to furnish such information or return as may by that Section be required; or

- (b) willfully furnishes or causes to be furnished any information or return which he knows to be incorrect or false.

He shall on conviction be punished with fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one thousand rupees for each day after the first day during which the offence continues.

- (4) If any person engaged in connection with the collection of statistics under Section 69 or compilation or computerization thereof willfully discloses any information or the contents of any return given or made under that Section, otherwise than in execution of his duties under that Section or for the purposes of the prosecution of an offence under this Act or under any other Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees, or with both.
- (5) Nothing in this Section will apply to publication of any information relating to a class of dealers or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

72. Publication and disclosure of information respecting dealers and other persons in public interest :-

- (1) Notwithstanding anything contained in Section 69 or 70, if the State Government or the Commissioner is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and

any of the particulars relating to any proceedings under this Act in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

- (2) No publication or disclosure under this Section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Act, until the time for presenting an appeal to the appropriate appellate Authority has expired without an appeal having been presented or the appeal, if presented has been disposed of.

Explanation:- In the case of a firm, company or other association of person, the names of the partners of the firm, the directors, managing agents, secretaries, treasurers or managers of the company or the members of the association, as the case may be, may also be published or disclosed, if, in the opinion of the Government, the circumstances of the case justify it.

Chapter - IX

APPEAL AND REVISION

73. Appellate Authority :- (First appeal)

- (1) Any person objecting to an order affecting him passed under the provisions of this Act by an authority may appeal to Appellate Authority as may be prescribed within thirty days from the date of receipt of order by him.

- (2) Where the Appellate Authority is satisfied that the person assessed has reasonable cause for not preferring to file an appeal within the time specified in sub-section (1) it may accept an appeal, if it is within three months.
- (3) The appeal shall be in the prescribed form and specify in detail the grounds upon which it is made.
- (4) In the case of an appeal against an assessment, the Appellate Authority shall consider it if only the tax, interest has been paid by him.

Provided that, on application made by the Appellant in the behalf, the Appellate Authority may with the previous written approval of the Commissioner, for good and sufficient reasons to be recorded in writing, exempt him from the operation of the said provisions of this sub-division.

- (5) The appellant shall serve a copy of the appeal memo to the Authority against whose order the appeal is filed.
- (6) After considering the appeal and after affording an opportunity of hearing, the Appellate authority may allow it on whole or part and amend the assessment of the decisions objected to accordingly, or remand it for fresh disposal or dismiss the appeal or enhance the assessment or penalty or other amount:

Provided that before making an enhancement, the appellant shall be given an opportunity of being heard on the proposal of enhancement.

- (7) The Appellate Authority shall serve the appellant, with notice in writing, of the appeal decision, setting forth the reasons for the decision.

74. Appeal to the Appellate Tribunal : (Second appeal)

- (1) A person dissatisfied with the decision of the Appellate Authority may, within sixty days after being served with notice of the decision -
 - (a) file a second appeal before the Appellate Tribunal, and
 - (b) serve a copy of the notice of appeal on the Commissioner as well as the Authority whose original order is under second appeal before the Appellate Tribunal.
- (2) The Appellate Tribunal may admit an appeal after expiry of sixty days if it is satisfied that the appellant had sufficient reason for not filing the appeal within the time specified in sub-section (1), provided it is within one year.
- (3) In deciding an appeal, the Appellate Tribunal shall make an order after affording an opportunity to the dealer or the other person and the Commissioner. -
 - (a) affirming, reducing, increasing, varying the assessment or other order under appeal;
 - (b) remitting the assessment or other order under appeal for reconsideration by the Appellate Authority concerned with such directions as it may deem fit,

- (c) a copy of such order shall be served on the Commissioner and the prescribed authority.
- (4) The Appellate Tribunal shall serve the appellant with notice, in writing, of the appeal decision setting forth the reasons for decisions:

Provided that before increasing the tax or other amount, the dealer shall be given an opportunity of being heard on the proposal of increasing the liability.

75. Appeal by Commissioner to Appellate Tribunal :-

- (1) The Commissioner or any other officer empowered by him on this behalf if he objects to an order passed by the Appellate Tribunal may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him.
- (2) The Appellate Tribunal may, on the application either by the appellant or by the respondent made within one year from the date of receipt of the order under sub-section (4) of section 73 review any order passed by it on the basis of the facts which were not before it when the order was passed.

76. Revisions to High Court.-

- (1) An assessee who is dissatisfied with the decision of the Appellate Tribunal or Commissioner may, within sixty days after being notified of the decision, file a revision with the High Court; and the assessee so appealing shall serve a copy of the notice of revision on the respondent to the proceeding.

- (2) A revision to the High Court may be made on the question of law or an erroneous decision or failure to decide a question of law that will be raised in the revision.
- (3) The Commissioner shall also be made a party to the proceedings before the High Court where the appeal is filed by the dealer or other person.
- (4) The High Court may on application either by the petitioner or by the respondent review any order passed by it provided such application is made within one year from the date of receipt of the judgment.

77. Hearing of Revision and Review by the High Court.-

A revision or review application presented before the High Court under section 76 shall be heard by the bench consisting of not less than two judges.

78. Revision by Commissioner.-

The Commissioner may, on his own motion, call for and examine the record of any proceedings under this Act if he considers that any order passed therein by any officer including the first appellate authority, is erroneous in so far as it is prejudicial to the interest of the revenue, and after giving the assessee an opportunity of being heard, pass such orders as he deem fit: he may, if necessary, stay the operation of such order for such periods as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or canceling the assessment or directing a fresh assessment;

Provided that the Commissioner shall not pass any order under this Section after the expiry of five years from the date of such order.

79. Burden of Proof.-

The burden of proving that any turnover of goods is exempt from or that it has no liability or obligation under this Act shall be on the person objecting.

80. Power to rectify Error Apparent on the Record.-

- (1) An assessing, appellate or revising authority including the Appellate Tribunal may, on an application or otherwise at any time within three years from the date of any order passed by it, rectify any error apparent on the face of the record:
- (2) Provided no such rectification which has the effect of enhancing the liability to pay tax or penal interest shall be made unless such authority has given notice to the person affected (and have allowed him) a reasonable opportunity of being heard.
- (3) Where such rectification has the effect of enhancing the liability or penalty, the Assessing Authority shall give the dealer or other person a notice of assessment or penalty and the dealer or other person shall pay the tax in the manner prescribed and when such rectification has the effect of reducing the tax liability or penalty, the Assessing Authority shall issue refund of the excess tax paid.

Chapter-X

OFFENCES AND PENALTIES

81. Offences and Penalties.-

- (1) Whoever, not being a registered dealer falsely represents that he is or was a registered dealer at the time when he sells or buys goods shall, on conviction, be punished with rigorous imprisonment for a term of not less than six months but which may extend to three years and with fine.
- (2) Whoever, knowingly furnishes a false return shall, on conviction, be punished-
 - (i) In case where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs 10,000/- with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;
 - (ii) in any other case, with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.
- (3) Whoever, knowingly produces before the Commissioner, false bill, cash-memorandum, voucher, declaration, certificate or other document for evading tax payable under this Act shall on conviction, be punished-
 - (i) in case where the amount of tax which could have been evaded, if the documents referred to above had been accepted as true, exceed Rs 50,000/- during the period

of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

- (ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year with fine.
- (4) Whoever knowingly keeps false account of the value of the goods purchased or sold by him in contravention of the provisions of this Act shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (5) Whoever, knowingly produces false accounts, registers or documents or knowingly furnishes false information, shall, on conviction, be punished-
 - (i) in case where the amount of tax which could have been evaded, if the accounts, registers or documents or information referred to above had been accepted as true, exceeds Rs 50,000/- during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and fine;
 - (ii) in any case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (6) Whoever, issues to any person certificates or declaration under this Act, Rules or notifications or a false bill, cash-

memorandum, voucher, delivery challan, lorry receipt or other document which he knows or has reason to believe to be false, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

(7) Whoever.-

- (i) willfully attempts in any manner whatsoever, to evade tax leviable under this Act, Or
 - (ii) willfully attempts, in any manner whatsoever, to evade any payment of any tax, penalty or interest or all of them under this Act or shall on conviction, be punished-
 - (a) In case where the amount involved exceeds Rs50,000/ during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.
 - (b) In any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.
- (8) Whoever aids or abets or induces any person in commission of any act specified in sub-sections(1) to (7) shall, on conviction, be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and fine.
- (9) Whoever :-
- (a) is engaged in business as a dealer without being registered in willful contravention of this Act, or

- (b) fails without sufficient cause to furnish any returns as required by this law by the date and in the manner prescribed,
- (c) fails without sufficient cause, when directed to keep any accounts or records, in accordance with the provisions of this Act, or
- (d) fails without sufficient cause, to comply with any requirements made of him under this Act, or
- (e) voluntarily obstructs any officer making inspection or search or seizure under this Act,

shall on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

- (10) Whoever fails, without sufficient cause, to furnish any return by the date and in the manner prescribed under this Act shall on conviction, be punished with simple imprisonment for a term which may extend to one year and with fine, which shall not be less than -

(i) rupees two thousand, if the tax due for the period covered by the return does not exceed rupees twenty thousand.

(ii) rupees five thousand, if the tax due for the period covered by the return exceeds rupees twenty thousand but does not exceed rupees one lakh.

(iii) rupees ten thousand, if the tax due for the period covered by the return exceeds rupees one lakh.

- (11) Whoever commits any of the Acts specified in sub-sections (1) to (10) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with daily fine not less than rupees one thousand during the period of the continuance of the offence, in addition to the punishments provided under this Act.
- (12) Notwithstanding anything contained in sub-sections (1) to (11) no person shall be prosecuted against these sub-sections for the acts referred to therein if the total amount of tax evaded or attempted to be evaded is less than Rs200/- during the period of one year.
- (13) Where the dealer is accused of an offence specified in sub-sections (1) to (11) the business shall also be deemed to be the guilty of such offence.

82. Offences by companies.-

- (1) Where an offence under this Act or the Rules has been committed by a company, every person who at the time the offence was committed, was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section(1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the direct consent or connivance of, or is, attributed to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section-

- (a) 'Company' means a body corporate, and includes a firm or other association of individuals ; and
- (b) 'Director' in relation of a firm means a partner in the firm.
- (3) Where an offence under this Act has been committed by a Hindu Undivided Family, the karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such an offence.

Provided further that, where an offence under this Act has been committed by a Hindu Undivided Family and it is proved that offence has been committed with the consent or connivance of is attributable to any neglect on the part of

any adult member of the Hindu Undivided Family, such members shall be deemed guilty of that offence and shall be liable to be proceeded against and punished accordingly.

83 Cognizance of offence -

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or rules made there under shall be cognizable and bailable.
- (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for the metropolitan Magistrate or Magistrate of the First Class to pass any sentence on any person convicted of an offence under Section 66 or 69 and a sentence of fine as provided in the relevant Section, in exercise of his powers under the said Code.

84. Investigation of offences :-

- (1) Subject to conditions, if any, as may be prescribed, the Commissioner may authorize either generally or in respect of a particular case or class of cases any Officer or person subordinate to him to investigate all or any of the offences punishable under this Act.
- (2) Every officer so authorized shall, in the conduct of such investigation exercise the power conferred by the Code of Criminal Procedure, 1973 upon an officer in-charge of a Police Station for the investigation of a cognizable offence.

85. Compounding of offences :-

- (1) The Commissioner may, either before or after the institution of proceedings of any offence punishable under Section 81, or under any Rules made under this Act, accept from any person charged with such offence by way of composition of the offence charged under sub-sections (1), (2), (3), (4), (5), (6), (7), or clauses (a), (b), (c), (d) or (e), of sub-section (9) or sub-section (10) of Section 81 not exceeding double the amount of tax which would have been payable on the sale or purchase turnover to which the offence relates, whichever is greater.
- (2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence and any proceedings, if already taken, shall stand abated.

CHAPTER-XI

MISCELLANEOUS

86. Other offence :-

- (26) Whosoever contrivances, or fails to comply with, any of the provisions of this Act or the Rules made thereunder or any order or direction made or given thereunder, shall, if no other penalty or levy of interest is provided under this Act for such contravention or failure be liable to imposition of a

penalty of an amount which is not more than rupees two thousand and not less than rupees one thousand and where such contravention or failures continues after an order or direction to comply with the law has been issued to the offender, he shall be further liable to a daily penalty of rupees one hundred till the contravention or failure continues.

- (27) A taxing authority may, after affording to the person concerned a reasonable opportunity of being heard, impose the penalty mentioned in sub-section (1).

87. Court fee on appeal and certain other application :-

Notwithstanding anything contained in Court-fees Act, 1959.

- (1) Subject to the provisions of the clause (2), any application not otherwise provided for when presented to the prescribed authority for the prescribed purpose or when presented to the Appellate Tribunal shall be charged with a court fee of such value not exceeding one hundred rupees as may be prescribed and;
- (2) an appeal preferred under Section (76) shall be charged with a court fee of such value not exceeding one thousand rupees as may be prescribed if the amount in dispute exceeds rupees one lakh and any other appeal shall be charged with a court fee of such value not exceeding one hundred rupees as may be prescribed.

88. Application of Section 4 and 12 of Limitations Act :

In computing the period of limitation under Chapter IX, the provisions of Sections 4 and 12 of the limitation Act, 1963 shall, so far as may be, apply.

89. Power to purchase in case of under-valuation of goods :-

- (1) Where, in respect of goods liable to tax under this Act, carried in a goods vehicle or boat, or held in stock by any dealer or on his behalf by any other person, or held in the custody of transporters, the prescribed Authority or any officer empowered under Section 66, has reason to believe that the value shown in the document accompanying the goods in transit or the purchase invoice, is lower than that of prevailing market price or maximum retail price by a difference of thirty percent or more, such Authority or officer, for reason to be recorded in writing, may purchase such goods;
- (2) the power of sub-section (1) shall not be exercisable, unless the person or dealer being dispossessed of such goods, is afforded reasonable opportunity of being heard;
- (3) the price payable for purchase of such goods shall be the total price as mentioned in the invoice, challan, delivery note, or any other related document, plus the cost of transportation of the the goods incurred upto the time of purchase, if any;
- (4) In determining whether or not the price shown in the invoice, challan, delivery note or any other related document involves undervaluation, in the case of the owner of the goods other

than an owner carrying on business in packaged goods, the Authority exercising the power under sub-section (1) shall apply the prevailing market price or fair market value and in the case of an owner carrying on business in packaged goods, shall apply the maximum retail price;

- (5) any person objecting to an order affecting him under this Section may appeal to the prescribed authority;

Such appeal shall be dealt with as if it were an appeal filed under Section 73, 74, 75 and 78, as the case may be, and all the provisions of that Section shall *mutatis mutandis* apply to such an appeal;

- (6) the Authority or officer purchasing goods in exercise of the powers of sub-section (1) shall dispose of the goods in public auction within thirty days from the date of such purchase and for value not less than the price paid to the owner of the goods. The sale proceeds so realized should forthwith be paid into the Government Treasury.

90. Appearance before any authority in proceedings.-

- (1) Any person who is entitled or required to attend before any authority including the Appellate Tribunal in connection with any proceeding under this Act, otherwise than when required to attend personally for examination on oath or affirmation, may attend-
- (a) by a relative or a person regularly employed by him, or

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- (b) by a legal practitioner, or Chartered Accountant who is not disqualified by or under sub-section(2), or
- (c) by a tax consultant who possesses the prescribed qualification and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or sub-section(2).

Only if such a relative, person employed, legal practitioner, Chartered Accountant, or tax consultant is authorized by such person in the prescribed form, and such authorization may include the Authority to act on behalf of such person in such proceedings.

- (2) The Commissioner may by order in writing and for reasons to be recorded therein disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner, Chartered Accountant, or tax consultant-
 - (i) who has been removed or dismissed from Government service or
 - (ii) who being a tax consultant, legal practitioner or a Chartered Accountant is found guilty of misconduct in connection with any proceedings under this Act by the Commissioner or by an authority, if any, empowered to take disciplinary action against the member of the profession to which he belongs.
- (3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

- (4) The Commissioner may, at any time suo motu or an application made to him in this behalf, revoke or modify any order made against a person under sub-section (2) and thereupon such person shall cease to be disqualified subject to such conditions or restrictions that may be contained in such order.

91. Liability to obtain registration and to furnish information by certain agents :-

- (1) Every person who acts as a clearing or forwarding house or agency, transporting agency, shipping agency, shipping-out agency or steamer agency or air-cargo agency engaged in the business of transporting taxable goods in the State shall;
- (a) get itself or himself registered in such manner as may be prescribed; and
- (b) submit to the authority prescribed in this behalf, return as may be prescribed, of all taxable goods cleared, forwarded, transported or shipped by it or him.
- (2) The authority prescribed in this behalf shall have the power to call for and examine the books of account or other document in the possession of such person or agency with a view to verify the correctness of the return submitted.
- (3) Nothing contained in this Section shall apply to any State Government or the Central Government.

92. Collection of tax by registered dealers, governments and statutory bodies :-

- (1) Every registered dealer liable to pay tax under the Act shall collect such tax at the rates at which he is liable to pay tax under the provision of the Act.
- (2) The central Government, State Government, a statutory body or a local Authority shall in respect of any sale of taxable goods effected by them be entitled to collect by way of tax any amount which a registered dealer effecting such sale would have been entitled to collect by way of tax under this Act and shall pay the tax so collected into the Government Treasury.
- (3) Deduction at source from payment to a dealer against execution of works contract- Notwithstanding anything contained in sub-section (5) of Section 28 or any Rules made thereunder or any terms of a contract to the contrary, any person responsible for paying any sum to any dealer for execution of a works contract referred to in Section 8 wholly or partly in pursuance of a contract between such dealer and -
 - (a) Government,
 - (b) a local authority
 - (c) a Corporation or a body established by or under any law for the time being in force.
 - (d) a company incorporated under the Companies Act, 1956 including a Government undertaking,

- (e) a cooperative Society registered or deemed to be registered under the Co-operative Societies Act, or
- (f) an educational institution,

shall, at the time of payment of such sum in cash or by issue of a cheque or draft or any other mode of payment, deduct an amount towards tax equal to four per centum of such sum being paid in respect of such works contract.

- (4) Where deduction of an amount is made under sub-section (3) the person making such deduction shall deposit the amount so deducted into a Government Treasury within such time, in such manner and in such form or challan as may be prescribed.
- (5) After the deposit of the amount under sub-section (4), the person who makes the deduction and deposit, shall, within fifteen days from the date of such deposit issue to the dealer a certificate in the prescribed form for each deduction and send a copy of the receipted challan or a copy of the account statement referred to in sub-section (2), as the case may be, to the Commissioner along with the relevant certificate of deduction and such documents as may be prescribed.
- (6) On receipt of a certificate of deduction referred to in sub-section (5), the deposit of an amount of a dealer referred to in sub-section (4) shall be adjusted by the Commissioner towards tax liability of the dealer in his return under Section 28 and shall constitute a good and sufficient discharge of the liability of the person deducting such amount to the dealer to the extent of the amount deducted and deposited.

- (7) Where any person, while paying any sum to a dealer, contravenes the provisions of sub-section(3), sub-section(4) or sub-section(5), he shall be personally liable for such contravention, and the Commissioner may after giving him an opportunity of being heard, by an order in writing may impose on such person a penalty, not exceeding twice the amount required to be deducted.
- (8) Where the dealer from whose account any amount has been deducted under sub-section (3) and deposited under sub-section (4) proves to the satisfaction of the Commissioner that he is not liable not to pay tax under Section 4 and such amount was not wholly or partly payable by him under this Act, the Commissioner shall refund or adjust the amount refundable to the dealer in such a manner as may be prescribed.

93. Display of name :-

All shops, business establishments, godowns, warehouses or wherever any taxable goods are lying or kept including residential houses or any place where taxable goods are kept or sold or stored whether temporarily or otherwise;

shall prominently display by means of sign board or writing by paint, the name of the dealer, the firm name, owner, and such other particulars as may be prescribed.

94. Power to summon persons to give evidence :-

- (1) The officer empowered by Rules made in this behalf shall have all the powers conferred on a Court by the code of

Civil Procedure, 1908 (Central Act V of 1908), for the purpose of securing attendance of persons, or the production of document and any enquiry under this Act.

- (2) The Commissioner or the assessing or the Appellate Authority shall, in securing the attendance of any dealer as a witness before him for production of any documents for the purpose of this Act at such proceedings have the same powers as those conferred on a Civil Court under the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908).

95. Bar to certain proceedings :-

Save as is provided in Chapter IX, no order passed or proceedings taken under this Act, the Rules or notification by any Authority appointed or constituted under this Act, shall be called in question in any Court, and save as is provided in the said Chapter, no appeal shall lie against any such order. No suit or other proceedings shall be entertained by any Court, except as expressly provided for under this Act, to set aside, modify any assessment or other proceedings commenced by virtue of the provisions of this Act, and so such Court shall question the validity of any assessment, levy of penalty or interest or grant any stay of proceedings or allow any amount due under this Act by remission or deferment of payment.

96. Power to make Rules :-

- (1) Without prejudice to any power to make Rules contained elsewhere in this Act, the State Government may make Rules generally to carry out the purposes of this Act and such

Rules may include for levy of fees for any of the purposes of this Act.

- (2) In making any Rules the State Government may direct that a breach thereof shall be punishable with fine not exceeding rupees two thousand, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.
- (3) Every Rules made under this Section shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of thirty days which may be compromised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the house agrees in making any modification in the Rules or House agree that the Rules should not be made and notify such decision in the Official Gazette, the Rules shall from the date of publication of such and notification effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that Rules.

97. Transitional Provisions :-

- (1) A registered dealer who would have continued to be so liable to pay tax under the repealed Acts had this Act not come into force, and who makes an application for registration in terms of this Act, shall be deemed to be a

registered dealer till a fresh registration is granted to him under this Act.

- (2) Notwithstanding anything contained elsewhere in this Act-
 - (a) any person appointed as the Commissioner, Additional Commissioner or Deputy Commissioner or Assistant Commissioner or Superintendent of taxes, or any other person appointed to assist the Commissioner, under the repealed Acts and continuing in the office immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such till such person ceases to be the Commissioner, Additional Commissioner or Deputy Commissioner or Assistant Commissioner or Superintendent of Taxes, ceases to be the person appointed to assist the Commissioner;
 - (b) any dealer liable to furnish return under the repealed Acts immediately before the appointed day shall notwithstanding that a period, in respect of which is so liable to furnish return, commences on any day before such appointed day and ends on any day after such appointed day, furnish such return in respect of tax payable for sales or purchases made up to the day immediately before such appointed day and pay tax in accordance with the provisions of repealed Acts and shall furnish a separate return in respect of the remaining part of the period which commences on such appointed day and pay tax due on such return for sales or purchases made on and from such appointed day under this Act;

- (c) any order delegating any power under any Act or the Rules made there under by the Commissioner to any person appointed, by any designation, to assist him before the appointed day shall on and from such appointed days continue in force on the day immediately before such appointed day continue in force until the Commissioner amends, varies or rescinds such order after such appointed day under this Act;
- (d) any dealer, who is no longer liable to pay tax under repealed Acts and whose account, registers or documents has been seized under that Act, shall continue to be retained in accordance with provisions of that Act on or after appointed day;
- (e) all forms of way-bill under the repealed Acts or the Rules made there under and continuing in force on the day immediately before the appointed day shall, with effect from such appointed day, continue in force and shall be used *mutatis mutandis* for the purpose for which they were being used before such appointed day until the State Government directs, by notification, the discontinuance of the use of such forms till such time as the State Government may by notification, specify in this behalf;
- (f) all Rules, regulations, notifications or orders made or issued under any of the repealed Acts and continue to be in force on the day immediately before the appointed day shall continue to be in force on or after such appointed day in so far as they are not inconsistent with the provisions of this Act or the Rules made there under until they are repealed or amended;

- (g) where a tax has been levied under any of the provisions of the repealed Acts in respect of the sales or purchases of declared goods within the meaning of the Section 14 of the Central Sales Tax Act, 1956 (74 of 1956), or any goods specified in that Act before the appointed day, no tax shall be levied under this Act on sales or purchases of such goods on or after the appointed day;
- (h) any way-bill obtained or obtainable by the dealer from any prescribed authority or any declaration furnished or to be furnished by or to the dealer under any of the Act so repealed or the Rules made there under in respect of any sale of goods before the appointed day shall be valid where such waybill is obtained or such waybill is furnished on or after such appointed day;
- (i) any application or revision, review or reference arising from any order passed before the appointed day or any appeal arising from any assessment of tax or determination of interest made before such appointed day or any application or refund, or for waybill, in respect of any period before such appointed day, under the repealed Acts, if made before such appointed day and pending on such appointed day or if made on or such appointed day, shall be disposed or in accordance with the provisions of the repealed Acts, as if it were in force;
- (j) the Commissioner or any other Authority to whom power in this behalf has been delegated by the Commissioner under the repealed Acts may on it's or his own motion, revise any

order passed before or after the appointed day in accordance with the provision of that Act;

- (k) any application for the way-bill, for the transport of goods into the State, pending on the day immediately before the appointed day, shall be deemed to have been made under this Act and shall be disposed of in accordance with the provisions of this Act.
- (l) Any tax assessed, interest determined or penalty imposed under the repealed Acts in respect of sales or purchase made, or the repealed Acts before the appointed day, shall be payable or recoverable in accordance with the provisions of the repealed Acts;

98. Power to remove difficulties.-

- (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions of this Act from the provisions of the Act in force immediately before the commencement of this Act, the Government may by notification in the Official Gazette, make such provisions as appear to be necessary or expedient for removing the difficulty.
- (2) If any difficulty arises in giving effect to the provisions of this Act, otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act, the State Government may, by notification, make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

99. Clearance certificate.-

- (1) Notwithstanding anything contained in any other law for the time being in force, no Government, Local Authority, Educational Institution or Corporation or Body Corporate established by or under a Central or State Act shall place order with, or make purchases of any goods from, any dealer or make any payment to such dealer for such purchases, unless the prescribed Authority certifies in the prescribed manner that such dealer.-
 - (i) has no liability to pay tax or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all taxes payable under this Act or the Central Sales Tax Act, 1956;
 - (ii) has not defaulted in making payment of tax otherwise payable by, or due from him under this Act or the Central sales Tax Act, 1956 (Act No. 74 of 1956);or
 - (iii) has made satisfactory provision for securing the payment of tax by furnishing bank guarantee in favour of the prescribed Authority or otherwise, as the case may be.
- (2) The application for the certificate required under sub-section(1) shall be made by the dealer referred to in that sub-section to the Commissioner and shall be in such form and shall contain such particulars as may be prescribed.

CHAPTER-XII

REPEAL AND SAVINGS

100. Repeal and savings.-

- (1) The Nagaland Sales Tax Act, 1967(Act 11 of 1967), The Nagaland Tax on Luxuries and Sumptuous Food (Hotels and Restaurants) Act, 1989 and The Nagaland Purchase Tax Act, 1993 (here-in-after referred to as the repealed Acts) as in force in the State of Nagaland are hereby repealed from the date of commencement of this Act.
- (2) The repeal shall not,-
 - (a) revive anything not in force of existing at the time of which the repeal takes effect; or
 - (b) affect the previous operation of repealed Acts or anything done or suffered there-under; or
 - (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Acts; or
 - (d) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Acts; or
 - (e) affect any investigation, inquiry assessment, proceeding, any other legal proceeding or remedy instituted, continued or enforced under the repealed Acts.

And any such penalty, forfeiture or punishment as aforesaid or any proceeding or remedy instituted, continued, or enforced under

the repealed Acts shall be deemed to be instituted, continued or enforced under the corresponding provisions of this Act.

- (3) All Rules made and notifications issued under the provisions of the repealed Acts and or Rules made there-under and in force on the date of the commencement of this Act, shall remain in force unless such Rules and notifications are superceded in express terms or by necessary implication by the provisions of this Act or the Rules made and notifications issued there-under.
- (4) Any reference to any Section of the repealed Acts in any Rule, notification, regulation or circular shall be deemed to refer to the relevant corresponding Section of this Act, until necessary amendments are made in such Rule, notification, regulation or circular.
- (5) The limitations provided in this Act shall apply prospectively, and all events occurred and all issues arose prior to the date of commencement of this Act, shall be governed by the limitations provided or the provisions contained in the repealed Acts:

Provided further that such repeal shall not affect the previous operation of the said Acts and any right, title, obligation or liability already acquired, accrued or incurred there under and subject thereto, anything done or any action taken including any appointment, notification, notice, order, Rule, form, regulation, certificate, licence or permit in exercise of any power conferred by or under the said Acts, shall be valid and always be deemed to have been valid,

during the period the Acts were in force notwithstanding the repeal of the Acts.

Provided further that powers conferred on the Commissioner under Section 32 of the Nagaland Sales Tax Act, 1967, and similar provisions under those Acts repealed shall not be repealed and the powers shall be exercisable by the Commissioner under the provision of the said Act as if the said Act were not repealed.

- (6) Notwithstanding the repeal of the Acts;
 - (a) any action or proceedings already initiated under the Acts shall validly continue under the provisions of this Act even though it relates to the period prior to the coming into force of this Act;
 - (b) any person liable to pay any tax, fee, penalty, interest or other amount under those Acts for any period before coming into force of this Act, shall be levied, assessed and collected under the provisions of this Act as if this Act were in force during the relevant period.
- (7) All arrears of tax, interest, penalty, fee or other amount due on the appointed day, whether assessed or levied before the appointed day or assessed or levied after the appointed day, may be recovered as if such tax, penalty, interest, fee or other amount is assessed or levied under provisions of this Act and all methods of recovery including levy of penal interest, penalty or prosecution provided under this Act, shall apply to such arrears as if such amounts are assessed, levied and demanded under this Act.

- (8) Notwithstanding anything contained in sub-section (1), any application, appeal, revision or other proceedings made or preferred to any Authority under the said Acts, and pending on the appointed day, shall, after the appointed day be transferred to and disposed of by the officer or authority who would have had jurisdiction to entertain such application, appeal, revision, or other proceedings under this Act as if it had been in force on the date on which such application, appeal, revision or other proceedings was made or preferred.
- (9) Any registration certificate issued under the Nagaland Sales Tax Act, 1967 and other Acts referred to in sub-section (1) being a registration certificate in force immediately before the appointed day shall, in so far as the liability to tax under sub-section (1) of section 8 of this Act exists, be deemed on the appointed day to be certificate of registration issued under this Act, and accordingly the dealer holding such registration certificate immediately before the appointed day, shall, until the certificate is duly cancelled or a fresh certificate of registration is issued, be deemed to be a dealer liable to pay tax under this Act and all the provisions of this Act will apply to him as they apply to a dealer liable to pay tax under this Act.
- (10) If any person or dealer has applied for registration under the Nagaland Sales Tax Act, 1967 and other Acts referred to in sub-section (1) before the appointed day but the registration certificate has not been granted before the appointed day or where any dealer who has become liable to pay tax under any of the said Acts before the appointed

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day applies within the time provided for such application under the relevant Acts, but the application is made after the appointed day, then a registration certificate as provided under that Act may be duly granted to such person or dealer and for the purposes of all the provisions of this Act, such person or dealer shall be deemed to be holding a certificate of registration which is in force on the appointed day and all the provisions of this Act shall apply accordingly;

(11) Where any dealer liable to pay tax under the Nagaland Sales Tax Act, 1967, has at any time before the appointed day effected any sale by delivery of goods on the hire-purchase or any system of payment by instalments or, as the case may be, by transfer of the right to use any goods for any purposes (whether or not for a specified period) and any amount of sale-price in respect of such delivery or transfer is due and payable after the appointed day, then unless the full tax pertaining to such delivery or transfer has been admitted or paid in respect of the said amount before the appointed day, such amount shall be shown by the said dealer in the appropriate returns to be filed under this Act and the tax due on such amount shall be paid accordingly.

101. Nothing in the Nagaland Sales Tax Act, 1967, shall apply in relation to the goods which are governed by the Nagaland Value Added Tax Act, 2005 on and from the appointed day.
102. The Nagaland Sales Tax Act, 1967, shall be amended in the manner specified in Schedule - VI to this Act.

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Schedule- I
List of Exempted Goods.
(See Section 13 (i))

Sl. No.	Description of Goods	Condition & Exception for Exemption
1	2	3
1.	Appalam, Vadam and Vathal	
2.	Artificial Limbs/Shoes and such items used by physically handicapped persons.	
3.	Bamboo mating	
4.	Cart driven by animals	
5.	Common salt both processed & unprocessed.	
6.	Chicken products	
7.	Gamosha	
8.	Idols made of clay	
9.	Panch amritam, Namakatti, Vibhuti	
10.	Prasdam, Bhog or Mahabhog by religious institutions.	
11.	Poha, murmura and Lai	
12.	Rakhi	
13.	Religious pictures not for use as calendar	
14.	Books, periodicals and newspapers	
15.	Bread but not branded bread	
16.	Charcoal	
17.	Cigarettes	
18.	Chalk, slate and slate pencils	
19.	Condoms and contraceptives pills (Mala-N & Mala-D)	
20.	Curd, Lassi and Butter milk.	

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21.	Electrical Energy	
22.	Firewood	
23.	Fresh meat and Fish, poultry meat.	
24.	Fresh flowers	
25.	Fresh milk including pasteurized milk	
26.	Fresh vegetables and fruits excluding onion.	
27.	Handicrafts	
28.	Eggs	
29.	Kumkum	
30.	Livestock and Poultry	
31.	Khadi and/ or products of villages industries defined in the khadi and Village Industries Commission Act, 1956.	When sold by a producer and organisation certified by Khadi and Village Industries Commission Act, 1956 or the statutory State Khadi and Village Board constituted under the Act of the State.
32.	Mathematical instruments for students	
33.	Mango stones and mango kernels.	
34.	Mill-made cotton yarn excluding sewing thread and staple cotton yarn.	
35.	Hand spun cotton yarn	
36.	Nutan kerosene wick stove	
37.	Organic manure	
38.	Onion, garlic, ginger	
39.	Plain water	
40.	Potato	
41.	Raw jute	
42.	Raw silk	
43.	Rice	
44.	Sago	
45.	Scale, colour box, painting box, school map and drawing book for students	

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46.	Sugarcane	
47.	Sales to UN agencies working in India, such as (i) United Nations Development program (ii) World Health Organisation (iii) International Labour Organisation (iv) United Nations Children Fund (v) United Nations Educational Scientific and cultural organisation (vi) United Nations Population Fund (vii) United Nations Information Centre (viii) United Nations Development Organisation (ix) United Nations AIDS (x) United Nations Drugs Program (xi) World Food organisation (xii) Other Diplomatic Missions	When certified by the Principal Officer of the Agency/Mission that the goods are meant for use by such Agencies/ Missions the tax shall be refunded subject to production of the original invoice.
48.	Tobacco. (i) Bidi (Beri) (ii) Zarda (iii) Khaini (scented) for example Raja Chap Khaini, Bengal scented Khaini.	
49.	Tapioca	
50.	Vaccines viz oral polio vaccine, measles vaccine, BCG vaccine and MMR vaccine, small pox vaccine, cholera.	
51.	Wheel chairs and crutches used by physically handicapped and invalid persons.	

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Schedule - II
{{(See Section 12 (iv) (a))}}
Goods taxable at zero per centum

Sl.No.	Description of goods
1	2
1.	Animal shoe nails
2.	Agate
3.	Bangles (made of shell, glass, lac or plastics
4.	Bukhari
5.	Clay lamps
6.	Chalk stick
7.	Coconut fiber
8.	Coconut in shell & separate kernel of coconut other than kopra.
9.	Hand made safety matches
10.	Husk including groundnut husk
11.	Gabba
12.	Beehive
13.	Kangri
14.	Kites
15.	Kirpan
16.	Leaf plates and cups-pressed or stitch
17.	Loj
18.	Mat locally known madur made wholly or principally of cyperaceous corymbosus known locally as gola mathi, madurkathi or cypress.
19.	Mat locally known as madur made mainly of cypress corymbosus malaccensis known locally as chimatipatti and handicraft made of mat.
20.	Matchstick and reed obtainable from cupreous corymbosus known locally as gola methi, madur kathi, mutha, or cypress malaccensis known locally as chimatipatti.
21.	Mudhas made of Sarkanda, phool pahari jhadoo.

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22.	Plantain leaves
23.	Pattu
24.	Puffed rice commonly known as muri, flattened or beaten rice commonly known as chira parched rice commonly known as khoi, parched paddy or rice coated with sugar or gur commonly known as murki.
25.	Quandakari.
26.	Rattan, reed (in Malayalam)
27.	Sacred thread, commonly known as yagyopavit
28.	Seeds of grass, vegetables and flowers.
29.	Sweet meat
30.	Sabai grass and rope
31.	Sirali, bageshi, Barroo, date leaves, baskets, tattas , fans, curtains, mattings and other goods made thereof, handmade sooma and germa, handmade barahi of leather, utensils and decorative articles made only of bamboo and fibrous plants like sabai/shishal.
32.	Takhti
33.	Unbranded broom sticks
34.	Unprocessed green leaves of tea.

Schedule - III
[See Section 12(iv) (b)]
Goods taxable at 1 per centum

Sl.No.	Description of goods
1	2
1.	Article of Gold, Silver and precious metals including jewellery made from Gold, Silver and precious metals.
2.	Bullion.
3.	Precious stones and semi-precious stones.

Schedule - IV
(See Section 12 (iv) (c))
Goods taxable at 4 per centum

Sl.No.	Description of goods
1	2
1.	All varieties of textiles namely-cotton, woolen or silken including rayon, silk or artificial nylon manufactured by handloom.
2.	Aluminium Conductor Steel Reinforced (ACSR)
3.	Aluminium, aluminium alloys their products (including extrusions) not elsewhere mentioned in this Schedule or in any other schedule.
4.	Article made of rolled gold and imitation gold.
5.	Artificial silk yarn, polyster fibre and staple fibre yarn
6.	Agricultural implements.
7.	Bagasse
8.	Basic chromium sulphate, sodium bichromate bleach
9.	Bicycles, rickshaws and pulling cart (thela)
10.	Bone meals
11.	Branded breads
12.	Bran oil
13.	Castor oil
14.	Clay
15.	Chemical fertilizers
16.	Cummin seeds
17.	Declared goods as provided in section 14 of the CST Act, 1956
18.	De-oiled cake
19.	Dyes, that is to say - (i) Acid dyes (ii) Bases (iii) Basic dyes (iv) Alizarine dyes (v) Direct dyes (vi) Nylon dyes (vii) Plastic dyes (viii) Optical whitening agents (ix) Naphthols (x) Reactive dyes (xi) Sulphur dyes (xii) Vat dyes (xiii) All other dyes not specific elsewhere in the Schedule.
20.	Dry chillies (Packed or unpacked)

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21.	Drugs and medicines including ayurvedic, homeopathic and unani medicine, life saving drugs (but not medical equipments and implants)
22.	Dry fish
23.	Edible oil and oil cake
24.	Embroidery or zari articles that is to say - (i) Umi (ii) Zari (iii) Kasalo (iv) Sama (v) Dabka (vi) Chumki (vii) Gota (viii) Sitara (ix) Naqsi (x) Kora (xi) Glass bead (xii) Bandla (xiii) Gizal (xiv) Embroidery machines (xv) Embroidery needles.
25.	Fire clay, coal ash, coal boiler ash, coal powder, clinker.
26.	Ginger Oil
27.	Gur and Jaggery
28.	Hosiery goods
29.	Khandsari
30.	Knitting Wool
31.	Lignite
32.	Lime, Limestone, products of lime, Dolomite and other white washing materials not elsewhere mentioned in this Schedule or in any other Schedule
33.	Linear alkyl benzene
34.	Metal pastes of all types and grades and metal scraps other than those falling under declared goods.
35.	Mixed pre stabilizer
36.	Mosquito nets, fishing nets
37.	Ores and minerals
38.	Paraffin wax-food grade standard : (i) Food grade standard (ii) Paraffin wax of all grade standard other than food grade standard including wax and match wax (iii) slack wax.
39.	Palm fatty acid
40.	Pens of all kinds including refills
41.	Phenyl
42.	Pulses

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43.	Poultry feeds and cattle feeds including prawn feeds
44.	Renewable energy devices
45.	Flour, Atta, Maida, Suji, Wheat
46.	Rubber - that is to say - (a) Raw rubber latex, dry ribbed sheet of all RMA grades, tree lace, earth scraps, Ammoniated latex, prescribed latex, latex concentrated, centrifugal latex, dry crepe rubber, dry block rubber, crumb rubber, skimmed rubber and all other qualities and grades of latex (b) Reclaimed rubber of all grades and qualities (c) synthetic rubber.
47.	Seedlings/saplings.
48.	Seeds other than those mentioned in this Schedule or in any other Schedule
49.	Sales of goods by Government Department at below or low price.
50.	Staple yarn
51.	Safety Matches
52.	Sponge iron
53.	Solvent oils
54.	Starch
55.	Sugar
56.	Till seeds, Salam seeds, Tissi seed
57.	Tamarind
58.	Transmission wires and towers
59.	Turmeric
60.	Vanaspati oils
61.	Vegetable oils
62.	Works contract of any nature

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Schedule - V

[(See Section 12 (iv) (d)]

Goods taxable at 12.5 percentum

Sl.No.	Description of goods
1	2
1.	All other miscellaneous items not covered in any other Schedule

Schedule - VI

(See Section 102)

Amendment in the Nagaland Sales Tax Act, 1967.

In the Nagaland Sales Tax Act, 1967 -

After the existing Schedule - IV the following new Schedule shall be inserted, namely :-

“Schedule - V

[(See Section - 5A(3)]

Goods taxable at 20 per centum

Sl.No.	Description of goods
1	2
1.	Liquor (Foreign and Indian made Foreign Liquor).
2.	Lottery ticket

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Schedule - VII
(See Section 17 (8) (ix) (f))
List of non-creditable goods.

Sl. No.	Description of goods	Circumstances in which input tax shall be nil
1	2	3
1.	Petroleum products and natural gas	(i) When used as fuel (ii) When exported out of State.
2.	Capital goods other than- (i) Civil structure and immoveable goods or properties. (ii) Building materials used in construction activity (iii) Vehicles of all types (iv) Office equipments (v) Furniture, fixture, including electrical fixtures and fittings (vi) Capital goods purchased prior to the appointed day (Date of Commencement of VAT Act)	(i) When intended to be used mainly in the manufacture of exempted goods or in the tele-communications network or mining or the generation and distribution of electric energy or other form of powers; or (ii) When the manufacturer claims depreciation U/S 32 of the income Tax Act, 1961.
3.	All goods except those mentioned at serial No. 1 and 2.	(i) When used in the telecommunications network, in mining or in the generation and distribution of electricity or other form of power; (ii) When exported out of State or disposed of otherwise than by sale; (iii) When used in the manufacture or packing of exempted goods except when such goods are sold in course of export of goods out of territory of India. (iv) When used in the manufacture or packing of taxable goods which are exported out of State or disposed of otherwise than by sale; (v) When left in stock whether in the form purchased or in manufactured or processed form on the date of cancellation of the registration certificate.