

PART I

LEGISLATIVE DEPARTMENT

Notification

The 28th March, 2003

No. Leg. 7/2003 – The following Act of the Legislature of the State of Haryana received the assent of the Governor of Haryana on the 26th March, 2003, and is hereby published for the general information:-

HARYANA ACT NO. 6 OF 2003

THE HARYANA VALUE ADDED TAX ACT, 2003

An

ACT

to provide for levy and collection of tax on the sale or purchase of goods in the State of Haryana and matters incidental thereto and connected therewith.

Be it enacted by the Legislature of the State of Haryana in the Fifty-fourth Year of the Republic of India as follows:-

Chapter-I

Preliminary

**Short title,
extent and
commencement.**

1. (1) This Act may be called the Haryana Value Added Tax Act, 2003.
- (2) It extends to the whole of the State of Haryana.
- (3) It shall come into force on the appointed day.

Definitions.

2. (1) In this Act, unless the context otherwise requires, -
 - (a) "Act of 1973" means the Haryana General Sales Tax Act, 1973 (Act 20 of 1973);
 - (b) "appellate authority" means an officer referred to in, or appointed under, clause (a) or clause (b) of sub-section (1) of section 33 to entertain and decide appeals made under this Act and includes the Tribunal;

- (c) “appointed day” means the 1st day of April, 2003, unless declared, by notification in the Official Gazette, otherwise by the State Government;
- (d) “assessee” means any person who is required to pay any tax, interest, penalty, fee or any other sum under this Act or the rules made thereunder;
- (e) “assessing authority” means any person authorised by the State Government to make any assessment under this Act and to perform such other duties as may be required, by or under this Act;
- (f) “business” includes -
- (i) any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern; and
 - (ii) any transaction, casual or otherwise, in connection with, or incidental or ancillary to, such trade, commerce, manufacture or concern.

Explanation.- “Trade” includes trade of goods and services;

- (g) “capital goods” means plant, machinery, dies, tools and equipment purchased for use in the State in manufacture or processing of goods for sale or in the telecommunication network or in mining or in the generation or distribution of electricity or other form of power, provided such purchase is capitalised;
- (h) “casual trader” means a dealer who imports into and sells goods in the State for a period not exceeding thirty days at a time or such other period as may be prescribed;

- (i) "Central Act" means the Central Sales Tax Act, 1956 (Act 74 of 1956);
- (j) "contractee" means any person for whom or for whose benefit a works contract is executed;
- (k) "contractor" means any person who executes either himself or through a sub-contractor a works contract;
- (l) "date of sale" means a date recorded on an invoice or a delivery note, as the case may be, issued in accordance with the provisions of clause (a) of sub-section (2) of section 28;
- (m) "dealer" means any person including a department of Government who carries on, whether regularly or otherwise, business, directly or otherwise, in the course of, or as a result of, which, or incidental, ancillary or causal thereto, whether regularly, casually, occasionally or otherwise, whether for cash, deferred payment, commission, remuneration or other valuable consideration, such person purchases, sells, supplies or distributes any goods in the State, or imports into, or exports out of, the State, any goods, irrespective of the fact that the main place of business of such person is outside the State and where the main place of business of such person is not in the State, includes the local manager or agent of such person in the State in respect of such business:

Provided that a person or a member of his family who sells within the State exclusively the agricultural produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, shall not be deemed to be a dealer.

Explanation.- For the purpose of this clause,-

- (i) a co-operative society or a club or any association which carries on business for and on behalf of its members, is a dealer;

- (ii) a factor, a broker, a commission agent, a del credere agent, a dealer's agent, an auctioneer or any other mercantile agent by whatever name called and whether of the same description as hereinbefore mentioned or not, who carries on any trade as principal, agent or in any other capacity, is a dealer;
- (iii) any person or a body of persons including a department of Government who disposes of any goods in exercise of a statutory authority or a court order, or as unclaimed, confiscated or acquired property, or as unserviceable, scrap, surplus, old, obsolete or discarded material or waste products whether by auction or otherwise, directly or through an agent, for cash or for deferred payment or for any other valuable consideration shall, notwithstanding anything contained in clause (f) of this section or section 3 or any other provision of this Act, be deemed to be a dealer liable to pay tax, to the extent of such disposals, without prejudice to any liability which may accrue on account of the other provisions of this Act;
- (n) "declared goods" shall have the meaning assigned to that expression in clause (c) of section 2 of the Central Act;
- (o) "document" means title deeds, writing or inscription and includes electronic data, computer programs, computer tapes, computer discs or equipment and the like that furnishes evidence;
- (p) "exempted goods" means the goods specified in Schedule B;
- (q) "export out of State" means transfer of goods by a dealer to any other place of his business or to his agent or principal, as the case may be, outside the State otherwise than by reason of sale of such

goods but shall, subject to such restrictions and conditions as may be prescribed, not include transfer of goods for a job work where the goods are received back after the job work;

Explanation.- “Job work” includes assembling, altering, manufacturing, processing, fabrication, fitting out, improvement, rectification or repair of any goods.

(r) “goods” means every kind of movable property, tangible or intangible, other than newspapers, actionable claims, money, stocks and shares or securities but includes growing crops, grass, trees and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(s) “goods carrier” includes motor vehicle, vessel, boat, cart, animal or any other means of conveyance but shall exclude railway wagon or coach;

(t) “Government” means the Central or any State Government;

(u) “gross turnover” when used in relation to any dealer means the aggregate of the sale prices received or receivable in respect of any goods sold, whether as principal, agent or in any other capacity, by such dealer and includes the value of goods exported out of State or disposed of otherwise than by sale;

Explanation.- (i) The aggregate of prices of goods in respect of transactions of forward contracts, in which goods are actually not delivered, shall not be included in the gross turnover.

(ii) Any amount received or receivable or paid or payable on account of variation, escalation or de-escalation in the price of any goods sold previously to any person but not exactly determinable at that time, shall, subject to such conditions and restrictions, as may be prescribed,

be included in, or excluded from, the gross turnover, as the case may be, in the manner prescribed.

(iii) Any amount collected by the dealer by way of tax shall not be included in the gross turnover and where no tax is shown to have been charged separately, it shall be excluded from the taxable turnover (denoted by 'TTO') taxable at a particular rate of tax in per cent (denoted by 'r') by applying the following formula –

$$\text{tax} = \frac{r \times \text{TTO}}{100 + r}$$

Illustration – If TTO is 220 and r is 10 (per cent), tax will be 20.

(v) “import into State” means bringing or receiving goods in the State from outside the State otherwise than by purchase of such goods in the course of inter-State trade or commerce or import of goods into the territory of India;

(w) “input tax” means the amount of tax paid to the State in respect of goods sold to a VAT dealer, which such dealer is allowed to take credit of as payment of tax by him, calculated in accordance with the provisions of section 8;

(x) “manufacture” means processing of goods resulting into production of different commercial goods including by-products and waste products;

Note – Every processing of goods may not result into different commercial goods;

(y) “minerals” mean all substances which can be obtained from the earth by mining, digging, drilling, dredging, hydraulic, quarrying or by any other operation and include these substances processed for marketing;

- (z) “place of business” in relation to a dealer means any place where the dealer carries on his business and includes –
- (i) a place where he sells or purchases any goods, or carries on any process of manufacture of goods;
 - (ii) a warehouse, godown or other place where he stores his goods;
 - (iii) a place where he keeps his books of account;
 - (iv) any of his office or branch office; and
 - (v) the place of business of his agent, by whatever name called;
- (za) “prescribed” means prescribed by rules made under this Act;
- (zb) “quarter” means a period of three months ending on 30th June, 30th September, 31st December or 31st March;
- (zc) “registered” means registered under this Act;
- (zd) “revising authority” means a person who exercises power of revision under this Act;
- (ze) “sale” means any transfer of property in goods for cash or deferred payment or other valuable consideration except a mortgage or hypothecation of or a charge or pledge on goods; and includes –
- (i) the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
 - (ii) the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
 - (iii) the delivery of goods on hire-purchase or any system of payment by instalments;
 - (iv) the transfer of the right to use any goods for any purpose (whether or not for a specified

period) for cash, deferred payment or other valuable consideration;

(v) the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

(vi) the 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 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 a purchase of those goods by the person to whom such transfer, delivery or supply is made;

(zf) “sale in the State” in relation to a sale as defined in sub-clause (ii) of clause (ze) means transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract in the State;

(zg) “sale price” means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed at the time of sale as cash or trade 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 at the time of or before the delivery thereof and the expression “purchase price” shall be construed accordingly;

Explanation.- (i) In relation to the transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract, sale price shall mean such amount as is arrived at by deducting from the amount of

valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour and other service charges incurred for such execution, and where such labour and other service charges are not quantifiable, the sale price shall be the cost of acquisition of the goods and the margin of profit on them prevalent in the trade plus the cost of transferring the property in the goods and all other expenses in relation thereto till the property in them, whether as such or in any other form, passes to the contractee and where the property passes in a different form shall include the cost of conversion.

(ii) In respect of transactions covered under sub-clause (iii) of clause (ze), the amount to be included in sale price shall be the total sum payable by the hirer under a hire purchase agreement in order to complete the purchase of, or the acquisition of property in, the goods to which the agreement relates and includes any sum so payable by the hirer under the hire purchase agreement by way of a deposit or other initial payment, or credited or to be credited to him under such agreement on account of any such deposit or payment, whether that sum is to be or has been paid to the owner or to any person or is to be or has been discharged by payment of money or by transfer or delivery of goods or by any other means; but does not include any sum payable as a penalty or as compensation or damages for breach of the agreement.

(zh) "Schedule" means a Schedule appended to this Act and the description of any goods specified therein shall be subject to the exceptions, restrictions and conditions, if any, and the application of the provisions of this Act referring to the Schedule shall be subject to the circumstances, if any, mentioned therein generally or against such goods;

- (zi) “State” means the State of Haryana;
- (zj) “State Government” means the Government of Haryana;
- (zk) “tax” means the tax levied under this Act;
- (zl) “tax invoice” means an invoice required to be issued according to the provisions of sub-section (2) of section 28 by a VAT dealer for sale of taxable goods to another VAT dealer for resale by him or for use by him in manufacture or processing of goods for sale, and which entitles him to claim input tax in accordance with the provisions of section 8;
- (zm) “taxable goods” means the goods which are not exempted goods;
- (zn) “taxable turnover” means that part of the gross turnover which is left after making deductions therefrom in accordance with the provisions of section 6; plus purchase value of goods liable to tax under sub-section (3) of section 3;
- (zo) “taxing authority” means an officer not below the rank of Assistant Excise and Taxation Officer appointed under sub-section (1) of section 55 to carry out the purposes of this Act and includes an assessing authority and a revising authority but does not include an appellate authority;
- (zp) “Tribunal” means the Tribunal constituted under section 57;
- (zq) “value of goods” means, if the goods has been sold or purchased, the true sale price or the true purchase price, as the case may be, of the goods, otherwise, the fair market value of like goods in like circumstances;
- (zr) “value added tax” means a tax on sale or purchase of goods payable under this Act;
- (zs) “VAT dealer” means a registered dealer who is not a casual trader and in whose case composition of

tax under section 9 is not in force, whether by choice or exclusion by law;

(zt) “works contract” includes any agreement for carrying out for cash, deferred payment or other valuable consideration, the assembling, construction, building, altering, manufacturing, processing, fabrication, installation, fitting out, improvement, repair or commissioning of any moveable or immovable property;

(zu) “year” means the financial year.

(2) Words and expressions not defined under this Act or the rules made thereunder shall have the same meaning as assigned to them in section 2, section 3, section 4, section 5 or section 6A of the Central Act or the Punjab General Clauses Act, 1898 (Punjab Act 1 of 1898), as applicable to the State of Haryana, as the case may be.

Chapter-II

Incidence and levy of tax

Incidence of tax.

3. (1) Every dealer who would have continued to be liable to pay tax under the Act of 1973 had this Act not come into force, and every other dealer whose gross turnover during the year immediately preceding the appointed day exceeded the taxable quantum as defined or specified in the Act of 1973, shall, subject to the provisions of sub-section (4), be liable to pay tax on and from the appointed day on the sale of goods effected by him in the State.

(2) Every dealer to whom sub-section (1) does not apply and who is of the class or classes mentioned in column 2 of the Table below and whose gross turnover in any year first exceeds the taxable quantum specified in column 3 thereagainst, shall, subject to the provisions of sub-section (4), be liable to pay tax on and from the day mentioned in column 4 thereagainst on the sale of goods effected by him in the State –

Table

Serial No.	Description of class or classes of dealers	Taxable quantum	Day on and from which the dealer is liable to tax
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1	2	3	4
1.	Dealer who sells or purchases any goods in the course of inter-State trade or commerce or in the course of export of the goods out of, or the import of the goods into, the territory of India	Nil	On and from the day he makes such sale or purchase for the first time
2.	Dealer who imports any goods into State	Nil	On and from the day he imports any goods into State for the first time
3.	Dealer who purchases any goods in the State and exports out of State such goods or the goods manufactured therefrom	Nil	On and from the day he makes purchase of such goods in the State for the first time
4.	Dealer who is a brick-kiln owner or a Halwahi or a liquor licensee under the Punjab Excise Act, 1914 (1 of 1914), or who deals in minerals, lottery tickets or such other goods as may be prescribed	Nil	On and from the day his gross turnover in any year first exceeds the taxable quantum
5.	Any other class or classes of dealers	One lakh rupees or such other sum as may be prescribed and different sums including nil may be prescribed for different classes of dealers	On and from the day following the day his gross turnover in any year first exceeds the taxable quantum

Provided that this sub-section shall not apply to a dealer who deals exclusively in exempted goods.

Note – Where a dealer is covered under more than one of the class or classes mentioned in the Table above, the liability to pay tax shall commence from the earliest day he becomes liable to tax.

(3) If a dealer liable to pay tax under sub-section (1) or sub-section (2) purchases any taxable goods in the State from any source in the circumstances that no tax is levied or paid under this Act on their sale to him and he either exports them out of State or uses or disposes them of in the circumstances in which no tax is payable under this Act or the Central Act by him to the State on them or the goods manufactured therefrom, then, he shall, subject to the provisions of sub-section (4), be liable to pay tax on the purchase thereof:

Provided that where such goods (except those specified in Schedule F) or the goods manufactured therefrom are sold

in the course of export of the goods out of the territory of India, no tax shall be levied on their purchase:

Provided further that where the goods purchased are used or disposed of partly in the circumstances mentioned in the foregoing provisions of this sub-section and partly otherwise, the tax leviable on such goods shall be computed pro rata.

(4) The tax levied under sub-sections (1), (2) and (3) shall be calculated on the taxable turnover, determined in accordance with the provisions of section 6, at the rates of tax applicable under section 7, and where the taxable turnover is taxable at different rates of tax, the rate of tax shall be applied separately in respect of each part of the taxable turnover liable to a different rate of tax.

(5) If the tax calculated under sub-section (4) is more than the input tax, determined in accordance with the provisions of section 8, the difference of the two shall be the tax payable; and if the input tax is more than the tax calculated, the excess amount shall be either refundable or adjustable with future tax liability in accordance with the provisions of section 20; but if the input tax is a negative value on account of reversal of input tax under the second proviso to sub-section (1) of section 8, the absolute value thereof shall be added to the tax calculated under sub-section (4) and the resultant amount shall be the tax payable.

Illustration –

Serial No.	Tax calculated under sub-section (4)	Input tax	Tax payable	Refundable/ Adjustable
1.	Rs.100	Rs.50	Rs.50	Nil
2.	Rs.100	Rs.150	Nil	Rs.50
3.	Rs.100	(-) Rs.50	Rs.150	Nil

(6) Every dealer who has become liable to pay tax, shall continue to be so liable until after the expiry of three consecutive years during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry, as may be prescribed, and on the expiry of this latter period his liability to pay tax shall cease.

(7) Every dealer, whose liability to pay tax has ceased under the provisions of sub-section (6), shall again be liable to pay tax in accordance with the provisions of sub-section (2).

**No tax payable
in case of
inter-State
trade etc.**

4. Notwithstanding anything contained in this Act, a tax on the sale or purchase of goods shall not be imposed under this Act, -

- (a) where such sale or purchase takes place outside the State;
- (b) where such sale or purchase takes place in the course of import of the goods into, or export of the goods out of, the territory of India; or
- (c) where such sale or purchase takes place in the course of inter-State trade or commerce.

**Burden of
proof.**

5. Where any assessee claims –

- (a) that any receipt or dispatch of goods by him is otherwise than by way of purchase or sale of such goods by him;
- (b) that any sum of money received or receivable or paid or payable by him by any means including adjustment against a debt is not in the course of business, and where in the course of business such sum is not valuable consideration for any sale or purchase of goods effected by him in the year in which the said sum was received or receivable or paid or payable;
- (c) that any purchase or sale of goods by him is not liable to tax by reason of such purchase or sale being outside the State or in the course of inter-State trade and commerce or in the course of the import of the goods into, or the export of the goods out of, the territory of India;
- (d) that any purchase or sale of goods effected by him is exempt from tax or liable to tax at a particular rate;
- (e) that any purchase or sale of goods effected by him is not taxable because of return of such goods;

- (f) that he is entitled to any deduction from gross turnover or any deduction of input tax from the tax calculated on the sale of goods;
- (g) that in case of a composite works contract, he is entitled to a deduction in respect of labour and service charges from the valuable consideration for the execution of the contract;
- (h) that any particular sum has been paid by him as tax, interest or penalty under this Act;
- (i) that any goods, book of account and document discovered at his business premises, or at any other place or in any goods carrier or other vehicle, over which he has control at the time of such discovery, do not relate to his business; or
- (j) that any relief under this Act or the rules made thereunder is admissible to him,

the burden of so proving shall be on him.

**Determination
of taxable
turnover.**

6. (1) Subject to the provisions of sub-section (2), in determining the taxable turnover of a dealer for the purposes of this Act, the following deductions shall be made from his gross turnover, namely: –

- (a) turnover of sale of goods outside the State;
- (b) turnover of sale of goods in the course of inter-State trade and commerce;
- (c) turnover of sale of goods in the course of the import of the goods into the territory of India;
- (d) turnover of sale of goods in the course of the export of the goods out of the territory of India;
- (e) turnover of export of goods out of State;
- (f) turnover of disposal of goods otherwise than by sale;
- (g) turnover of sale of exempted goods in the State;
- (h) turnover of sale of goods to such foreign diplomatic missions/consulates and their diplomats, and

agencies and organisations of the United Nations and their diplomats as may be prescribed; and

- (i) turnover of sale of goods returned to him, subject to such restrictions and conditions as may be prescribed,

and to the remainder shall be added the purchases taxable under sub-section (3) of section 3, if any.

Note.-1. In this sub-section “turnover” means, -

- (i) for the purpose of clauses (a), (b), (c), (d), (g) and (h), the aggregate of the sale prices of goods which is part of the gross turnover;
- (ii) for the purpose of clauses (e) and (f), the aggregate of value of goods exported out of State or disposed of otherwise than by sale, as the case may be, which is part of the gross turnover; and
- (iii) for the purpose of clause (i), the aggregate of the sale prices of goods which is or has been part of gross turnover (including under the Act of 1973).

Note.-2. If the turnover in respect of any goods is included in a deduction under any clause of this sub-section, it shall not form part of deduction under any other clause of the sub-section.

(2) The deductions mentioned in sub-section (1) shall be admissible on furnishing to the assessing authority in such circumstances, such documents or such proof, in such manner as may be prescribed.

(3) Save as otherwise provided in sub-section (1), in determining the taxable turnover of a dealer for the purposes of this Act, no deduction shall be made from his gross turnover.

Rates of tax on sale or purchase of goods in the State.

7. (1) The tax payable by a dealer on his taxable turnover in so far as such turnover or any part thereof relates to, -
- (a) the sales of goods not falling within sub-section (2), -
 - (i) in the case of goods specified in Schedule A, shall be calculated at the rates specified therein;

- (ii) in the case of declared goods except those specified in Schedule B, shall be calculated at four per cent or such other rate not exceeding the ceiling specified in clause (a) of section 15 of the Central Act as the State Government may, by notification in the Official Gazette, direct;
- (iii) in the case of goods specified in Schedule C, shall be calculated at four per cent or such other rate not exceeding ten percent as the State Government may, by notification in the Official Gazette, direct;
- (iv) in the case of other goods, shall be calculated at ten percent or such other rate not exceeding fifteen per cent, as the State Government may, by notification in the Official Gazette, direct:

Provided that where any goods are sold in containers or packed in any packing materials, the rate of tax applicable to such containers or packing materials shall, whether the price of the containers or packing materials is charged separately or not, be the same as those applicable to the goods contained or packed therein; and where such goods are exempt from tax, the sale of the containers or packing materials shall also be exempt from tax;

- (b) the purchase of goods, shall be calculated at four per cent or such lower rate applicable on sale of such goods had it been a sale falling under clause (a):

Provided that the State Government may, by notification in the Official Gazette, direct that the tax shall be calculated at a lower rate.

(2) The tax payable by a dealer on his taxable turnover in so far as such turnover or any part thereof relates to goods sold to the Government or to goods of the description referred to in sub-section (4) sold to a VAT dealer or such other registered dealer as may be prescribed (hereinafter both referred to in this section as 'authorised dealer'), shall be calculated –

- (a) if the goods are of the description contained in Schedule D, at the rate mentioned against such goods, otherwise;
- (b) at four per cent or such lower rate applicable on sale of such goods had it been a sale falling under clause (a) of sub-section (1):

Provided that the State Government may, by notification in the Official Gazette, direct that tax under clause (b) shall be calculated at a lower rate:

Provided further that the State Government, if satisfied that it is necessary or expedient so to do in the interest of promotion of exports out of the country may, by notification in the Official Gazette, direct that tax under clause (b) on the taxable turnover which relates to the sale of goods of such class or classes to such class or classes of authorised dealers for such use by them, as may be specified in the notification, shall be calculated at zero rate.

(3) The provisions of sub-section (2) so far as the rate of tax applicable thereunder on a sale of goods in the State is lower than the rate of tax applicable under clause (a) of sub-section (1) if such sale had been a sale falling within that clause, shall not apply unless the dealer selling the goods furnishes to the assessing authority in the prescribed circumstances and in the prescribed manner –

- (a) if the goods are sold to an authorised dealer, a declaration duly filled in and signed by him containing the prescribed particulars in the prescribed form obtained from the prescribed authority and in case such form is not available with such authority, a self printed and serially numbered form authenticated by such authority in the prescribed manner; or
- (b) if the goods are sold to the Government, not being a registered dealer, a certificate in the prescribed form duly filled in and signed by a duly authorised officer of the Government.

(4) The goods sold to an authorised dealer referred to in sub-section (2) -

(a) are goods of the class or classes specified in the certificate of registration of the authorised dealer purchasing the goods as being intended, subject to any rules made by the State Government in this behalf, for use by him -

(i) in the manufacture of goods for sale;

(ii) in the telecommunications network;

(iii) in mining; or

(iv) in the generation or distribution of electricity or any other form of power;

(b) are goods of the class or classes specified in the certificate of registration of the authorised dealer who is covered under the notification issued under the second proviso to clause (b) of sub-section (2), purchasing the goods as being intended for use by him for the purposes specified in the said notification;

(c) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in clause (a) or clause (b).

(5) If an authorised dealer after purchasing any goods for any of the purposes specified in clause (a), clause (b) or clause (c) of sub-section (4) fails, without reasonable excuse, to make use of the goods for any such purpose, the assessing authority may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied additionally under clause (a) of sub-section (1), if the sale made to him had been a sale falling within that clause:

Provided that no penalty shall be imposed where an authorised dealer voluntarily pays the tax which would have been levied additionally, as referred to in the foregoing provision, with the return for the period when he failed to make use of the goods purchased for the specified purposes.

**Determination
of input tax.**

8. (1) Input tax in respect of any goods purchased by a VAT dealer shall be the amount of tax paid to the State on the sale of such goods to him and shall, in case of a dealer who is liable to pay tax under sub-section (1) of section 3 or, as the case may be, makes an application for registration in time under sub-section (2) of section 11, include the tax paid under this Act and the Act of 1973 in respect of goods (except capital goods) held in stock by him on the day he becomes liable to pay tax but shall not include tax paid in respect of goods specified in Schedule E 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 E and partly otherwise, the input tax in respect of such goods shall be computed pro rata:

Provided further that if 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 E, the input tax in respect of such goods shall be reversed.

(2) A tax invoice issued to a VAT dealer showing the tax charged to him on the sale of invoiced goods shall, subject to the provisions of sub-section (3), be sufficient proof of the tax paid on such goods for the purpose of sub-section (1).

(3) Where any claim of input tax in respect of any goods sold to a dealer is called into question in any proceeding under this Act, the authority conducting such proceeding may require such dealer to produce before it in addition to the tax invoice issued to him by the selling dealer in respect of the sale of the goods, a certificate furnished to him in the prescribed form and manner by the selling dealer; and such authority shall allow the claim only if it is satisfied after

making such inquiry as it may deem necessary that the particulars contained in the certificate produced before it are true and correct.

(4) The State Government may, from time to time, frame rules consistent with the provisions of this Act for computation of input tax and when such rules are framed, no input tax shall be computed except in accordance with such rules.

Payment of lump sum in lieu of tax.

9. (1) The State Government may, in the public interest and subject to such conditions as it may deem fit, accept from any class of dealers, in lieu of tax payable under this Act, for any period, by way of composition, a lump sum linked with production capacity or some other suitable measure of extent of business, or calculated at a flat rate of gross receipts of business or gross turnover of purchase or of sale or similar other measure, with or without any deduction therefrom, to be determined by the State Government, and such lump sum shall be paid at such intervals and in such manner, as may be prescribed, and the State Government may, for the purpose of this Act in respect of such class of dealers, prescribe simplified system of registration, maintenance of accounts and filing of returns which shall remain in force during the period of such composition.

(2) No dealer in whose case composition under sub-section (1) is in force, shall issue a tax invoice for sale of goods by him and no dealer to whom goods are sold by such dealer shall be entitled to any claim of input tax in respect of the sale of the goods to him.

(3) A dealer in whose case composition under sub-section (1) is made and is in force may, subject to such restrictions and conditions, as may be prescribed, opt out of such composition by making an application containing the prescribed particulars in the prescribed manner to the assessing authority, and in case the application is in order, such composition shall cease to have effect on the expiry of such period after making the application as may be prescribed.

Rounding off tax.

10. (1) The amount of tax, penalty or interest payable and the amount of refund due, under the provisions of this Act, shall be rounded off to the nearest rupee and for this purpose fifty paise or more shall be increased to one rupee and less than fifty paise shall be ignored.

(2) If after rounding off, as provided in sub-section (1), the sum payable by an assessee or refundable to him, as the case may be, is less than ten rupees, the same shall be ignored.

(3) Nothing in this section shall apply for the purpose of collection by a dealer of any amount by way of tax in respect of any purchase or sale of goods by him.

Chapter-III

Registration of dealers

Registration. 11. (1) Every dealer liable to pay tax under sub-section (1) of section 3, who either held registration certificate under the Act of 1973 or whose application for registration under the said Act was pending till the appointed day, shall inform the assessing authority of such particulars of his business in such form and manner within such period as may be prescribed and such authority after receipt of such information, if it is satisfied about the correctness of the same by making such inquiry as it may consider necessary, shall issue to him a registration certificate under this Act which shall be valid from the appointed day, otherwise, it shall, after giving the affected person a reasonable opportunity of being heard, pass an order declining registration:

Provided that during the period prescribed for furnishing the information and till such time final decision is taken on the same, the registration certificate issued under the Act of 1973 shall be deemed to have been issued under this Act except when registration is declined.

(2) Every dealer liable to pay tax, on whom sub-section (1) does not apply, shall, and any dealer, who does not deal exclusively in exempted goods, may, notwithstanding that he

is not liable to pay tax under section 3, make an application for registration to the assessing authority within such time, in such form and manner, on payment of such fees not more than five hundred rupees, as may be prescribed.

(3) If the prescribed authority is satisfied that the applicant is a bonafide dealer and the application for registration made by him is in order, he shall, subject to the provisions of section 12, grant him a certificate of registration in the prescribed form and such certificate of registration shall be valid from such date, as may be prescribed.

(4) Any dealer to whom a registration certificate has been granted shall, from the date specified in the registration certificate which shall not be later than the date of grant of the registration certificate to him, be liable to tax and shall continue to be liable to tax so long as the registration certificate held by him is not cancelled notwithstanding that his liability to pay has ceased under sub-section (6) of section 3.

(5) The assessing authority may, on information furnished to him under section 13 from time to time, by order, amend any certificate of registration and may cancel the same if the business is closed and such amendment in, or cancellation of, the certificate shall take effect from such date as may be prescribed.

(6) When -

(a) any business, in respect of which certificate has been granted, has been discontinued; or

(b) the liability to pay tax of any dealer ceases in terms of sub-section (6) of section 3,

the assessing authority shall, after giving a reasonable opportunity of being heard to the affected person, cancel the certificate of registration and the cancellation shall come into force after the expiry of such period, as may be prescribed.

(7) A taxing authority not below the rank of Deputy Excise and Taxation Commissioner incharge of a district may, in the prescribed manner, cancel, subject to such restrictions

and conditions, as may be prescribed, the certificate of registration issued to a dealer -

- (a) for being held guilty of avoidance of tax under this Act or the Central Act;
- (b) for misusing the certificate of registration; or
- (c) for any other sufficient cause:

Provided that no order affecting any dealer adversely shall be made under this sub-section without affording him a reasonable opportunity of being heard.

Security from certain class of dealers.

12. (1) Where it appears to the authority to whom an application is made under section 11 to be necessary so to do for the proper realisation of the tax payable or for the proper custody and use of any forms referred to in this Act or the rules made thereunder which are printed under the authority of the State Government or are required to be authenticated by any authority under this Act before use, he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration, a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified, for all or any of the purposes of this Act.

(2) Where it appears to the assessing authority to be necessary so to do for the proper realisation of tax payable under this Act or for the proper custody and use of the forms referred to in sub-section (1), he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security or, if the dealer has already furnished any security in pursuance of an order under this sub-section or sub-section (1), such additional security, as may be specified in the order, for all or any of the aforesaid purposes.

(3) No dealer shall be required to furnish a security under sub-section (1) or sub-section (2) by the authority referred to therein, unless he has been given a reasonable opportunity

of being heard and the amount of security that may be required to be furnished by any dealer under either of the aforesaid sub-sections or the aggregate of the amount of such security and the amount of additional security that may be required to be furnished by any dealer under sub-section (2), shall in no case exceed the tax payable, in accordance with the estimate of such authority, by the dealer for the year in which such security or, as the case may be, additional security is required to be furnished.

(4) Where the security furnished by a dealer under sub-section (1) or sub-section (2) is in the form of a surety bond and the surety becomes insolvent or is otherwise incapacitated or dies or withdraws, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

(5) The assessing authority may, by order and for good and sufficient cause, forfeit the whole or any part of the security furnished by a dealer –

- (a) for realising any amount payable by the dealer under this Act; or
- (b) if the dealer is found to have misused any of the forms referred to in sub-section (1) or to have failed to keep them in proper custody or to have failed to furnish information in respect of their use or surrender them as prescribed:

Provided that no order shall be passed under this sub-section without giving the dealer a reasonable opportunity of being heard.

(6) Where by reason of an order under sub-section (5), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time, as may be prescribed.

(7) If a dealer fails to comply, with an order under sub-section (1) or sub-section (2), or with the provisions of

sub-section (4) or sub-section (6), the prescribed authority, may, after affording the dealer a reasonable opportunity of being heard, order –

- (a) that no form referred to in sub-section (1) shall be issued to him or authenticated until the dealer has complied with such orders or such provisions, as the case may be; or
- (b) the rejection of the application for registration, or if the dealer is already registered under this Act, cancellation of his registration certificate, as the case may be, and in the event of rejection of application for registration, the dealer shall be deemed to have failed to apply for registration for the purposes of section 16.

Information to be furnished regarding change of business etc.

13. If any dealer to whom the provisions of sub-section (2) of section 14 apply, -

- (a) sells, transfers or otherwise disposes of or discontinues his business;
- (b) sells, transfers or otherwise disposes of or discontinues his place(s) of business or opens new place(s) of business;
- (c) changes the name, constitution or nature of his business including change in the goods traded or manufactured or used in business or manufacture; or
- (d) appoints an authorised agent,

he shall within the prescribed time, inform the assessing authority accordingly, and if any dealer dies, his legal representative shall in like manner inform the said authority:

Provided that if a dealer or his legal representative, as the case may be, fails to inform of the change as required under the foregoing provision having the effect of transferring the liability to pay tax on another person, then, notwithstanding the change, any tax which such person has become liable to pay after the change has taken place, may be recovered as if no change has taken place:

Provided further that nothing in the foregoing proviso shall discharge the transferee or the succeeding dealer as a result of change, of his liability to tax.

Chapter-IV

Filing of returns, assessment and collection of tax, refund

Submission of returns and payment of tax.

14. (1) Tax payable under this Act shall be paid in the manner and at such intervals as hereinafter provided.

(2) The following dealers or class or classes of dealers, whether or not liable to pay tax, namely: -

- (a) such class or classes of dealers as may be prescribed;
- (b) such dealer as may be required so to do by the assessing authority by notice in the prescribed form served in the prescribed manner;
- (c) a dealer who has applied for the grant of registration certificate but no final decision on his application has been taken; and
- (d) every registered dealer,

shall furnish such returns including for statistical purposes at such intervals, verified by such persons, by such dates and to such authority, as may be prescribed and different returns may be prescribed for different class or classes of dealers, and if the tax due according to such returns is more than the tax paid under sub-section (3) or sub-section (4), as the case may be, he shall, in the manner prescribed, pay the balance with interest at the rate specified in sub-section (6) before furnishing the returns and attach therewith the proof thereof.

(3) Every dealer whose aggregate liability to pay tax under this Act, Act of 1973 and the Central Act for the last year or part thereof according to the returns filed by him is equal to

or more than one lakh rupees or such other sum, as may be prescribed, shall, in the manner prescribed, pay on or before the fifteenth day of each month the full amount of tax payable by him for the previous month, computed by him in accordance with the provisions of this Act and the rules made thereunder:

Provided that if he is not able to quantify his tax liability accurately by that time, he shall pay an amount equal to monthly average of his tax liability in the last year (or such shorter period for which he has been liable to pay tax in that year) as tax provisionally, and he shall pay the balance, if any, on or before the twenty-fifth day of the month, and the excess, if any, he may adjust with his future tax liability.

(4) Every dealer on whom sub-section (3) does not apply, shall, in the prescribed manner, pay in the month immediately following each quarter, the full amount of tax payable by him for the quarter, computed by him in accordance with the provisions of this Act and the rules made thereunder.

(5) If a dealer discovers in any return furnished by him, any omission or other error, which he could not have rectified after the exercise of due diligence before furnishing the return, he may at any time before the date prescribed for furnishing of return for the next period by him, furnish a revised return, and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment of the extra amount along with simple interest thereon calculated at the rate of one-and-a-half percent per month for the period the amount remained unpaid due to the omission or error, in the State Government treasury in the manner prescribed.

(6) If any dealer fails to make payment of tax as required by sub-sections (3), (4) and (5), he shall be liable to pay in addition to the tax payable by him, simple interest at one-and-a-half per cent per month if the payment is made within ninety days from the last date specified for the

payment of tax, but if the default continues thereafter, he shall be liable to pay simple interest at three per cent per month for the whole of the period from the last date specified for the payment of tax to the date he makes the payment.

Assessment of registered dealer.

15. (1) The returns furnished by a dealer shall be duly acknowledged in the manner prescribed, and where all the returns relating to an assessment year have been filed and are complete in material particulars, the dealer shall, subject to the provisions of sub-section (2), be deemed to have been assessed for that year:

Provided that where the returns are not complete in material particulars, the dealer shall be given an opportunity to complete them.

Explanation.— A return is complete in material particulars if it contains the information required to be furnished therein, is correct arithmetically, accompanied with the statutory lists, documents and proof of payment of tax due according to the return in full and is duly signed by the dealer.

(2) Subject to the rules which the State Government may frame for selection of cases for scrutiny in respect of dealers required to file returns under sub-section (2) of section 14, the assessing authority shall, in respect of each selected case, serve on the dealer concerned the prescribed notice in the prescribed manner requiring him, on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of the returns filed by him relating to the period under assessment (hereinafter referred to in this section as 'assessment period');

Provided that the assessment period covered by a notice referred to in the foregoing provision shall not exceed one year and such notice shall be served on the dealer before the expiry of one year from, the last date prescribed for filing the last return relating to the assessment period or, the actual date when any return relating to the assessment period has been filed last, whichever is later.

(3) On the day specified in the notice or as soon afterwards as may be, the assessing authority shall, after hearing such evidence as the dealer may produce and such other evidence as it may require on specified points, assess the amount of tax due from him:

Provided that no order under this sub-section shall be passed after the expiry of three years from the close of the year to which the assessment relates.

(4) If a dealer, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (2) or sub-section (3), the assessing authority shall, before the expiry of three years from the close of the year to which such returns relate, assess to the best of its judgement the amount of tax due from him.

(5) If a dealer fails to furnish return(s) in respect of any period by the prescribed date, the assessing authority may, at any time before the expiry of three years from the close of the year to which such return(s) relate, after giving the dealer a reasonable opportunity of being heard, assess, to the best of its judgement, the amount of tax, if any, due from him and for this purpose he may presume that his taxable turnover for the assessment period is the same as for the corresponding period of the last year and input tax is nil:

Provided that if the return(s) is(are) filed in the mean time the assessing authority may consider the same.

(6) The assessing authority may, for the purpose of complying with the requirements of this section, visit after prior notice any or all place(s) of business of a dealer of such class or classes as may be prescribed, and may inspect and examine with the assistance of such persons as it considers necessary all business activities, processes, accounts, records, documents and other things relevant to the proceedings, and the dealer shall render all the necessary assistance in carrying out such inspection and examination for as long a period as such authority considers necessary.

(7) Any assessment made under this section shall be without prejudice to any penalty imposed under this Act.

Note – An assessment relating to a part of a year shall, for the purpose of computing time limitation under this section, be deemed to relate to the year.

Assessment of unregistered dealer liable to tax.

16. If upon information which has come into his possession, the assessing authority is satisfied that any dealer has been liable to pay tax in respect of any period but has failed to apply for registration, it shall, before the expiry of three years following the end of such period, after giving him a reasonable opportunity of being heard, assess, to the best of its judgement, the amount of tax due from him in respect of such period and all subsequent periods and shall direct him further to pay by way of penalty a sum equal to the amount of tax found due as a result of such assessment.

Explanation.- For the purposes of this section, a dealer shall be deemed to have failed to apply for registration, if he makes an incomplete application for registration or, having made an application for registration, fails to comply with any direction given to him by the assessing authority within the time specified by it as a result of which his application is filed.

Reassessment of tax.

17. If in consequence of definite information which has come into its possession, the assessing authority discovers that the turnover of the business of a dealer has been under assessed or has escaped assessment or input tax or refund has been allowed in excess in any year, it may, at any time before the expiry of five years following the close of that year or before the expiry of two years following the date when the assessment for that year becomes final, whichever is later, after giving the dealer a reasonable opportunity, in the prescribed manner, of being heard, reassess the tax liability of the dealer for the year for which the reassessment is proposed to be made; and for the purpose of reassessment the assessing authority shall, in case the dealer fails to comply with the terms of the notice issued to him for the purpose of reassessment, have power to reassess to the best of its judgement.

Period of limitation for completion of assessment or reassessment not to apply in certain cases.

18. (1) Notwithstanding the provisions relating to the period of limitation contained in sections 15, 16 and 17,

assessment or reassessment, as the case may be, may be made -

- (i) in consequence of, or to give effect to, any order made by any court, or any authority under this Act within a period of two years of receipt of copy of such order by the assessing authority;
- (ii) before the expiry of five years following the close of the year, which any book, account, register or document seized under section 29 relates to, provided the proceedings do not extend after the expiry of the period specified in third proviso to sub-section (4) of section 29.

(2) Where the assessment or reassessment proceedings relating to any dealer remained stayed including stay of passing the final order for any period, by order of any court, or any authority under this Act, such period shall be excluded in computing the period of limitation for assessment or reassessment specified in section 15, section 16 or section 17, as the case may be.

Rectification of clerical mistakes.

19. Any taxing authority or appellate authority, may, at any time, within a period of two years from the date of supply of copy of the order passed by it in any case, rectify any clerical or arithmetical mistake apparent from the record of the case:

Provided that no order shall be passed under this section without giving the person adversely affected thereby a reasonable opportunity of being heard.

Refund.

20. (1) If any person has charged any amount purported to be tax in excess of the tax leviable, no order allowing refund of the excess amount shall be passed in his favour by any authority under this Act or by any court unless he refunds such amount to those from whom it was charged, and where charged from a VAT dealer, the input tax shall be duly adjusted.

(2) No refund of input tax shall be admissible to a VAT dealer except -

- (a) in respect of input tax relating to the goods which have been sold in the course of export of goods out of the territory of India or have been used in

manufacture and the manufactured goods have been sold in the course of export of goods out of the territory of India, in full; and

(b) in respect of input tax relating to the goods which have been sold in the State or in the course of inter-State trade or commerce or have been used in manufacture and the manufactured goods have been sold in the State or in the course of inter-State trade or commerce, only to the extent of such input tax exceeding the tax including the central sales tax calculated on sale of goods on account of difference in rate of tax between the input tax and the tax calculated on sales,

and the balance input tax after reducing therefrom the tax including the central sale tax levied on the sale or purchase of goods, as the case may be, shall be carried over for adjustment with future tax liability.

(3) A VAT dealer may seek refund by making an application containing the prescribed particulars accompanied with the prescribed documents in the prescribed manner to the assessing authority who shall, after examination of the application, allow provisionally refund to the dealer.

(4) Where the assessing authority finds on assessment of a dealer that he has paid any amount in excess of tax, interest or penalty assessed or imposed on him under this Act, it shall allow refund of the excess amount or allow the same to be carried forward for adjustment with future tax liability, as the case may be.

(5) Any amount refundable to any person as a result of an order passed by any court, appellate authority or revising authority, shall be refunded to him on an application containing the prescribed particulars accompanied with the prescribed documents made in the prescribed manner to the prescribed authority.

(6) The amount refundable under the foregoing provisions of this section to any person shall be subject to the approval

in the prescribed manner of the prescribed authority who may, by order in writing passed after providing opportunity of being heard to the affected person, change the amount of refund or order that no refund is due.

(7) Before any refund is given to any person under this Act it shall be first adjusted with any amount due from him under this Act or the Central Act for any period and the balance, if any, only shall be refunded to him.

(8) Any amount ultimately found due to any person, which he paid as a result of an order passed under this Act, shall be refunded to him with simple interest at the rate of one per cent per month for the period from the date of payment to the date when refund is given to him.

(9) Any amount, not falling within sub-section (8), refunded after a period of sixty days from the date of making an application under sub-section (5) shall carry with it simple interest at the rate of one per cent per month for the period from the date of making the application to the date when the refund is made.

(10) Any amount due to a dealer under sub-section (4) but not refunded to him within sixty days from the date of passing the order allowing the refund, shall carry with it simple interest at the rate of one per cent per month for the period from the date of passing the order allowing the refund to the date when the refund is made.

(11) Where any question arises as to any period to be excluded for the purposes of calculation of interest payable under sub-section (9) or sub-section (10) because the delay for the period in question has been due to the fault of the assessee entitled to the refund, such question shall, after giving the assessee a reasonable opportunity of being heard, be determined by the Commissioner by an order in writing.

Power to withhold refund.

21. (1) Where an order giving rise to a refund is the subject matter of further proceedings and the taxing authority interested in the success of such proceedings is of the opinion that the grant of the refund is likely to adversely affect the recovery in the event of success of such

proceedings, he may, for reasons to be recorded in writing, withhold the refund and shall, if such authority is below the rank of Commissioner, refer the case, within thirty days of the application for the refund, to the Commissioner for order.

(2) If a reference has been made to the Commissioner under sub-section (1) in time, he may either pass an order withholding refund or direct that refund be made on furnishing of security except cash security of the like amount or decline to withhold the refund:

Provided that if no order withholding the refund is received within ninety days of making the reference to the Commissioner, the refund shall be given forthwith.

Chapter-V

Recovery of tax

Demand notice and payment of tax etc.

22. (1) The amount of any tax assessed and the penalty imposed under this Act shall be paid by the dealer in the manner prescribed within a period of thirty days from the date of service of notice of demand in the prescribed form issued by the assessing authority for this purpose.

(2) A taxing authority who is required to recover any dues under this Act from an assessee, if satisfied that the assessee is unable to pay the whole of the amount due against him within the time allowed to him for payment, it may, with the prior approval of the officer incharge of the district by order in writing, extend the date of payment of such dues or allow him to pay the same by instalments against an adequate security or bank guarantee subject to payment of interest under the provisions of section 23.

(3) The Commissioner or an officer authorised by him in writing in this behalf, may, on an application made to him, modify an order passed under sub-section (2) or an order passed by him under this sub-section.

(4) Notwithstanding anything contained in section 33, any order passed under sub-section (2) or sub-section (3) shall not be appealable.

Interest on failure to pay tax or penalty.

23. (1) If any amount, specified in a notice of demand issued under section 22, or directed to be deposited by an order passed under this Act, whether as tax or penalty or both, is not paid within a period of thirty days from the date of service of the notice or the supply of the copy of the order to the assessee, as the case may be, then, he shall be liable to pay in addition to the amount due from him simple interest on such amount at one-and-a-half per cent per month if the payment is made within ninety days but if the default continues thereafter, at three per cent per month for the period from the last date for the payment of the amount in time to the date he makes the payment:

Provided that where the recovery of any tax or penalty is stayed by the High Court or the Supreme Court, the amount of such tax or penalty shall be recoverable with simple interest at one-and-a-half per cent per month on the amount ultimately found due for the period the stay of recovery of the amount continued.

(2) The interest leviable under this Act shall not exceed the amount of tax or penalty on the non-payment or late payment of which such interest is charged.

(3) For the purpose of computation of interest payable under any provisions of this Act, rate of interest per month shall mean the rate per thirty-day period and interest for any shorter period shall be calculated proportionately and where the amount due on which interest is payable is paid in parts, the interest shall be computed separately for each part.

Illustration: Rs.15,000 payable as tax upto 1st June, 2003, are paid as follows: Rs.5,000 on 28th May, 2003, Rs.3,646 on 10th August, 2003, Rs.2,348 on 15th October, 2003 and Rs.4,006 on 20th December, 2003, the interest payable on late payment shall be Rs.1,256 (rounded off), as shown below:-

Amount paid	Last date for payment without interest	Actual date of payment	Delay in number of days	Interest payable on late payment
5,000	01-06-03	28-05-03	Nil	Nil
3,646	01-06-03	10-08-03	70	127.61

2,348	01-06-03	15-10-03	136	319.33
4,006	01-06-03	20-12-03	202	809.21
			Total:	1,256.15

Special provisions relating to deduction of tax at source in certain cases.

24. (1) The State Government may, having regard to the effective recovery of tax, require in respect of contractors or any other class or classes of dealers that any person making payment of any valuable consideration to them for the execution of a works contract in the State involving transfer of property in goods, whether as goods or in some other form or for sale of goods in the State, as the case may be, shall, at the time of making payment, whether by cash, adjustment, credit to the account, recovery of dues or in any other manner, deduct tax in advance therefrom which shall be calculated by multiplying the amount paid in any manner with such rate not exceeding ten per cent, as the State Government may, by notification in the Official Gazette, specify and different rates may be specified for different works contracts or class or classes of dealers, and that such person shall keep record, of the payments made and, of the tax deducted in advance therefrom, for a period of five years from the close of the year when the payments were made and shall produce such record before the prescribed authority when so required for carrying out the purposes of this Act.

(2) The provisions of sub-section (1) shall not apply where the amount or the aggregate of the amounts paid or likely to be paid during a year by any person to a dealer does not or is not likely to exceed one lakh rupees or such other amount as may be prescribed.

(3) Every person who is required to deduct tax in advance under sub-section (1) shall furnish such returns at such intervals by such dates in such manner to such authority as may be prescribed and shall pay the tax deducted according to such returns to the State Government in such manner as may be prescribed.

(4) Every person referred to in sub-section (3) shall issue to the payee a certificate of tax deduction and payment in such form in such manner as may be prescribed.

(5) Any tax paid to the State Government in accordance with sub-section (3) shall be adjustable by the payee, on the authority of the certificate issued to him under sub-section (4), with the tax payable by him under this Act and the assessing authority shall, on furnishing of such certificate to it, allow the benefit of such adjustment after due verification of the payment.

(6) If any person fails to deduct the whole or any part of the tax as required by or under the provisions of sub-section (1), or fails to pay the whole or any part of the tax as required by or under sub-section (3), then, the authority referred to in sub-section (3) may, at any time within five years of the close of the year when he failed to do so, by order in writing, direct him, after giving him a reasonable opportunity of being heard, to pay, by way of penalty, a sum equal to the amount of tax which he failed to deduct or pay as aforesaid.

Special provisions relating to casual traders.

25. (1) Notwithstanding anything to the contrary contained in section 11, section 15 and section 28, a casual trader shall, –

- (a) at least three days before commencing business in the State, inform the assessing authority of such particulars of his business in such form and manner as may be prescribed;
- (b) deposit security in cash as may be fixed by the assessing authority which shall not exceed estimated liability to pay tax for seven days or such lesser period for which the casual trader is conducting the business;
- (c) pay tax daily on the sales made during the previous day;
- (d) furnish to the assessing authority immediately after conclusion of his business in the State a return of the business in the prescribed form and manner; and
- (e) not issue any tax invoice for sale of goods by him and no dealer to whom any goods are sold by such

dealer shall be entitled to any claim of input tax in respect of the sale of such goods to him.

(2) The assessing authority shall, after verification of information furnished to it under clause (a) of sub-section (1) and after getting security under clause (b) of that sub-section, allot a temporary registration number to the casual trader.

(3) The assessing authority may, after allotting temporary registration number to a casual trader, issue to him in limited number as per his genuine requirement, forms for use as the declaration referred to in sub-section (2) of section 31 for bringing goods for sale in the State and for taking the goods left unsold. The casual trader shall render complete account of the used forms and surrender the unused forms with the return referred to in clause (d) of sub-section (1).

(4) The assessing authority shall, after examination of, the return furnished to it by the casual trader under clause (d) of sub-section (1), the forms referred to in sub-section (3) and the accounts maintained by him including the sale invoices issued, assess him to tax on the day when the return is received or as soon afterwards as possible and after adjusting any tax due from him refund the balance amount of security to him.

Amount due under this Act recoverable as arrears of land revenue.

26. Any amount due under this Act including the tax admitted to be due according to the returns filed, which remains unpaid after the last date specified for payment, shall be the first charge on the property of the defaulter and shall be recoverable from him as if the same were arrears of land revenue.

Transfer to defraud revenue void.

27. Where any person liable to pay any tax or other dues under this Act creates during the period any proceedings under this Act are pending against him, a charge on, or transfers, any immovable property belonging to him in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or other dues payable by such person as a result of the completion of the said proceedings unless he proves that such charge or

transfer was not with the intention of defrauding any such tax or other dues.

Chapter-VI

Maintenance of accounts, Inspection of business premises, Survey, Checking of goods in transit, Furnishing of information by clearing and forwarding agents

Maintenance of accounts.

28. (1) Every dealer liable to furnish returns under sub-section (2) of section 14 shall keep a true and proper account of his business, and if the assessing authority considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts, as he may, in writing, direct subject to anything that may, with a view to making proper assessment of tax, be prescribed.

(2) Every dealer required to furnish returns under sub-section (2) of section 14 shall,-

(a) in respect of every sale of goods, effected by him –

(i) to any dealer;

(ii) to any other person on credit;

(iii) to any other person on cash, where the sale price of the goods exceed one hundred rupees or such other amount not exceeding five hundred rupees, as may be prescribed, compulsorily, otherwise, on demand by such person,

issue to the purchaser, where he is a VAT dealer to whom the goods are sold for resale by him or for use by him in manufacture or processing of goods for sale, a tax invoice, otherwise a retail/other sale invoice, -

(A) in the case of specific or ascertained goods, at the time the contract of sale is made; and

(B) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale;

showing the prescribed particulars:

Provided that if the contract of sale requires that the goods be delivered over a period of time, he may issue a delivery note showing the prescribed particulars at the time of dispatch of the goods, every time such dispatch is made, and when the delivery of the goods is complete or a month closes in between, he shall issue a consolidated tax invoice or retail/other sale invoice, as the case may be, showing the prescribed particulars, in respect of the goods sold during the month or part thereof, as the case may be;

- (b) maintain, in the prescribed manner, account of all sales not falling within clause (a);
- (c) in respect of every dispatch of goods otherwise than by sale, issue a delivery note at the time of the dispatch showing the prescribed particulars; and
- (d) preserve a carbon copy of every invoice or delivery note issued under clause (a) or clause (c) for a period of eight years following the close of the year when the sale was made and where some proceedings under this Act are pending, till the completion of such proceedings.

(3) A VAT dealer who returns any goods sold to him by another VAT dealer on a tax invoice, shall issue to the selling VAT dealer at the time of return of the goods, a delivery-cum-debit note showing the prescribed particulars and shall reverse the input tax availed of by him relating to the goods.

Production and inspection of books, documents and accounts.

29. (1) A taxing authority may, for the purposes of this Act, require any dealer to produce before him any book, document or account relating to his business and may inspect, examine and copy the same and make such enquiries from such dealer relating to his business, as may be necessary.

(2) Every registered dealer shall -

- (a) maintain day to day accounts of his business;

- (b) maintain a list of his account books, display it along with his registration certificate and furnish a copy of such list to the assessing authority;
- (c) produce, if so required, account books of his business before the assessing authority for authentication in the prescribed manner;
- (d) retain his account books at the place of his business, unless removed therefrom by an official for inspection, by any official agency or by auditor, or for any other reason which may be considered to be satisfactory by the assessing authority;
- (e) preserve his account books for a period of eight years after the close of the year to which such books relate and where some proceedings under this Act are pending, till the completion of such proceedings.

(3) The provisions of sub-section (2) shall apply mutatis mutandis to every such dealer who is liable to furnish returns under sub-section (2) of section 14.

(4) If any officer referred to in sub-section (1) has reasonable grounds for believing that any dealer is trying to evade liability to tax or other dues under this Act, and that anything necessary for the purpose of an investigation into his liability may be found in any book, account, register or document, the officer may seize such book, account, register or document as may be necessary. The officer seizing the book, account, register or document shall forthwith grant a receipt for the same and shall,-

(a) in the case of a book, account, register or document which was being used at the time of seizing, within a period of thirty days from the date of seizure; and

(b) in any other case, within a period of one-hundred-eighty days from the date of seizure,

return it to the dealer or the person from whose custody it was seized, after examination or after having such copies or extracts taken therefrom as may be considered necessary; provided the dealer or the aforesaid person gives a receipt in

writing for the book, account, register or document returned to him. The officer may, before returning the book, account, register or document, affix its signatures and its official seal at one or more places thereon, and in such case the dealer or the aforesaid person will be required to mention in the receipt given by him the number of places where the signatures and seal of such officer have been affixed on each book, account, register or document:

Provided that the seized book, account, register or document may be retained for a longer period if so required:

Provided further that if the seized book, account, register or document is retained by any taxing authority other than the Commissioner for more than the period specified in clause (a) or clause (b), as the case may be, the reasons for doing so shall be recorded in writing and the approval of the Commissioner shall be obtained by the said authority before the specified period or the extended period, as the case may be, expires:

Provided further that any proceedings taken up as a result of examination of seized material shall be concluded before the expiry of one year from the date of the seizure except that the proceedings may, with written permission of the Commissioner, continue for one more year.

(5) For the purposes of sub-section (2) or sub-section (3) or sub-section (4), the officer, referred to in sub-section (1), assisted by such persons as he may consider necessary, may enter and search any office, shop, godown or any other place of business of the dealer or any building, dwelling house or place, or means of transport, goods carrier or vehicle where such officer, has reasons to believe that the dealer keeps, or is for the time being keeping, any book, account, register, document, goods or anything relating to his business:

Provided that before entering and searching any premises the aforesaid officer shall record in writing the reasons for making such entry and search and shall obtain the sanction of the Commissioner or of such other officer not below the rank of Deputy Excise and Taxation Commissioner

as the Commissioner may, for this purpose, authorise in writing:

Provided further that no entry for search in a dwelling house shall be made -

- (i) after sunset and before sunrise;
- (ii) by an officer below the rank of an Excise and Taxation Officer;
- (iii) without obtaining the sanction of the Deputy Commissioner or Sub-Divisional Officer (Civil) within whose jurisdiction such house is situated.

(6) The power conferred by sub-section (5), shall include the power,-

- (i) where any person in or about such premises is reasonably suspected of concealing about his person anything for which search should be made, to search such person, and, if such person is a woman, the search shall be made by another woman, with strict regard to decency;
- (ii) to open and search any box, till or receptacle in which any book, account, register, document, sale proceeds, goods or anything which is relevant to any proceeding under this Act may be contained;
- (iii) to make a note or inventory of anything including cash and goods found as a result of such search;
- (iv) to record the statement of a dealer or any person connected with his business including a bailee or a transporter, and such statement may, after giving the affected person a reasonable opportunity of being heard, be used for the purpose of determining his liability to tax;
- (v) to take into possession and handover to other person for safe custody or to remove to safe custody any unclaimed goods after posting a notice, containing a brief narration of events resulting into such action with description, quantity and

estimated value of the goods, requiring the owner of the goods to appear before it on a date and at a place specified therein with the proof of ownership of the goods and their entry in the books of account maintained in the normal course of business, at a conspicuous part of the place or building from where the goods are taken into possession, and a copy of such notice shall also be served upon on the occupier of the place or building:

Provided that if no claim to the ownership of such goods is made before such officer within twenty days of such notice, the officer may sell the goods by public auction or otherwise dispose them of in the manner prescribed and deposit the sale proceeds, or the amount obtained by the disposal of the goods, in the State Government treasury:

Provided further that if the goods are of perishable nature or subject to speedy and natural decay or are such as may, if held, lose their value or when the expenses of keeping them in custody are likely to exceed their value, the officer may immediately sell such goods or otherwise dispose them of in the manner prescribed.

Explanation.— For the purpose of this clause “occupier” includes an owner, manager or any other person in occupation or having control of the place or building.

(7) Where any officer referred to in sub-section (1) finds any taxable goods in any office, shop, godown or any other place of business or any building or place, or goods carrier or vehicle of, or which for the time being is under the control of, a dealer on whom the provisions of sub-section (2) of section 14 apply but not accounted for by him or the person incharge of the goods carrier or vehicle in his books, accounts, registers and other documents, the officer may, after giving such dealer a reasonable opportunity of being heard, impose on him a penalty computed by multiplying the value of the goods with three times the rate of tax applicable

on sale of goods subject to a maximum of thirty percent of the value of the goods, and direct him to account for the goods in his books of account:

Provided that where the goods accounted for are underpriced, the penalty shall be computed by multiplying the difference between the market price and the price at which the goods have been accounted for with three times the rate of tax applicable on sale of goods.

Survey of place of business.

30. (1) A taxing authority may, for the purpose of identifying an unregistered dealer liable to tax or estimating extent of business of any dealer or making verification of documents furnished to or produced before it or any other authority under this Act, or for the purpose of collecting any data or conducting a market survey which may be useful for tax administration under this Act, or for carrying out other purposes of this Act, visit –

- (a) any place of business within the area of its jurisdiction; or
- (b) any place of business of a dealer to whom such authority, granted or, as the case may be, is competent to grant, a certificate of registration under this Act,

whether such place be the principal place or not of such business, and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business –

- (i) to afford it the necessary facility to inspect such books of account or other documents as he may require and which may be available at such place;
- (ii) to afford it the necessary facility to check or verify the stock of goods, sale proceeds of goods, cash or thing which may be found therein; and
- (iii) to furnish such information as it may require as to any matter which may be relevant to any proceeding, data collection or market survey under this Act.

Explanation.- For the purposes of this sub-section, a place where a business is carried on, shall also include any other place, whether any business is carried on therein or not, in which the person carrying on the business states that any of his books of account or other documents or any part of his stock of goods or anything relating to his business are kept.

(2) A taxing authority visiting any place of business under sub-section (1) may do so only during the hours at which such place is open for the conduct of business and, in the case of any other place, only after sunrise and before sunset.

(3) A taxing authority acting under this section may,-

(i) if it so deems necessary, place marks of identification on the books of account or other documents inspected by it and make or cause to be made extracts or copies therefrom;

(ii) make an inventory of any stock of goods, sale proceeds of goods, cash or thing checked or verified by it; and

(iii) record the statement of any person which may be relevant to any proceeding under this Act.

(4) A taxing authority acting under this section shall, on no account, remove or cause to be removed from the place wherein it has entered, any books of account or other documents or any cash, stock of goods or other thing except for the purpose of making extracts or copies from the books of account or other documents.

(5) Where, having regard to the nature and scale of expenditure incurred by a dealer for establishing or running his business which may be relevant for assessing the extent of the business, the taxing authority is of the opinion that it is necessary or expedient so to do, it may require the dealer to furnish such information as he may require as to any matter which may be relevant to any proceeding under this Act and may have the statements of the assessee or any other person recorded and any such statement may be used in evidence in any proceeding under this Act.

31. (1) If with a view to preventing or checking evasion of tax in any place or places in the State, the State Government, considers it necessary so to do, it may, by notification in the Official Gazette 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 incharge of the goods and, when the goods are carried by a goods carrier, the driver or any other person incharge of the goods carrier, shall carry with him a goods carrier record, a trip sheet or log book, along with a sale invoice or tax invoice or delivery note, as the case may be, and a declaration containing the prescribed particulars in the prescribed form obtained from the prescribed authority, duly filled in and signed by the prescribed persons, in respect of the goods meant for the purpose of business and are carried by him or in the goods carrier and produce the same before an officer incharge of a check-post or barrier or any person appointed under sub-section (1) of section 55 not below the rank of an Assistant Excise and Taxation Officer or such other officer, as the State Government may by notification in the Official Gazette, appoint, checking the goods carrier at any other place.

(3) At every check-post or barrier or at any other place, when so required by any officer referred to in sub-section (2) in this behalf, the owner or person incharge of the goods shall stop and the driver or any other person incharge of the goods carrier, entering or leaving the limits of the State, shall stop the goods carrier, and keep it stationary, as long as may reasonably be necessary, and allow the officer incharge of the check-post or barrier, or the officer as aforesaid to examine the goods-carried by him or in the goods carrier, by breaking open the package or packages, if necessary, and inspect all records relating to the goods carried which are in the possession of such owner or person incharge of the goods or the driver or other person incharge of the goods carrier, who shall also furnish such other information, as may be required by the aforesaid officer, who, if considered

necessary may also search the goods carrier and the driver or other person incharge of the goods carrier or of the goods.

(4) The owner or person incharge of the goods or goods carrier, entering or leaving the limits of the State, shall furnish a copy of goods receipt, documents as referred to in sub-section (2) or a declaration containing such particulars in such form obtained from such authority, in the manner as may be prescribed, of the goods carried by him or in such carrier, as the case may be, to the officer incharge of the check-post or barrier and shall produce the copy of the said goods receipt, documents or declaration duly verified and returned to him by the officer incharge of the check-post or barrier before any other officer as mentioned in sub-section (2):

Provided that where the owner or person incharge of the goods or the driver or other person incharge of the goods carrier bound for any place outside the State passes through the State, he shall in the prescribed manner furnish, in duplicate, to the officer incharge of the check-post or the barrier of his entry into the State a declaration in the prescribed form and obtain from such officer a copy thereof duly verified; and shall deliver within twenty-four hours or such other time as may be prescribed and different lengths of time may be prescribed for different sets of entry and exit check-posts or barriers, the said copy to the officer incharge of the check-post or barrier at the point of his exit from the State, failing which he shall be liable to pay a penalty, to be imposed, if he fails to deliver the copy of the said declaration, by the officer incharge of the check-post or barrier of the entry, of an amount computed as provided in sub-section (8), and if he fails to deliver the said copy in time, by the officer incharge of the check-post or barrier of the exit, of two thousand rupees:

Provided further that no penalty shall be imposed unless the person concerned has been given a reasonable opportunity of being heard:

Provided further that where the owner or person incharge of the goods or the driver or other person incharge

of the goods carrier bound for any place in the State from any other place in the State has to pass through another State, he shall furnish, in duplicate, to the officer incharge of the check-post or barrier of his exit from the State, a declaration in the prescribed form and obtain from him a copy thereof duly verified and shall deliver the same to the officer incharge of the check-post or barrier of his entry into the State, within four hours or such other time as may be prescribed and different lengths of time may be prescribed for different sets of exit and entry check-posts or barriers, of his exit from the State through the check-post or barrier, failing which he shall be liable to pay a penalty, to be imposed, if he fails to deliver the copy of the said declaration, by the officer incharge of the check-post or barrier of the exit, of an amount computed as provided in sub-section (8), and if he fails to deliver the said copy in time, by the officer incharge of the check-post or barrier of the entry, of two thousand rupees:

Provided further that no penalty shall be imposed unless the person concerned has been given a reasonable opportunity of being heard.

(5) The Commissioner may issue directions to any dealer or class or classes of dealers individually that the documents referred to in sub-section (2) shall, in the absence of establishment of a check-post or the erection of a barrier under sub-section (1), be furnished to such officer not below the rank of an Assistant Excise and Taxation Officer at such office in respect of such class or classes of goods as mentioned in the directions, consigned to, or consigned by, such dealer(s) and when such directions are issued, the person carrying the goods shall produce the said documents duly verified and returned to him by the said officer, before any other officer as mentioned in sub-section (2). The directions issued under this sub-section shall remain in force so long as these are not modified or withdrawn and when modified shall remain in force as these are modified.

(6) If the officer incharge of the check-post or barrier or other officer as mentioned in sub-section (2) has reasons to

suspect that the goods under transport are not covered by proper and genuine documents as mentioned in sub-section (2) or sub-section (4), as the case may be, or that the person transporting the goods is attempting to evade payment of tax, he may for reasons to be recorded in writing, and after hearing the said person, order the unloading and detention of the goods and shall allow the same to be transported only on the owner of the goods, or his representative or the driver or other person incharge of the goods carrier on behalf of the owner of the goods, furnishing to his satisfaction, a security, or if the owner of the goods is a dealer registered under this Act, having regard to his financial position a personal bond, in the prescribed form and manner for the maximum amount which may be chargeable from him under sub-section (8):

Provided that the officer detaining the goods may, if he deems fit, having regard to the nature of the goods and the goods carrier, and other relevant matters, hand over the goods for safe custody to any person, who shall, subject to such restrictions and conditions as may be prescribed, be paid the expenses thereof by such officer. The person to whom the goods are handed over for safe custody shall not hand over them to anyone except with the written permission of the officer detaining the goods otherwise the value of the goods shall be recoverable from him as arrears of land revenue:

Provided further that where any goods are detained, a report shall be made immediately and in any case within twenty-four hours of the detention of the goods by the officer detaining the goods to the officer incharge of the district where the goods have been detained seeking the latter's permission for the detention of the goods for a period exceeding twenty-four hours as and when so required and if no intimation to the contrary is received from the latter, the former may assume that his proposal has been accepted.

Note - Where a duly filled and signed declaration referred to in sub-section (2) or sub-section (4) or duly verified documents referred to in sub-section (5), as the case may be,

is (are) not produced before the officer referred to in sub-section (6), such officer shall have sufficient reason to suspect that the person transporting the goods is attempting to evade payment of tax.

(7) When any goods are detained under sub-section (6), the officer detaining the goods shall issue to the owner of the goods, if present, or, if the owner of the goods is not present, to his representative or the driver or other person incharge of the goods carrier a receipt specifying the description and quantity of the goods so detained and obtain an acknowledgement, from such person or if such person refuses to give an acknowledgement, record the fact of refusal and make immediately a report to the officer incharge of the district where the goods are detained.

(8) The officer detaining the goods shall record the statement, if any, given by the owner of the goods or his representative or the driver or other person incharge of the goods carrier. If, after the inquiry including an inquiry into the nature of the transaction which occasioned the movement of goods, such officer finds that there has been an attempt to evade the tax, he shall, by order, impose on the owner of the goods and in case the owner is not forthcoming or his identity is not disclosed by the person incharge of the goods or the driver or person incharge of the goods carrier, in which the goods are being carried, on the person incharge of the goods or the goods carrier or the driver, deeming such person to be the owner of the goods, a penalty computed by multiplying the value of the goods with three times the rate of tax applicable on their sale subject to a maximum of thirty percent of the value of the goods, and direct him to deposit, in addition to the penalty, advance tax computed by multiplying the value of the goods with the rate of tax applicable on their sale which shall be adjustable with the liability to tax incurred on the purchase or sale of such goods or the sale of goods manufactured therefrom, as the case may be, and in case it finds otherwise, it shall order the release of the goods:

Provided that where the offence relates to only an attempt to evade tax by underpricing the goods, the penalty shall be computed by multiplying the difference between their market price and the value shown in the documents accompanying their movement with three times the rate of tax applicable on their sale:

Provided further that no penalty shall be imposed and no advance tax shall be required to be deposited unless the owner of the goods or his representative or person incharge of the goods or the goods carrier or the driver, as the case may be, has been given a reasonable opportunity of being heard:

Provided further that if the penalty imposed under this sub-section is set aside in any proceeding under this Act or by the court, the amount of advance tax and penalty both shall be refunded to the person who paid the same.

(9) In the event of the owner of the goods not paying the penalty imposed and the advance tax payable under sub-section (8) within thirty days from the date of the supply of the copy of the order passed under that sub-section to him, the goods detained shall be liable to be sold by public auction, or disposed of otherwise, in the prescribed manner, for realisation of the penalty and advance tax:

Provided that if the order of imposition of penalty under sub-section (8) is in the meantime set aside or modified in appeal or other proceeding, the officer detaining the goods and imposing the penalty shall also pass consequential order for giving effect to the order in such appeal or other proceedings, as the case may be.

(10) If the goods detained are of a perishable nature or subject to speedy and natural decay or are such as may, if held, lose their value or when the expenses of keeping them in custody are likely to exceed their value, the officer incharge of the check-post or barrier or any other officer empowered under sub-section (2), as the case may be, shall immediately sell such goods or otherwise dispose them of and deposit the sale proceeds of such goods, or the amount

obtained by the disposal of such goods otherwise than by way of sale, in the State Government treasury.

(11) Where the detained goods are sold or otherwise disposed of under this section, the owner thereof shall be liable to pay the expenses and other incidental charges incurred in detaining and disposing of the same.

(12) If the sale proceeds of any goods sold or the amount obtained on the disposal of any goods otherwise than by way of sale under the provisions hereinbefore contained exceeds the penalty imposed and advance tax payable in respect of such goods, such excess amount after deducting the expenses, and incidental charges referred to in sub-section (11) shall be returned by the officer who conducted the sale or otherwise disposed of the goods, to the owner of the goods.

(13) At every station of transport of goods, bus-stand or any other station or place of loading or unloading of goods including any place or godown where goods are stored, other than a post office, when so required by a taxing authority, the person incharge of such place or owner or person incharge of the goods including where the goods are loaded or are being loaded in or unloaded from a goods carrier at such place, the driver or other person incharge of the goods carrier shall produce for examination transport receipts and all other documents and account books concerning the goods carried, transported, loaded, unloaded, consigned, delivered or received for transport to be maintained by him in the prescribed manner and a taxing authority shall have, for the purpose of examining that such transport receipt and other documents and account books are in respect of the goods carried, transported, loaded, unloaded or consigned, delivered or received for transport, the power to break open any packages of such goods or enter or search the premises. If the taxing authority is satisfied that it is necessary for the purpose of investigation or verification, such authority may seize the transport receipts, documents or account books produced before it for examination or found by it at such premises, and it shall forthwith grant a receipt for them and

shall return them to the person from whose custody those were seized after examination or completion of investigation or verification within a period of sixty days, and where those are required to be retained beyond the aforesaid period of sixty days, the authority other than the Commissioner so retaining them shall record the reasons in writing and shall obtain the approval of the Commissioner for so doing.

(14) Except in accordance with such conditions, as may be prescribed, with a view to ensuring that there is no evasion of tax imposed by or under this Act -

(a) no driver or person incharge of a goods carrier or any person incharge of a place of loading or unloading of goods shall accept any consignment of goods for transport or give delivery of any consignment of such goods, other than personal luggage or goods for personal consumption;

(b) no dealer or any person including a carrier of goods acting on behalf of a dealer, shall take delivery of, or transport from any station of transport of goods, bus stand or any other station or place, of loading or unloading of goods, airport or any other place, whether of similar nature or otherwise, any consignment of goods referred to above.

Explanation.- For the purpose of this section -

(1) where any goods are delivered to person incharge of a goods carrier or any person incharge of a place of loading or unloading of goods for transmission, the movement of the goods shall, for the purposes of this section, be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such person; and

(2) the officer detaining the goods includes the officer who is competent to detain the goods.

Furnishing of information by clearing and forwarding agents.

32. (1) Every clearing, forwarding or booking agent or dalal, who in the course of his business handles documents of title to goods on behalf of a dealer and having his place of business in the State shall, furnish information about his

place of business to such authority, within such time, in such form as may be prescribed.

(2) Every such agent or person shall maintain regular account of handling of documents of title to the goods by him. He shall furnish particulars and information relating to such documents to, and produce such accounts and documents before, a taxing authority as and when required by such authority.

(3) Every such agent or person shall, if so required by or under the rules which the State Government may frame in this behalf, furnish in respect of his business such returns in such form at such intervals by such dates in such manner to such authority, as may be prescribed.

Explanation.- “Clearing, forwarding, booking agent or dalal” shall include a person who renders his services for clearing, forwarding or booking of or taking delivery of consignment of goods at railway station, booking agency, goods transport company office or any place of loading or unloading of goods or contrives, makes and concludes bargains and contracts for or on behalf of any dealer for a fee, reward, commission, remuneration or other valuable consideration or otherwise.

Chapter-VII

Appeal, Revision, Review and Reference

Appeal.

33. (1) Any assessee considering himself aggrieved by an original order may prefer an appeal and the said appeal shall lie, –

(a) if the order is made by any authority or officer who is lower in rank to Joint Excise and Taxation Commissioner, to the Joint Excise and Taxation Commissioner or such other officer as the State Government may, by notification in the Official Gazette, appoint;

(b) if the order is made by any authority or officer who is not lower in rank to Joint Excise and Taxation Commissioner, to the Commissioner or such other

officer as the State Government may, by notification in the Official Gazette, appoint;

(c) if the order is made by the Commissioner to the Tribunal.

Note – An original order means an order passed under this Act except an order passed on appeal or on revision.

(2) Any order passed by a revising authority or an appellate authority other than the Tribunal shall be further appealable to the Tribunal by either side.

(3) The appellate authority shall not, for the first time, receive in evidence on behalf of either side in any appeal, any account, register, record or document, unless for reasons to be recorded in writing, it considers, that such account, register, record or document is genuine and that the failure to produce the same before the authority below or bring the same on record was for reasons beyond the control of the party which is producing the same.

(4) Every order passed by the Tribunal on appeal shall, subject to the provisions of section 35 and section 36, be final.

(5) No appeal preferred by an assessee to an appellate authority shall be entertained unless it is filed within sixty days from the date of the order appealed against and the amount of tax and interest admitted by the appellant to be due as a result of the said order has been paid by him.

(6) No appeal preferred to the Tribunal by any authority under the Act shall be entertained unless filed under sub-section (2) within a period of one hundred eighty days from the date of the order appealed against.

(7) The period specified in sub-section (5) or (6) for filing an appeal shall, in the case of an appeal from any order copy of which has to be supplied by the appropriate authority to the appellant, commence from the date of the supply of the copy of the order to the appellant or his authorised agent, and in the case of an appeal from any other order passed under this Act or the rules made thereunder, the time spent in obtaining the certified copy of the order shall be excluded in computing the said period.

(8) Subject to regulations made by the Tribunal under sub-section (15) of section 57 and subject to such rules of procedure as may be prescribed in relation to an appellate authority other than the Tribunal, an appellate authority may pass such order on appeal as it deems to be just and proper including an order enhancing the amount of tax or penalty or interest or all under this Act but in no case it shall stay recovery of the amount due against the appellant as a result of the order appealed against.

Revision.

34. (1) The Commissioner may, on his own motion, call for the record of any case pending before, or disposed of by, any taxing authority for the purposes of satisfying himself as to the legality or to the propriety of any proceeding or of any order made therein which is prejudicial to the interests of the State and may, after giving the persons concerned a reasonable opportunity of being heard, pass such order in relation thereto as he may think fit:

Provided that no order passed by a taxing authority shall be revised on an issue which on appeal or in any other proceeding from such order is pending before, or has been settled by, an appellate authority or the High Court or the Supreme Court, as the case may be:

Provided further that no order shall be revised after the expiry of a period of three years from the date of the supply of the copy of such order to the assessee except where the order is revised as a result of retrospective change in law or on the basis of a decision of the Tribunal in a similar case or on the basis of law declared by the High Court or the Supreme Court.

(2) The State Government may, by notification in the Official Gazette, confer on any officer not below the rank of Deputy Excise and Taxation Commissioner, the powers of the Commissioner under sub-section (1) to be exercised subject to such exceptions, conditions and restrictions as may be specified in the notification and where an officer on whom such powers have been conferred passes an order under this section, such order shall be deemed to have been passed by the Commissioner under sub-section (1).

Review.

35. (1) Any person including an authority under this Act considering himself aggrieved by an order of the Tribunal and who, from the discovery of any new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when such order was made, or on account of some mistake or error of law or facts, desires to obtain a review of the order made against the State or him, may apply for a review of such order to the Tribunal.

(2) The application for review shall be preferred within one year from the date of the order sought to be reviewed in the manner prescribed and where the application is preferred by an assessee it shall be accompanied by such fee not exceeding five hundred rupees, as may be prescribed.

(3) The Tribunal of its own accord after giving notice to the parties concerned, review on account of some mistake or error of law or facts, any order made by it before the expiry of eight years from the date of the order.

Statement of case to High Court.

36. (1) Within sixty days from the passing of an order under section 33 or section 35 by the Tribunal affecting any liability of any dealer to pay tax under this Act, such dealer or the Commissioner may, by an application in writing, accompanied by a fee of five hundred rupees in case the application is made by a dealer, require the Tribunal to refer to the High Court any question of law arising out of such order:

Provided that for the purposes of calculating the period of sixty days the period spent in obtaining the copy of the order shall be excluded.

(2) If for the reasons to be recorded in writing, the Tribunal refuses to make such reference, the applicant may within ninety days of such refusal either -

(a) withdraw his application (and if he does so, the fee paid shall be refunded); or

(b) apply to the High Court against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied of the

correctness of the decision of the Tribunal, it may require the Tribunal, to state the case and refer it, and on the receipt of such requisition, the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred to under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgement thereon containing the grounds on which such decision is founded and shall send to the Tribunal a copy of such judgement under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section the cost shall be in the discretion of the Court.

(7) The payment of the amount, if any, of the tax due in accordance with the order of the Tribunal, in respect of which an application has been made under sub-section (1), shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 20.

Chapter-VIII

Offences and Penalties

Investigation of offences.

37. An officer appointed to assist the Commissioner under sub-section (1) of section 55 shall, for the purpose of investigation of all or any of the offences punishable under this Act, have the powers conferred by the Code of Criminal Procedure, 1973 (Act 2 of 1974), upon an officer incharge of a police station for the investigation of a cognizable offence.

Failure to maintain correct accounts and to furnish correct returns.

38. If a dealer has maintained false or incorrect accounts or documents with a view to suppressing his sales, purchases, imports into State, exports out of State, or stocks, of goods, or has concealed any particulars in respect thereof or has furnished to or produced before any authority under this Act or the rules made thereunder any account, return, document or information which is false or incorrect in any material particular, such authority may, after affording such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, a sum thrice the amount of tax which would have been avoided had such account, return, document or information, as the case may be, been accepted as true and correct.

Prohibition against collection of tax in certain cases.

39. (1) No person, who is not a registered dealer or not otherwise authorised to collect tax, shall collect in respect of any sale of goods effected by him in the State any amount by way of tax, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder.

(2) If any person wilfully collects any amount by way of tax in contravention of the provisions contained in sub-section (1), the assessing authority may, after affording such person a reasonable opportunity of being heard, direct him to pay by way of penalty, in addition to the tax for which he may be liable, a sum equal to the amount of tax so collected.

Other offences.

40. (1) Whosoever contravenes, 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 two thousand rupees and not less than one thousand rupees and where such contravention or failure 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 one hundred rupees till the contravention or failure continues.

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

Limitation for imposition of penalty.

41. No penalty under sub-section (5) of section 7, section 16, section 38 and section 39 shall be imposed on a dealer by any taxing authority after the expiry of two years following the date when the assessment of tax becomes final for the period during which the offence was committed.

Chapter-IX

Special liability in certain cases

Joint and several liability of certain class of dealers.

42. (1) Where a works contractor appoints a sub-contractor, who executes the works contract, whether in whole or in part, the contractor and the sub-contractor shall both be jointly and severally liable to pay tax in respect of transfer of property in goods whether as goods or in some other form involved in the execution of the works contract by the sub-contractor.

(2) If the contractor proves to the satisfaction of the assessing authority that the tax has been paid by the sub-contractor on the sale of the goods involved in the execution of the works contract by the sub-contractor and the assessment of such tax has become final, the contractor shall not be liable to pay tax on the sale of such goods but he shall be entitled to claim input tax, if any, in respect of them if the same has not been availed of by the sub-contractor.

(3) Where an agent purchases or sells any goods on behalf of a principal, such agent and the principal shall both be jointly and severally liable to pay tax in respect of the purchase or sale of goods by the agent.

(4) If the principal on whose behalf the agent has purchased or sold the goods proves to the satisfaction of the assessing authority that the tax on such goods has been paid by the agent and the assessment of such tax has become final, then, the principal shall not be liable to pay tax on such goods but he shall be entitled to claim input tax,

Liability of partitioned Hindu family, dissolved firm etc. to tax.

if any, in respect of them if the same has not been availed of by the agent.

43. (1) Where a dealer is an undivided Hindu family, firm, or other association of persons, and such family, firm or association is partitioned, dissolved or disrupted, as the case may be, -

(a) the tax payable under this Act by such family, firm or association of persons for the period upto the date of such partition, dissolution or disruption may be assessed as if no such partition, dissolution or disruption had taken place and all the provisions of this Act shall apply accordingly; and

(b) every person who was at the time of such partition, dissolution or disruption, a member of an undivided Hindu family or association of persons or partner of a firm shall, notwithstanding such partition, dissolution or disruption, be liable severally and jointly for the payment of the tax including interest and penalty, if any, payable under this Act by such family, firm or association of persons, whether assessment is made prior to or after such partition, dissolution or disruption.

(2) Where the registration certificate of a dealer is cancelled under this Act for reasons other than that of a partition of undivided Hindu family or dissolution or disruption of a firm or association of persons, the tax payable under this Act by such dealer for the period upto the date of cancellation of the registration certificate may be assessed on such dealer as if no such cancellation had taken place and all the provisions of this Act shall apply accordingly.

(3) If the business carried on by the dealer is discontinued after his death, his legal heirs or representatives shall be liable to pay out of the estate of the deceased, to the extent the estate is capable of meeting the liability on account of tax, interest or penalty due from the dealer under this Act, whether such tax, interest or penalty has been assessed

before his death but has remained unpaid, or is assessed after his death.

Transfer of business.

44. Where a dealer registered or liable to pay tax, -
(a) dies; or
(b) transfers or otherwise disposes of his business in whole or in part; or
(c) effects any change in the ownership of his business,
in consequence of which he is succeeded in the business or part thereof by any other person and such successor in business carries on such business either in its old name or in some other name, such successor shall for all the purposes of this Act be deemed to be and to have always been registered as if the certificate of registration of such dealer had initially been granted to the successor; and he shall be liable to discharge the liabilities of such dealer. The successor shall, on application to the assessing authority, be entitled to have the registration certificate amended accordingly.

Liability to pay tax in respect of goods specified in Schedule G.

45. (1) Notwithstanding anything to the contrary contained in other provisions of this Act, tax on sale or purchase of goods specified in Schedule G, shall be levied and collected on the sale or purchase price, maximum retail price, face value or the quantity of such goods at the rates and at the stage of sale or purchase and under the circumstances mentioned against such goods in the said Schedule.

(2) Save as otherwise provided in sub-section (1), no tax under this Act shall be levied and collected on sale or purchase of goods specified in Schedule G.

Chapter-X

Proceedings and powers

Power to take evidence on oath.

46. A taxing authority and an appellate authority shall for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act 5 of 1908), when trying a suit, in respect of the following matters, namely: -

- (a) enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents and impounding or detaining them;
- (c) issuing commissions for the examination of witnesses;
- (d) requiring or accepting proof of facts by affidavits;
- (e) such other powers as may be prescribed,

and any proceeding under this Act before a taxing authority or appellate authority shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 and for the purposes of section 199 of the Indian Penal Code, 1860 (Act 45 of 1860).

Power to determine as to who is a dealer.

47. A taxing authority shall for the purposes of this Act, have the power to determine as to who is the dealer:

Provided that before passing any order under this section, the person concerned shall be given a reasonable opportunity of being heard.

Power to call for information from any person or company.

48. A taxing authority may, for carrying out the purposes of this Act, require any dealer or person including a banking company, insurance company, electricity supply and distribution company, courier-service company, post office, railway, a Government corporation, or a Government agency or body regulating any trade, manufacture or commerce, or any officer thereof, to furnish any information, data or statistics which may be relevant to any proceedings or useful for tax administration under this Act.

Power to purchase underpriced goods.

49. (1) Where a taxing authority has, for the purpose of any proceeding under this Act, reasons to believe that any goods whether in stock or in transit, are underpriced in a document or book of account produced before it, it may, with prior approval of the Commissioner or such officer as the Commissioner may, in writing, authorise for the purpose, make an offer to purchase such goods at the price shown in the document or book of account increased by ten per cent plus freight and other expenses, if any, incurred by the owner in relation to the goods.

(2) If the owner of the goods accepts the offer, he shall make delivery of the goods on a date and time and at a place specified by the officer making the offer and shall be paid the offered price with other expenses within ten days of the delivery of the goods but if he rejects the offer, or after accepting the offer fails to deliver the goods on the specified date and time and at the specified place, it shall be conclusive proof that the owner has underpriced the goods.

(3) The goods purchased under sub-section (2) shall be sold by public auction in the manner prescribed as early as possible but if the goods are of a perishable nature or subject to speedy and natural decay or are such as may, if held, lose their value or when the expenses of keeping them are likely to exceed their value, then, such goods shall be immediately sold or otherwise disposed of in the manner prescribed and the sale proceeds of the goods or the amount obtained by disposal of the goods shall be deposited in the State Government treasury.

Power to transfer proceedings.

50. (1) A taxing authority not below the rank of Deputy Excise and Taxation Commissioner, or such other rank, as may be prescribed, may, in such manner and subject to such restrictions and conditions, as may be prescribed, suo motu or on an application made to him in this behalf by order in writing transfer any case or proceedings or class of proceedings from him to any other officer working under him and he may likewise transfer any such case (including a case already transferred under this section) from one such officer to another or to himself.

(2) Where any proceedings or class of proceedings or case is transferred under sub-section (1), the officer to whom such proceedings or class of proceedings or case is transferred, shall proceed to dispose it of as if it had been initiated by the said officer irrespective of the local limits of the jurisdiction of such officer, and such transfer shall not render necessary the re-issue of any notice already issued before the transfer and the officer to whom the proceeding or class of proceedings or case is transferred may, in his

discretion, continue it from the stage at which it was left by the officer from whom it was transferred.

Delegation of powers.

51. (1) Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of its powers under this Act, except those of revision, to any taxing authority.

(2) Subject to such restrictions and conditions as may be prescribed, any taxing authority may, by order in writing, delegate any of its powers conferred on it to other taxing authority subordinate in rank to it.

Assessee permitted to attend through authorised agent.

52. (1) Any assessee or dealer, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend by a person authorised by him in writing in this behalf, being a relative or a whole time employee of the assessee or an advocate or a tax consultant; not being disqualified by or under sub-section (3) or sub-section (4).

(2) In this section a "tax consultant" means –

(i) any person, who before the 10th day of May, 1953, appeared before any assessing or other sales tax authorities in connection with any proceedings under the Punjab General Sales Tax Act, 1941 or the Punjab General Sales Tax Act, 1948, on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee; or

(ii) a retired Gazetted Officer of the Haryana Excise and Taxation Department who has worked as an taxing authority or an appellate authority under the Act of 1973 or this Act, for a minimum period of five years in one or more than one of the aforesaid capacities after a period of not less than two years has passed since the date of his retirement; or

(iii) any person who has passed any accountancy examination recognised by the Central Board of Direct Taxes or holds a degree in Commerce, Law, Economics or Banking including auditing conferred

by any Indian University, incorporated by any law for the time being in force.

(3) No person, who has been dismissed from Government service, shall be qualified to represent any dealer under sub-section (1).

(4) If any practitioner or other person who represents an assessee, is found guilty of misconduct in any proceedings before any authority under this Act by the Commissioner, the Commissioner may direct that he shall be disqualified, to represent a dealer under sub-section (1):

Provided that no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard.

(5) Any person against whom any direction is made under this section may appeal to the Tribunal against such direction within sixty days of its communication to him.

**Returns etc.
to be
confidential.**

53. (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 the course of any proceedings under this Act, other than proceedings before a Criminal Court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (Act 1 of 1872), no court shall save as aforesaid, be entitled to require any officer of the State 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) Save as provided in sub-section (3), if any officer of the State Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment, which may extend to six months, or with fine or with both.

(3) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1), for the purpose of any investigation or prosecution under this Act or the Indian Penal Code, 1860 (Act 45 of 1860), in respect of

such statement, return, accounts, documents or evidence, or for the purpose of audit or for departmental use of the officials of the Government of India or of any State Government, or for the purpose of an inquiry in relation to a business transaction by a person who is a party to such transaction.

Bar of certain proceedings.

54. (1) No assessment made and no order passed under this Act or the rules made thereunder, by an appellate authority or a taxing authority shall be called in question in any civil court and, save as is provided in sections 33, 34, 35, 36, sub-section (5) of section 52 and sub-section (5) of section 56, no appeal or application shall lie against any such assessment or order.

(2) No injunction shall be granted by any court other than the High Court of any State or the Supreme Court of India in respect of any assessment made or any proceedings initiated, or in respect of any action taken, or to be taken, in pursuance of any provisions of this Act or the rules made thereunder.

Chapter-XI

Taxing authorities and Tribunal

Appointment of Commissioner and other officers.

55. (1) The State Government may appoint a Commissioner for carrying out the purposes of this Act, and as many Additional Excise and Taxation Commissioners, Joint Excise and Taxation Commissioners, Deputy Excise and Taxation Commissioners, Assistant Excise and Taxation Commissioners, Excise and Taxation Officers, Assistant Excise and Taxation Officers and such other officers to assist him as it thinks fit and may authorise the Commissioner to appoint as many Taxation Inspectors and other officials to assist him as it thinks fit.

(2) The Commissioner shall have jurisdiction over the whole of the State and shall exercise all the powers conferred and perform all the duties imposed on the Commissioner, by or under this Act; and other officers appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by

or under this Act in the area of jurisdiction as may, from time to time, be assigned to them.

**Tax
administration.**

56. (1) The State for the purpose of administration and collection of tax may be divided into such ranges comprising of such districts as may be prescribed. Each district may further be divided into circles. A range, district or circle shall be headed by such officers as may be prescribed.

(2) The State Government or the Commissioner may, from time to time, issue such orders, instructions and directions to all such persons who are employed in the administration of this Act as the State Government or the Commissioner may deem fit for such administration and all such persons shall observe and follow such orders, instructions and directions of the State Government and the Commissioner:

Provided that no such orders, instructions or directions shall be issued so as to interfere with the discretion of any appellate authority in the exercise of its appellate functions.

(3) The State Government may, if it considers it necessary or expedient so to do, for the purpose of maintaining uniformity in the levy, assessment and collection of tax or for the removal of any doubt, suo motu or on an application made to it in the prescribed form and manner on payment of the prescribed fee by a dealer or a body of dealers, issue an order clarifying any point relating to levy, assessment and collection of tax and all persons employed in the administration of this Act except an appellate authority, and all dealers affected thereby shall observe and follow such order.

(4) Every order issued under sub-section (3) shall be publicised simultaneously by uploading on the website www.haryanatax.com under the head "VAT orders".

(5) If any person feels aggrieved by an order publicized under sub-section (4), he may at any time prefer an appeal against such order to the Tribunal and for this purpose the order shall be deemed to be an order passed under this Act:

Provided that where an appeal is preferred against such order to the Tribunal, it shall be heard and decided by the full-member Tribunal.

(6) The Tribunal may, after giving notice to the State Government, stay the operation of the order appealed before it under sub-section (5) and where a stay is granted, the appeal shall be heard and decided within a period of sixty days from the date of the stay order.

(7) Any tax leviable under this Act which is proved to have not been collected in whole or in part because of, any order issued by the State Government under sub-section (3) and publicised under sub-section (4) or, any order passed on appeal by the Tribunal or, any law declared by the High Court or the Supreme Court, which order or law is later reversed, shall not be payable.

(8) Interest leviable under this Act on any amount which has been refunded to an assessee as a result of, an order of the Tribunal or, an order passed by or the law declared by the High Court or the Supreme Court, shall not be payable if such order or law is later reversed.

Tribunal.

57. (1) The State Government may constitute a Tribunal to be called the Haryana Tax Tribunal consisting of three or more odd number of members including the Chairman as the State Government may appoint for the purpose of performing such functions and exercising such powers as may be assigned to, or conferred on, the Tribunal by or under this Act.

(2) The functions of the Tribunal may be discharged by the members sitting in Benches of two or more members, as may be determined by the Chairman.

(3) If the members of a Bench are divided over some matter, the decision shall be the decision of the majority, if there be a majority, but if the members are equally divided they shall state the point or points on which they differ, and the case shall be heard by the full-member Tribunal and such point or points shall be decided according to the decision of majority of the members of the Tribunal.

(4) The decision of the Tribunal shall be binding on all taxing and appellate authorities under this Act in a similar case. The decision of a higher Bench (constituted of more number of members) of the Tribunal shall be binding on a lower Bench but a Bench constituted of all members can by majority overrule any previous decision of the Tribunal on a point of law.

(5) The Headquarters of the Tribunal shall be at such place as the State Government may, by notification, specify.

(6) A person shall not be qualified for appointment as member of the Tribunal in the capacity of the Chairman unless he is or has been a judge of a High Court or an officer of the Indian Administrative Service in the rank of Financial Commissioner or has for at least three years been a member of the Tribunal.

(7) A person shall not be qualified for appointment as a member (other than the Chairman) of the Tribunal unless he is or has been –

- (a) a District Judge; or
- (b) an Additional Excise and Taxation Commissioner having worked in that capacity or as an appellate authority or revising authority under this Act or the Act of 1973 for at least seven years; or
- (c) an advocate, a chartered accountant or a State representative representing cases before a High Court or the Tribunal constituted under this Act or the Act of 1973 for at least ten years:

Provided that all members of the Tribunal shall not be appointed from single category.

(8) A member of the Tribunal other than the Chairman shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of 65 years, whichever is later, and the Chairman shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of 68 years, whichever is earlier, but no member shall continue in office after he attains the age of 68 years.

(9) A member of the Tribunal shall not be removed from his office except on the ground of proved misbehaviour or incapacity after an inquiry made in which such member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of the charges.

(10) A member of the Tribunal shall be ineligible —

(a) for further employment under the State Government, or under any local authority or under any corporation owned or controlled by the State Government; and

(b) to appear, act or plead before the Tribunal for at least five years after he demits office or completes his term.

(11) Subject to the provisions of the rules relating to re-employment of retired persons for the time being in force in the State, a retired person who is appointed as member of the Tribunal, shall be entitled to such salary and allowances and shall be governed by such other conditions of service, as may be prescribed.

(12) A member of the Tribunal may, at any time, by writing under his hand addressed to the State Government, resign his office, but his resignation shall take effect from the date on which it is accepted.

(13) A vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(14) Subject to such conditions and limitations, as may be prescribed, the Tribunal shall have power to award costs, and the amount of such costs shall be recoverable from the person ordered to pay the same as arrears of land revenue.

(15) The Tribunal shall with the previous sanction of the State Government make regulations, consistent with the provisions of this Act and the rules made thereunder, for the purpose of regulating its procedure and the disposal of its business.

(16) All regulations made under sub-section (15) shall be published by the State Government in Official Gazette.

Indemnity.

58. (1) All persons appointed under sub-section (1) of section 55 or sub-section (1) of section 57 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

(2) No suit, prosecution or other legal proceedings shall lie against any officer or servant of the State Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Chapter-XII

Power to make rules, amend Schedules, and Repeal and saving

Power to amend Schedules.

59. (1) Subject to the provisions of sub-section (2), the State Government may, after giving a reasonable notice of not less than ten days of its intention to do so by uploading the said notices on the website www.haryanatax.com under the head "Legal notices", add to, or omit, or otherwise amend, by notification in the Official Gazette, any or all the Schedules and the Schedules shall be deemed to be amended accordingly.

(2) An amendment to a Schedule shall take effect from the first day of the month following the publication of the notification in the Official Gazette, unless otherwise specified in the notification.

Power to make rules.

60. (1) The State Government may, subject to the provisions of sub-section (3) and subject to the condition of previous publication by uploading on the website www.haryanatax.com under the head "Legal notices", make rules by notification in the Official Gazette for carrying out the purposes of this Act and may give them prospective or retrospective effect:

Provided that the condition of previous publication shall not be applicable when the rules are made for the first time under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by the rules.

(3) After the rules have, for the first time, been made under this Act, an amendment in the rules shall take effect from the first day of the month following the publication of the notification in the Official Gazette, unless otherwise specified in the notification.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rules should be either modified or annulled, the rule shall thereafter have 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 under that rule.

Repeal and saving.

61. (1) The Haryana General Sales Tax Act, 1973 (20 of 1973), is hereby repealed:

(2) Notwithstanding anything contained in sub-section (1), -

(a) any application, appeal, revision or other proceedings made or preferred to any authority under the said Act, and pending at the commencement of this Act, shall, after such commencement, 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;

(b) any security in the form of cash deposit, bank guarantee, personal bond, surety bond or in any other form furnished on any day before the commencement of this Act for the payment of any tax or other dues under the said Act, shall remain

in force and may be enforced after the commencement of this Act for the payment of any tax or other dues under this Act and for this purpose this Act shall be deemed to have come into force on the day such security was furnished;

(c) declaration in form S.T.38 in force under the said Act and the rules made thereunder shall remain in force after the appointed day and shall be used mutatis mutandis for the purpose for which it was being used before the appointed day until the State Government directs, by notification, the discontinuance of its use after such date as may be specified in the notification;

(d) the provisions of section 13B and section 25A of the said Act and the rules (hereinafter referred to as the 'existing rules'), framed thereunder relating to tax concessions to industrial units shall remain in force subject to the following exceptions, restrictions and conditions, namely:-

(i) an industrial unit availing the benefit of exemption from payment of tax may, in the prescribed manner, change over to deferment of payment of tax for the remaining period and the remaining extent of benefit or for such period and such extent of benefit as may be prescribed but where an industrial unit does not choose to do so, exemption to it from payment of tax shall cease to take effect on and from the appointed day and further,-

(I) it shall be liable to maintain production at a level so that its annual turnover does not fall short of the average annual turnover during the period of exemption;
and

(II) it shall not export out of State any goods produced by it,

for a period of next five years or such shorter period for which it has availed of exemption from payment of tax and if it fails to do so, it shall be liable to pay to the State Government, in the prescribed manner the amount of tax in respect of which it has availed of exemption from payment after reducing therefrom the tax paid by it before such failure;

(ii) an industrial unit availing the benefit of capital subsidy may, in the prescribed manner, change over to deferment of payment of tax for the remaining period and the remaining extent of benefit but where an industrial unit does not choose to do so, the benefit of capital subsidy to it shall cease to take effect on and from the appointed day;

(iii) an industrial unit availing the benefit of deferment of payment of tax, whether by change over under the foregoing provisions or otherwise, may, in lieu of making payment of the deferred tax after five years, pay half of the amount of the deferred tax upfront along with the returns and on making payment in this manner, the tax due according to the returns shall be deemed to have been paid in full; and

(iv) the tax deferred in every other case shall be converted into interest free loan in the manner prescribed.

Explanation.— For the purpose of this clause, “tax” includes the tax under the Act of 1973 and the Central Act.

Construction of references in the repealed Act to officers and authorities.

62. Any reference in any provision of the law contained in the repealed Act to an officer, authority or Tribunal, shall for the purpose of carrying into effect the provisions contained in section 61, be construed as a reference to the corresponding officer, authority or Tribunal and if any

question arises as to who such corresponding officer, authority or Tribunal is, the decision of the State Government thereon shall be final.

Removal of difficulties.

63. If any difficulty arises in giving effect to the provisions of section 61 of this Act, the State Government may by order, published in the Official Gazette, make such provision or give such direction as appears it to be necessary for removing the difficulty.

Schedule A

[See sub-clause (i) of clause (a) of sub-section (1) of section 7].

Serial No.	Description of goods	Rate of tax
1	2	3
1.	Gold, silver, other precious metals, precious stones	1%
2.	Articles including jewellery made of gold, silver, other precious metals, precious stones	1%
3.	Aviation Turbine Fuel, Petrol, Gasohol	20%
4.	High Speed Diesel, Super Light Diesel Oil, Light Diesel Oil	12%
5.	Liquor as defined in Punjab Excise Act, 1914 (61 of 1914)	20%

Schedule B.

[See clause (p) of sub-section (1) of section 2].

1. Fresh fruits and vegetables.
 2. Betel leaves.
 3. Sugarcane.
 4. Fresh milk, pasteurised milk, curd and buttermilk.
 5. Fresh meat, fish, meat on hoof, poultry and eggs.
 6. Livestock.
 7. Plants and saplings.
 8. Water except when sold in sealed containers.
 9. Common salt except when sold in retail packs under brand name.
 10. Cereals other than wheat, paddy, rice and barley.
 11. Flours of exempted cereals.
 12. Natural flowers.
 13. Manually operated or animal drawn agricultural implements.
 14. Hand carts and animal drawn vehicles.
 15. Organic manure.
 16. Fodder, that is to say, grass, straw (except paddy straw) and hay.
 17. Aids for handicapped persons.
 18. Books and periodicals.
 19. Writing slate (made of stone) and slate pencils.
 20. Earthen pots but not including crockery.
 21. Beehives, honey supers, hive tool, smoker, veil and helmet, feeder.
 22. Spinning wheel.
 23. Hand spun yarn and handloom fabrics.
 24. National flag and Gandhi topi.
 25. Handmade musical instruments.
 26. Electric energy or other form of power.
 27. Human blood including human blood plasma.
 28. Semen.
 29. Contraceptives.
 30. Glass bangles, bindi and sindur.
 31. Liquor except when sold by an L-4/L-5 or L-12C licensee.
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Schedule C.

[See sub-clause (iii) of clause (a) of sub-section (1) of section 7].

1. Agricultural implements except manually operated or animal drawn.
2. Agricultural tractors and trailers, harvester combines.
3. Sprinkler irrigation and drip irrigation systems and components, parts and accessories thereof.
4. Mono-block or submersible pump sets of the type generally used for agricultural purposes of five horse power and above.
5. Seeds.
6. Fertilisers except organic manure.
7. Pesticides and weedicides for plants protection.
8. Bone meal, crushed bones, bone sinews and burnt bones.
9. Cattle feed, poultry feed and aquatic feed and feed supplements, concentrates, and additives.
10. Oil cakes and de-oiled cakes including de-oiled rice bran.
11. Husk and bran of all cereals and pulses, paddy husk and straw.
12. Ice.
13. Bread.
14. Common salt when sold in retail packs under a brand name.
15. Gur and shakkar.
16. Reori, gajjak, patasha, misri (candy or cooza), goli, makhana, marunda, murmura.
17. Wheat atta including maida and sooji, rice flour, gram flour, besan, barley ghat, barley flour and sattu, dalia of wheat or barley, guar, guar flour, guar giri, rajmah, lobia, rongi, sago (sabudana).
18. Parched, roasted or puffed grain, parched gram and roasted groundnut except when these goods sold in sealed containers.
19. Soya meal.
20. Vegetables sold in sealed containers and dried vegetables of the type required to be cooked before use.
21. Meat including flesh of poultry and aquatic food, sold in a sealed containers, of the type required to be cooked before use.
22. Milk powder, ultra high temperature (UHT) milk.
23. Vegetable oils, whether edible or non-edible.
24. Vanaspati ghee.
25. Spices and condiments, whether whole, powdered or mixed.
26. Betel nut.
27. Household aluminium utensils.
28. Firewood, saw dust, charcoal and fuel briquettes and cakes made from biomass.
29. Safety matches.
30. Bididi leaves.
31. Cotton waste.

- 32.Raw silk.
- 33.Raw wool and wool tops.
- 34.Fibres and fibre waste.
- 35.All types of yarn (except cotton yarn), knitting wool, yarn waste and threads.
- 36.Readymade garments and hosiery.
- 37.Sports goods excluding apparels and footwear.
- 38.Plastic footwear.
- 39.Umbrella except garden umbrella.
- 40.Computer software, hardware and computer peripherals.
- 41.IT products as notified by Government of India.
- 42.Telecommunication equipment including telecom cables.
- 43.Ferro alloys.
- 44.Non-ferrous metals, alloys and extrusions thereof.
- 45.Incorporeal or intangible goods.
- 46.Herb, bark, dry plant, dry root and dry flowers, commonly known as jari-buti but not including ayurvedic preparations sold in sealed containers.
- 47.Aggarbatti and dhoopbatti.
- 48.Newar.
- 49.Hand pumps and their parts.
- 50.Pipes and tubes made of any material other than iron and steel.
- 51.Bricks of the type used in construction of buildings.
- 52.Bamboo.
- 53.Renewable energy devices and non-conventional energy devices.
- 54.Bicycles, cycle-rickshaw and their parts including their tyres and tubes.
- 55.Sewing machines.
- 56.Ship and vessels plying on water.
- 57.Paper and newsprint.
- 58.Exercise books.
- 59.Writing instruments.
- 60.Printed material except books and periodicals.
- 61.Printing ink.

Note – Entries in this Schedule are subject to the general exception of exclusion of declared goods.

Schedule D

[See clause (a) of sub-section (2) of section 7].

Serial No.	Description of goods	Rate of tax
1	2	3
1.	Aviation Turbine Fuel	20%
2.	Petrol, Gasohol	12%
3.	High Speed Diesel, Super Light Diesel Oil, Light Diesel Oil	12%
4.	Paddy	4%

Schedule E

[See sub-section (1) of section 8].

Serial No.	Description of goods	Circumstances in which input tax shall be nil
1	2	3
1.	Petroleum based fuels and natural gas	Except when resold.
2.	Capital goods	(i) When intended to be used mainly in the manufacture of exempted goods or in the telecommunications network or mining or the generation and distribution of electric energy or other form of power; or (ii) When forming part of gross block on the date of cancellation of the registration certificate.
3.	Paddy	(i) When sold in the course of the export of the goods out of the territory of India; or (ii) When used in the manufacture of rice which is sold in the course of the export of the goods out of the territory of India.
4.	Rice	When sold in the course of the export of the goods out of the territory of India.
5.	All goods except those mentioned at Serial Nos. 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 the course of export of goods out of the 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.

Note 1 – In this Schedule the expression “on the date of cancellation of the registration certificate” means on the date of effect of the cancellation of the registration certificate.

Note 2 – In respect of entries against Serial Nos.3 and 4, paddy and the rice manufactured therefrom shall be treated as a single commodity for the purposes of sub-section (3) of section 5 of the Central Act.

Schedule F

[See first proviso to sub-section (3) of section 3].

1. Paddy

Schedule G

[See sub-section (1) of section 45].

Serial No.	Description of goods	Rate of tax and the base of levy	Stage of levy and the circumstances under which tax levied
1	2	3	4
1.	Lottery ticket of face value more than seven rupees	Twenty percent of the face value of the lottery ticket	First sale by a dealer liable to pay tax under this Act.

Statement of Objects and Reasons

As a part of reforms in the field of domestic trade taxes in the country all the States have agreed to introduce value added tax (for short 'VAT') simultaneously with effect from 1-4-2003. VAT is a transparent, simple and efficient system of sales tax collection. It is accordingly proposed to levy VAT in Haryana and repeal the existing sales tax law with effect from 1-4-2003.

Hence this Bill.

OM PARKASH CHAUTALA,
Chief Minister, Haryana.