

Punjab vat act 2005

ACT NO. 8 OF 2005

AN

ACT

to provide for the levy and collection of value added tax and turnover tax on the sales or purchases of goods and for the matters connected therewith and incidental thereto, and for the repeal of the Punjab General Sales Tax Act, 1948.

BE it enacted by the Legislature of the State of Punjab in the Fifty-sixth Year of the Republic of India as follows:--

CHAPTER - I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Punjab Value Added Tax Act, 2005.
- (2) It shall come into force from the 1st day of April, 2005.

Definitions.

2. In this Act, unless the context otherwise requires, –
 - (a) “*account books*” means record of business transactions and includes accounts, registers and documents maintained in any manner including electronic medium;
 - (b) “*appointed day*” means the date on which this Act comes into force;
 - (c) “*business*” includes -
 - (i) any trade, commerce, manufacture, adventure or concern whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make profit and whether or not any profit accrues there from; and
 - (ii) any transaction in connection with or ancillary or incidental to such trade, commerce, manufacture, adventure or concern;
 - (d) “*capital goods*” means any plant, machinery or equipment including equipment for pollution control, quality control, laboratory and cold storage, used in manufacturing, processing and packing of taxable goods for sale;

- (e) *“carrier of goods”* includes a person or a transport company or a booking agency, who transports, receives or delivers goods;
- (f) *“casual trader”* means a person other than a taxable person or registered person, who whether as principal, agent or in any other capacity, undertakes occasional transactions in the nature of business involving purchase, sale, supply or distribution of goods or conducting any exhibition-cum-sale in the State, whether for cash, deferred payment, commission, remuneration or other valuable consideration;
- (g) *“Commissioner”* means the “Excise and Taxation Commissioner”, appointed by the State Government under sub-section (1) of section 3;
- (h) *“declared goods”* means goods declared under section 14 of the Central Sales Tax Act, 1956, to be of special importance in inter- State trade or commerce;
- (i) *“designated officer”* means an officer appointed under section 3 and conferred with the powers to carry out any of the purposes of this Act by a notification issued by the State Government;
- (j) *“document”* means title deeds, writing or inscription and includes electronic data, computer programs, computer tapes, computer discs, photographs, video tapes and the like that provides evidence;
- (k) *“goods”* means all kinds of movable property, whether tangible or intangible, other than newspapers, actionable claims, money, stocks, shares and securities and includes livestock, growing crops, grass, trees, plants attached to or forming part of the land, which are agreed to be severed before the sale or under the contract of sale;
- (l) *“goods vehicle”* includes –
- (i) any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer constructed or adapted for use for the carriage of goods and any vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers, but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or any other enclosed premises; and
- (ii) any animal - driven or man - driven vehicle used for the carriage of goods solely or with passengers;
- (m) *“gross turnover”* includes the aggregate of the amounts of sales and/or purchases made by any person during the given period, including any sum, charged on account of freight, storage, demurrage, insurance and for anything done by the person in respect of the goods at the time of or before the delivery thereof;

Explanations –

- (1) The proceeds of any sale made outside the State by a person, who carries on business both inside and outside the State, shall not be included in the gross turnover.
 - (2) The sum receivable or received from any person in respect of transaction of forward contract, in which goods are actually not delivered, shall not be included in the gross turnover.
 - (3) In respect of transactions of delivery of goods on hire-purchase or any system of payment by instalments , the amount to be included in the gross turnover 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 as payable by the hirer under the hire-purchase agreement by way of 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 interest or compensation or damages for breach of the agreement.
 - (4) The amount to be included in the gross turnover in respect of movable goods, agreed to be sold under a works contract, shall be its sale price;
- (n) *“import”* means bringing of goods into the State from any place outside the territorial jurisdiction of the State;
- (o) *“input tax”* in relation to a taxable person means value added tax (VAT), paid or payable under this Act by a person on the purchase of taxable goods for resale or for use by him in the manufacture or processing or packing of taxable goods in the State;
- (p) *“input tax credit”* means credit of input tax (in short referred to as ITC) available to a taxable person under this Act;
- (q) *“manufacture”* includes any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformation into a new and different article so understood in commercial parlance having a distinct name, character, use, but does not include such activity of manufacture as may be notified otherwise;

- (r) “*offence*” means any act or omission made punishable under this Act;
- (s) “*output tax*” in relation to a taxable person means the tax charged or chargeable or payable in respect of sale and/or purchase of goods, as the case may be, under this Act;
- (t) “*person*” includes a sole proprietor, a partnership, a Hindu undivided family, a company, a society, a trust, a club, an institution, an association, a local authority, a department of any State Government, Union territory Government or Central Government, a Government enterprise, a statutory body or other body corporate, who whether or not in the normal course of business, purchases, sells, supplies or distributes any goods in the State, 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 any such person is not in the State, ‘person’ includes the local manager or agent of such person in the State in respect of such business and also includes a person engaged in the business of -
- (i) transfer, otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;
 - (ii) transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;
 - (iii) delivery of goods on hire-purchase or any system of payment by instalments;
 - (iv) transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and
 - (v) 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:

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

Explanations –

- (1) A co-operative society or a club or an association which sells or supplies goods to its members is a person within the meaning of this clause.
- (2) A factor, a broker, a commission agent, a person’s agent, an auctioneer or any other mercantile agent by whatever name called and whether of the same description as here-in-before mentioned or not,

who carries on the business of selling, supplying or purchasing goods and who has in the customary course of business, authority to sell goods belonging to the principals or to purchase goods on their behalf, is a person within the meaning of this clause.

- (3) For the purpose of this clause, "Government" will include the Government of India or the Government of any State or the Union of India or the Union Territories.
- (4) Each of the following persons or bodies, who dispose of any goods including unclaimed or confiscated or as unserviceable or scrap surplus, old or obsolete goods 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, notwithstanding anything contained in this Act, irrespective of the fact whether such disposal was in the course of business or not, shall be deemed to be a person for the purposes of this Act to the extent of such disposals, namely:--
 - (i) Municipal Corporations, Municipal Councils and other local authorities constituted under any law for the time being in force;
 - (ii) Railways Administration as defined under the Railways Act, 1989;
 - (iii) Transport and construction companies;
 - (iv) Any person holding permit for the transport vehicles granted under the Motor Vehicles Act, 1988, which are used or adapted to be used for hire;
 - (v) the State Road Transport Corporations;
 - (vi) Customs Department of the Government of India administering the Customs Act, 1962;
 - (vii) Insurance and Financial Corporations or companies and banks included in the Second Schedule to the Reserve Bank of India Act, 1934;
 - (viii) advertising agencies; and
 - (ix) any other corporation, company, body or authority, owned or set up by, or subject to the administrative control of the Central Government or any State Government ;
- (u) "*place of business*" means any place where a person purchases or sells goods and includes the place where such person stores, processes, produces or manufactures goods or keeps books of accounts or documents or any other place where business activity is conducted;

- (v) “*prescribed*” means prescribed by rules made under this Act;
- (w) “*purchase*” with all its grammatical or cognate expressions means the acquisition of goods for cash or deferred payment or other valuable consideration otherwise than under a mortgage, hypothecation, charge or pledge and includes, –
 - (i) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
 - (ii) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
 - (iii) delivery of goods on hire-purchase or any system of payment by instalments;
 - (iv) 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) 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 into dictating) 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 purchase of these goods from the person making the transfer, delivery or supply to a person to whom such transfer, delivery or supply is made ;

- (x) “*purchase price*” means the amount of valuable consideration paid or payable by a person for any purchase made, including any sum charged on account of freight, storage, demurrage, insurance and any other sum charged for anything done by a person in respect of the goods at the time of or before delivery thereof;

Explanation –

- (1) Purchase price shall not include the tax paid or payable under this Act by a person in respect of such purchase.
 - (2) In respect of the goods listed in Schedule H, any tax, duty, cess or fee paid or payable under the Punjab Agricultural Produce Markets Act, 1961 (Punjab Act No. 23 of 1961) or the Punjab Rural Development Act, 1987 (Punjab Act No. 6 of 1987) or the Punjab Infrastructure (Development and Regulation) Act, 2002 (Punjab Act No. 8 of 2002) by or on behalf of the seller or the purchaser, shall also form part of purchase price.
- (y) “*quarter*” means a period consisting of three months, commencing from the first day of April, July, October and January of a calendar year;

- (z) “*registered person*” means a person, who is registered for the purpose of paying turn-over tax under this Act;
- (za) “*repealed Act*” means the Punjab General Sales Tax Act, 1948;
- (zb) “*retail invoice*” means an invoice issued to the purchaser by a taxable or registered person or a casual trader, listing therein the goods, sold, with price, quantity and value;
- (zc) “*return*” means a true and correct account of business pertaining to the return period in the prescribed form;
- (zd) “*return period*” means the period for which returns are to be furnished by a person;
- (ze) “*reverse input tax credit*” means an amount of input tax credit, which is required to be reversed by a taxable person on account of-
 - (i) credit note for output tax received from seller of goods on purchases in respect of which input tax credit is claimed;
 - (ii) goods, returned subsequent to availing the input tax credit;
 - (iii) goods, subsequently not used in accordance with the conditions prescribed for availing input tax credit; and
 - (iv) having availed the credit required to reverse the same in accordance with the provisions of sub-sections (8) and (9) of section 13;
- (zf) “*sale*” with all its grammatical or cognate expressions means any transfer of property in goods for cash, deferred payment or other valuable consideration and includes -
 - (i) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
 - (ii) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
 - (iii) delivery of goods on hire-purchase or any system of payment by instalments;
 - (iv) 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) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
 - (vi) 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
 - (vii) every disposal of goods referred to in Explanation (4) to clause (t) of this section;

and such transfer, delivery or supply of any goods shall be deemed to be a sale of these goods by the person making the transfer, delivery or supply to a person to whom such transfer, delivery or supply is made, but does not include a mortgage, hypothecation, charge or pledge.

- (zg) “*sale price*” means the amount of valuable consideration received or receivable by a person for any sale made including any sum charged on account of freight, storage, demurrage, insurance and any sum charged for anything done by the person in respect of the goods at the time of or before the delivery thereof;

Explanation –

- (1) In relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, ‘sale price’ means 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 charges incurred and profit accrued other than in connection with transfer of property in goods for such execution. Where such labour and other charges are not quantifiable, the sale price shall be the cost of acquisition of the goods and the margin of profit on them plus the cost of transferring the property in the goods and all other expenses in relation thereto till the property in such goods, whether as such or in any other form, passes to the contractee and where the property passes in a different form, it shall include the cost of conversion.
 - (2) In relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery.
 - (3) In relation to the transfer of right to use any goods for any purpose (whether or not for a specified period), the valuable consideration received or receivable for such transfer.
 - (4) The amount of duties levied or leviable on goods under the Central Excise and Salt Act, 1944 (1 of 1944), or the Customs Act, 1962 (52 of 1962), or the Punjab Excise Act, 1914 (1 of 1914), shall be deemed to be part of the sale price of such goods, whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person.
 - (5) Sale price shall not include tax paid or payable to a person in respect of such sale.
- (zh) “*Schedule*” means the Schedule appended to this Act;

- (zi) “*section*” means a section of this Act ;
- (zj) “*State*” means the State of Punjab;
- (zk) “*State Government*” means the Government of the State of Punjab;
- (zl) “*taxable goods*” means the goods, other than the goods declared tax free under section 16 of this Act;
- (zm) “*tax period*” means a period for which a person is required to pay tax under this Act or the rules made thereunder;
- (zn) “*taxable person*” means a person, who is registered for the purpose of paying value added tax under this Act;
- (zo) “*taxable turnover*” means that part of gross turnover of sales or purchases, as may be determined after making such deductions from the gross turnover of sales or purchases, as are admissible under this Act or as may be prescribed, on which a person shall be liable to pay tax;
- (zp) “*Tribunal*” means the Tribunal constituted under section 4 of this Act;
- (zq) “*Turnover tax*” (*in short referred to as TOT*) means a tax, leviable on the taxable turnover of a registered person as per the provisions of this Act;
- (zr) “*Value added Tax*” (*in short referred to as VAT*) means a tax leviable on the taxable turnover of a persons, other than a registered person, under this Act;
- (zs) “*VAT invoice*” means an invoice issued by a taxable person to another taxable person listing therein the goods supplied, with the price, quantity, value and VAT charged;
- (zt) “*vessel*” includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner;
- (zu) “*works contract*” includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, building ,construction, manufacturing, processing, fabrication, erection, installation, fitting out, improvement, modification, repairs or commissioning of any movable or immovable property; and
- (zv) “*year*” means the financial year beginning from the first day of April, and ending with the 31st day of March.

**Commissioner
and other
officers.**

3. (1) For carrying out the purposes of this Act, the State Government may appoint an officer to be the Commissioner and such other officers to assist him as it may deem fit.

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

(3) Every officer appointed under sub-section (1), to assist the Commissioner, shall exercise his powers, subject to the general superintendence and control of the Commissioner.

(4) The officers appointed under sub-section (1), shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

Constitution of Tribunal.

4. (1) The State Government shall, by notification in the Official Gazette, constitute a Tribunal to exercise the powers and discharge the functions conferred on it under this Act.

(2) The Tribunal shall consist of a Chairman and three other members to be appointed by the State Government.

(3) The Chairman shall either be a retired Judge of the High Court or a retired or serving officer of the rank of Chief Secretary to the State Government or Secretary to Government of India.

(4) The members appointed under sub-section (2), shall have the following qualifications and experience, namely:-

- (a) should be a law graduate and should have at least fifteen years' experience of practising in the High Court or the Supreme Court of India in tax matters; or
- (b) should be a retired or a serving Officer of the Excise and Taxation Department of the State with at least two years' experience of the post of Additional Excise and Taxation Commissioner; or
- (c) should have at least fifteen years' experience of practicing as a Chartered Accountant under the Chartered Accountant Act, 1949 (Central Act 38 of 1949), is a member or should have been a member or should be eligible for appointment as a member of the Customs, Excise and Service Tax Appellate Tribunal constituted by the Union Government :

Provided that one member of the Tribunal shall be appointed from each of the aforesaid categories.

(5) The State Government may appoint one of the members, to be a Vice-Chairman of the Tribunal.

(6) The Vice-Chairman shall exercise such powers and perform such functions of the Chairman, as may be delegated to him by the Chairman by a general or special order in writing. In the absence of the Chairman, the Vice-Chairman shall act as Chairman.

(7) The Chairman or a member of the Tribunal shall hold office for a term of three years from the date he assumes charge of his office and he shall not be eligible for re-appointment.

(8) No person shall be appointed or continue as Chairman or Member of the Tribunal, if he has attained the age of sixty-seven years.

(9) The Chairman, Vice-Chairman and other members of the Tribunal shall be entitled to such salaries and allowances and shall be governed by such conditions of service, as may be specified by the State Government.

(10) The Chairman, the Vice-Chairman or a member of the Tribunal may be removed from the office by the State Government, if –

- (a) he is adjudged an insolvent; or
- (b) he takes up employment outside the duties of his office; or
- (c) he has become incapable of performing his duties on account of unsoundness of mind or any other reason; or
- (d) he is guilty of such misconduct as would render him unfit to continue as Chairman or Vice-Chairman or member of the Tribunal; or
- (e) he is convicted of an offence involving moral turpitude.

(11) The Chairman, the Vice-Chairman or a member, as the case may be, 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.

(12) The Chairman, the Vice-Chairman and members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Act 45 of 1860).

(13) No order made or act done, or proceedings taken under this Act by or before the Tribunal, shall be called in question in any manner on the ground of merely of any defect in the constitution of the Tribunal.

(14) The Tribunal shall have power to award costs. The arrears of such costs shall be recoverable as arrears of land revenue.

(15) Subject to the previous sanction of the State Government, the Tribunal shall for the purpose of regulating its procedure, make regulations in conformity with the provisions of this Act and the rules made there under.

(16) Subject to the directions given by the State Government, the Tribunal shall sit at such place or places, as it may deem fit.

(17) The State Government may, appoint such officers or officials, as may be considered necessary to enable the Tribunal to carry out its functions under this Act.

(18) The administrative expenditure of the Tribunal including salaries, allowances and pensions, if any, payable to the Chairman, Vice-Chairman, members, officers and officials of the Tribunal, shall be charged upon the Consolidated Fund of the State.

5. (1) The powers and functions of the Tribunal may be exercised and discharged by Benches constituted by the Chairman from amongst the members thereof –

- (a) by a Bench consisting of three members;
- (b) by a Bench consisting of two members; and
- (c) by a single member .

(2) The single member referred to in clause (c) of sub-section (1), may either be the Chairman or any other member:

Provided that, if any case which comes up before a single member, who is not the Chairman or a Bench of which the Chairman is not a member, involves a question of law, such single member or Bench, as the case may be, may, in his or its discretion, reserve such case for decision by a Bench of which the Chairman shall be a member.

(3) Where an appeal or application is heard by a Bench consisting of three members, and the members differ in opinion on any point, then that point shall be decided in accordance with the opinion of the majority.

(4) Where an appeal or application is heard by a Bench, consisting of two members, and the members are divided in their opinion on any point, then that point shall be referred for decision to a Bench, consisting of three members, of whom, one shall be the Chairman.

(5) In case there are diverse judgments on an issue from the Tribunal or different Benches of the Tribunal, the Chairman, on a reference from the Commissioner, shall constitute a multi-member bench of the Tribunal, comprising himself and at least two other members, to decide that issue. Such a Bench may recall the earlier decisions and proceed to decide the issue afresh. The order or the rule laid down by such a Bench, shall override all previous orders or rules on the matter, and shall be binding on the parties.

CHAPTER – II
INCIDENCE AND LEVY OF TAX

**Incidence of
tax.**

6. (1) Every person, except a casual trader and one dealing exclusively in goods declared tax free under section 16, whose gross turnover during the year immediately preceding the commencement of this Act or during any year subsequent thereto, exceeded the taxable quantum, as provided in clause (a) of sub-section (3), shall be liable to pay tax under this Act by way of VAT on the taxable turnover.

(2) Every person, except a casual trader and one dealing exclusively in goods declared tax free under section 16, whose gross turnover during the year immediately preceding the commencement of this Act or during any year subsequent thereto, exceeded the taxable quantum, as provided in clause (b) of sub-section (3), shall be liable to pay tax under this Act by way of TOT on the taxable turnover.

(3) For the purpose of this section, the expression 'taxable quantum' means-

- (a) for registration as a taxable person for VAT -
 - (i) in relation to any person, who imports taxable goods for sale or use in manufacturing or processing any goods in the State, rupee one;
 - (ii) in relation to a person, who receives goods on consignment/branch transfer basis from within or outside the State on which no tax has been paid under this Act, rupee one;
 - (iii) in relation to a person, liable to pay purchase tax under section 19, rupee one;
 - (iv) in relation to a person, who is a manufacturer, rupees one lac;
 - (v) in relation to a person, who is running a hotel/restaurant, rupees five lac;
 - (vi) in relation to a person, who is running a bakery, rupees ten lac;

- (vii) in relation to voluntary registration, rupees five lac; and
 - (viii) in relation to any other person, rupees fifty lac.
- (b) for registration as a registered person for TOT –

in relation to a person other than those specified in clause (a) whose turnover during the preceding year is more than rupees five lac, but below rupees fifty lac.

(4) Every person, who has become liable to pay tax under this Act, either by way of VAT or TOT, shall continue to be so liable, until the expiry of three consecutive years during each of which his gross turnover does not exceed the taxable quantum and such further period after the date of such expiry, as may be specified by notification by the State Government and on the expiry of such specified period, his liability to pay tax, shall cease.

(5) Every person whose liability to pay tax has ceased under sub-section (4), shall again be liable to pay tax under this Act from the date on which his gross turnover again exceeds the taxable quantum.

(6) Every casual trader shall be liable to pay tax under this Act by way of VAT on the taxable turnover including sales through agent within the State.

**Liability of
person
registered
under the
Central Sales**

7. The person registered under the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956), shall be liable to pay VAT under this Act on any sale made by him within the State, irrespective of the fact that he is not liable to pay tax under section 6 of this Act. However, the provisions of this section shall not apply in case of a person, who deals exclusively in goods declared tax free under section 16.

**Rate of
Value Added
Tax.**

8. (1) Subject to the provisions of this Act, there shall be levied on the taxable turnover of a person other than a registered person, VAT at such rate, as specified in Schedules, but not exceeding thirty paise in a rupee:

Provided that the rate of tax applicable on purchase or sale of declared goods, shall not exceed four percent or such rate, as specified in clause (a) of section 15 of the Central Sales Tax Act, 1956.

(2) Notwithstanding anything contained in this section, where any goods are sold in container or are packed in any packing material, the rate of tax applicable to such container or packing material, shall, whether the price of the container or packing material is charged separately or not, be the same as is applicable to the goods, contained or packed therein and the turnover in respect of the container and packing material, shall be included in the turnover of such goods. Where the goods, sold in container or packed in packing material are tax free, the sale of such container or packing material shall also be tax free.

(3) The State Government after giving fifteen days notice by notification, of its intention so to do, may by like notification, alter the rate of tax specified in any of the Schedules, add to or omit from or otherwise amend the Schedules and thereupon, the Schedule shall be deemed to have been amended accordingly:

Provided that if, the State Government is satisfied that circumstances exist, which render it necessary to take immediate action, it may, for reasons to be recorded in writing, dispense with the condition of previous notice.

**Rate of
Turnover
Tax.**

9. Subject to the provisions of this Act, there shall be levied on the taxable turnover of sales of a registered person, TOT at a rate, not exceeding two paise in a rupee, as the State Government may specify, by notification, in the Official Gazette.

**Rounding off
of tax.**

10. The amount of VAT or TOT shall be calculated to the nearest rupee by ignoring fifty paise or less and counting more than fifty paise as one rupee.

**Bar against
collection of
tax when
not payable.**

11. (1) No person, who, is not registered under this Act or if registered, is not liable to pay tax in respect of any sale or purchase, shall collect any amount by way of tax from any person.

(2) No person, who is registered under this Act, shall collect any amount by way of tax in excess of the amount of tax leviable under this Act.

(3) No person, who is registered under this Act, shall collect any amount by way of tax in respect of sale of goods, which are tax free under section 16.

(4) If a person collects tax in contravention of the forgoing provisions of this Act, he shall be liable to deposit the tax so collected immediately after such collection, in the Government treasury. In the event of failure of such person to deposit the tax, the Commissioner or the designated officer, as the case may be, shall, by order in writing, recover such tax, as per provisions of this Act.

**Liability of
registered
persons.**

12. (1) Liability of a registered person shall be calculated at the rate, specified under section 9.

(2) Sale of taxable goods held in stock by a registered person on the appointed day, which were purchased without payment of tax under the repealed Act, shall be liable to tax at the rate, specified for those goods under this Act.

(3) A registered person, whose registration has been continued under section 21, shall furnish in such form and to such authority, as may be notified, a statement of taxable goods under this Act, held in stock on the appointed day, within a period of thirty days from the appointed day.

(4) A registered person shall not be entitled to input tax credit for any purchase.

(5) A registered person shall issue only a retail invoice for sale made by him and shall not be eligible to issue a VAT invoice.

(6) A registered person shall not be eligible to hold registration under the Central Sales Tax Act, 1956.

Input tax credit.

13. (1) A taxable person shall be entitled to the input tax credit, in such manner and subject to such conditions, as may be prescribed, in respect of input tax on taxable goods, including capital goods, purchased by him from a taxable person within the State during the tax period:

Provided that such goods are for sale in the State or in the course of inter-State trade or commerce or in the course of export or for use in the manufacture, processing or packing of taxable goods for sale within the State or in the course of inter-State trade or commerce or in the course of export:

Provided further that a taxable person shall be entitled to partial input tax credit in any other event, as may be provided in this section in such manner and subject to such conditions as may be prescribed:

Provided further that if, purchases are used partially for the purposes specified in this sub-section and the taxable person is unable to identify the goods used for such purposes, then the input tax credit shall be allowed proportionate to the extent, these are used for such purposes, in the prescribed manner:

Provided further that input tax credit in respect of purchase tax paid or payable by a taxable person under section 19, shall be allowed subject to the conditions laid therein.

(2) Input tax credit shall be allowed only to the extent by which the amount of tax paid in the State exceeds four percent on purchase of goods –

- (a) sent outside the State other than by way of sale in the course of inter-State trade or commerce or in the course of export out of territory of India; and
- (b) used in manufacturing or in packing of taxable goods sent outside the State other than by way of sale in the course of inter-State trade or commerce or in the course of export out of the territory of India.

(3) Where a taxable person sends any goods as such or after being partially processed for further processing on job work basis, he shall debit the ITC by four percent of the value of such goods. If such goods after processing

are received back by such person, the ITC debited at the time of despatch, shall be restored. Such person shall, however, be required to produce proper evidence in the shape of records, challans or memos or any other document evidencing receipt of such goods, whenever asked for.

(4) Input tax credit on furnace oil, transformer oil, mineral turpentine oil, water methanol mixture, naphtha and lubricants, shall be allowed only to the extent by which the amount of tax paid in the State exceeds four per cent:

Provided that these goods are used in production of taxable goods or captive generation of power.

(5) A taxable person under this section, shall not qualify for input tax credit in respect of the tax paid on purchase of, -

- (a) automobiles including commercial vehicles, two wheelers, three wheelers and spare parts for the repair and maintenance thereof, unless the taxable person is in the business of dealing in such automobiles or spare parts;
- (b) petrol, diesel, aviation turbine fuel, liquefied petroleum gas and condensed natural gas, unless the taxable person is in the business of selling such products;
- (c) civil structure and immovable goods or properties;
- (d) office equipment and building material, unless the taxable person is in the business of dealing in such goods;
- (e) furniture fixtures including electrical fixtures and fittings, unless the taxable person is in the business of such goods;
- (f) air-conditioning units, air circulators and refrigeration units, unless the taxable person is in the business of dealing in such goods or where air-conditioning, air circulating or refrigeration is essential for sale or storage of taxable goods or in the manufacturing process of taxable goods;
- (g) weigh bridge, except when installed inside the manufacturing premises for use in the manufacturing process of taxable goods;
- (h) goods used in manufacture, processing or packing of goods specified in Schedule 'A';
- (i) goods used in generation, distribution and transmission of electrical energy unless such generation, distribution and transmission of electrical energy is for captive consumption, in which case, it would be allowed subject to the provisions of sub-section (4) of this section;

- (j) the provisions of food, beverage and tobacco products, unless the taxable person is in the business of selling food, beverage and tobacco products; and
- (k) goods used for personal consumption or gifts.

(6) A person, who was earlier registered for VAT and has subsequently got himself registered for TOT, shall reverse the input tax credit availed by him before such change of option, on the stock of goods held by him on the day, when he is registered as a registered person.

(7) A person, who was earlier registered for TOT and has subsequently got himself registered for VAT, shall not be entitled for input tax credit on the stock of goods held by him on the day, when he got registered as a taxable person and shall be liable to pay TOT on such stock, if sold within thirty days from such date.

(8) A person, who exports goods out of India and has claimed refund of input tax under sub-section (2) of section 18, shall reverse the input tax credit, if any, availed by him on such goods.

(9) A person shall reverse input tax credit availed by him on goods which could not be used for the purposes specified in sub-section (1) of this section or which remained in stock at the time of closure of the business.

(10) Where the selling taxable person has made any modification in respect of a sale by issuance of debit or credit note on the invoice book, the purchasing taxable person shall make necessary adjustment of input tax credit availed.

(11) Input tax credit shall be non-transferable, except where the ownership of the business of a person is entirely transferred.

(12) Save as otherwise provided hereinafter, input tax credit shall be allowed only against the original VAT invoice and will be claimed during the period in which such invoice is received.

(13) In case the original VAT invoice is lost or mutilated, the input tax credit will be available only after the designated officer has determined the credit in the prescribed manner.

(14) If upon audit or cross verification or otherwise, it is found that a taxable person has made a false input tax credit claim, the Commissioner or the designated officer, as the case may be, shall order for recovery of the whole or any part of such input tax credit, as the case may be, without prejudice to any action or penalty provided for in this Act.

(15) The onus to prove that the VAT invoice on the basis of which, input tax credit is claimed, is bonafide and is issued by a taxable person, shall lie on the claimant.

14. (1) A taxable person, who was registered under the repealed Act and whose registration has been continued under section 21, shall be entitled to input tax credit in respect of the tax paid or payable under the repealed Act on the goods, other than capital goods, lying in stock with him on the appointed day, to such extent and in such manner and subject to such conditions, as may be prescribed. He shall, however, be eligible for input tax credit on capital goods, if he is in the business of resale of such goods:

Provided that such stock is out of the purchases made within twelve months prior to the appointed day.

(2) The taxable person, who intends to claim input tax credit under sub-section (1), shall within forty five days from the appointed day, furnish in the specified form to the designated officer, a statement of tax-paid goods held in stock.

(3) Input tax credit shall not be available on goods held in stock on the appointed day in respect of which, deduction from gross turnover was claimed by such person under the repealed Act or rules.

(4) Input tax credit on the stock, held on the appointed day, shall be allowed on the basis of the rate of tax, prevailing on the day preceding the appointed day or on the day of purchase of such goods under the repealed Act or the rate of tax, leviable under this Act, whichever is the lowest.

(5) Input tax credit available under this section, shall be proportionately adjusted in equal installments over a period of one year beginning after three months from the appointed day in such manner, as may be prescribed.

(6) No input tax credit under this section shall be allowed in respect of goods held in stock -

- (a) which are not included in the statement of taxable goods specified under sub-section (2); and
- (b) for which the person does not have in his possession sales vouchers, issued by a person, registered under the repealed Act, against the purchases of the said goods, or which are not recorded in his books of accounts.

(7) Onus to prove that the taxable goods held in the stock on the appointed day, has suffered tax under the repealed Act, shall be on the claimant of input tax credit.

(8) Save as otherwise provided in this section, the provisions of section 13, shall apply *mutatis mutandis* to the input tax credit claimed under this section.

Net tax payable by a taxable person.

15. (1) Subject to the provisions of this Act, the net tax payable by a taxable person for a tax period, shall be determined by deducting the amount of input tax credit

available to him (including input tax credit carried forward from the preceding tax periods, if any) from the output tax, payable by him during the tax period.

(2) If the amount of input tax credit, is more than the amount of output tax, the same may be adjusted, at the option of the taxable person, against the tax liability for the said tax period, if any, under the Central Sales Tax Act, 1956 and only the remaining amount of the Central Sales Tax shall be payable.

(3) Excess amount of input tax credit, if any, after adjustment under subsection (2) shall be adjusted against any outstanding tax, penalty or interest under this Act or under the Central Sales Tax Act, 1956, as the case may be.

(4) Excess amount of input tax credit, if any, after adjustment under subsection (2) and (3), may be carried over to subsequent tax period or at the option of taxable person, on application being made in the prescribed manner, be refunded in accordance with the provisions of this Act.

(5) The net tax payable for a tax period by a person, liable to pay tax, but not registered under this Act, shall be equal to the output tax, payable for the said tax period as per the provisions of this Act and no input tax credit shall be admissible to him.

Tax free

16. No tax shall be payable on the sale of goods specified in Schedule-A and no person including a taxable person or a registered person shall charge tax on the sale of goods which are declared tax free goods under this section.

Zero-rated sales.

17. Where any taxable goods are exported outside the territory of India or are supplied in the course of such export falling within the scope of section 5 of the Central Sales Tax Act, 1956, such sales shall be zero-rated. On such sale, no output tax is payable by any person:

Provided that a taxable person making zero-rated sale shall be eligible for input tax credit in relation to such sales.

Refund of tax to certain categories.

18. (1) The persons or organizations listed in Schedule-G, shall be entitled to claim refund of tax, paid for goods, purchased in the State, on every single purchase, exceeding rupees five thousand, excluding tax amount, on proper application, subject to such conditions, as may be prescribed.

(2) A taxable person shall be entitled to claim refund in respect of input tax paid on goods exported out of the territory of India, subject to such conditions and the manner, as may be prescribed.

CHAPTER – III
LEVY OF PURCHASE TAX

Levy of
purchase tax
on certain

19. (1) Notwithstanding anything contained in this Act, there shall be levied VAT on the taxable turnover of purchase of the goods specified in Schedule-H at the rate applicable to such goods as per the Schedules.

(2) The tax shall be leviable on the first purchase of these goods from within the State. In case of Milk, however, first purchase shall be, when purchase is made by a manufacturer of taxable goods:

Provided that on subsequent sales of such goods, VAT on sale price shall be leviable as per the provisions of this Act.

(3) Subject to the provisions of this Act, the purchaser of the goods, specified in Schedule-H, shall have to be registered for VAT.

(4) The purchase tax paid by a taxable person, shall not be admissible as input tax credit, unless the goods are sold within the State or are used for manufacture of taxable goods in the State for sale or are sold in the course of inter-State trade or commerce or in the course of export:

Provided that if, purchases are used partially for the purpose of manufacture of taxable goods and partially for the purpose of manufacture of tax free goods, then the purchase tax paid by a person shall be allowed to be treated as input tax credit proportionately, to the extent, the purchases are used for such purposes in the prescribed manner.

(5) Input tax credit, on goods liable to tax under sub-section (1), when sold in the course of inter-State trade or commerce, shall be available only to the extent of Central Sales Tax chargeable under the Central Sales Tax Act, 1956.

Levy of tax on turnover of purchase of goods in certain circumstances.

20. (1) Where a taxable person purchases taxable goods from a person other than a taxable person or a registered person, and -

(a) uses such goods in the manufacture of goods, declared tax-free under section 16; or

(b) uses such goods in the manufacture of any goods other than those specified in Schedule-A, and sends the goods so manufactured outside the State otherwise than by way of sale in the course of inter-State trade or commerce or exports out of India; or

(c) disposes of such goods in any manner other than by way of sale in the State; or

(d) despatches them to a place outside the State otherwise than as a result of sale in the course of inter-state sale, trade or commerce or export out of India,

there shall be levied a tax on the taxable turnover of purchases of such goods at the rate applicable to such goods as per the Schedules :

Provided that no tax shall be levied under this section, if a tax has already been paid on such goods under section 19.

(2) Where a registered person purchases taxable goods from a person, other than a taxable person or a registered person, and disposes of such goods in any manner, there shall be levied a tax on the turnover of such purchases at the rate(s) specified in the Schedule(s).

CHAPTER - IV
REGISTRATION

**Persons
liable to
register.**

21. (1) No person other than a casual trader, who is liable to pay tax under this Act, shall carry on business, unless he is registered under this Act.

(2) Every person required to be registered under sub-section (1), shall make an application for registration, within a period of thirty days from the date when such person becomes liable to pay tax under this Act, in the prescribed manner to the designated officer.

(3) If the designated officer is satisfied that the application for registration is in order, he shall, in accordance with such manner and on payment of such fee, as may be prescribed, register the applicant and grant him a registration certificate in the prescribed form:

Provided that if the designated officer is satisfied that the particulars contained in the application are not correct, or are incomplete or that any evidence or information required for registering the applicant, is not furnished, he may, after necessary inquiry and after giving the applicant an opportunity of being heard, reject the application for reasons to be recorded in writing. However, the applicant may submit a fresh application for registration in accordance with the provisions of this Act:

Provided further that during the pendency of an application for registration, he shall file return and pay the due amount of tax, in the prescribed manner.

(4) Where a person has contravened the provisions of sub-section (1), the designated officer shall, subject to action under section 52 or section 60, as the case may be, register such person and grant him a registration and such registration shall take effect as if, it had been granted under sub-section (3) on the application made by the person.

(5) When any person, who was registered before the appointed day under the repealed Act, and continues to be so registered on the day, immediately before such appointed day, and is liable to pay tax under this Act on such appointed day, the designated officer shall, within thirty days of receipt of application in the prescribed form, issue to such person, in the prescribed manner, a fresh registration under this Act for VAT or TOT, as the case may be.

(6) For the purpose of identification of taxpayers, the Commissioner or the designated officer, shall issue a VAT Registration Number (hereinafter in short referred to as VRN) to every taxable person and TOT Registration Number (hereinafter in short referred to as TRN) to every registered person.

(7) Every taxable person or a registered person, who is allocated a registration number, shall mention his VRN or TRN, as the case may be, in all returns, forms or any other documents, used for the purposes of this Act.

(8) Every person, who is liable to pay tax, and who is a Hindu undivided family or an association of persons, club or society or firm or company or, who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall make a declaration to the designated officer, stating the name of the person or persons, who shall be deemed to be the manager or managers of such person's business for the purposes of this Act.

(9) Save as otherwise provided in section 77, a registration, granted under this Act, shall be personal to the person to whom it is granted and shall not be transferable.

**Voluntary
registration
for VAT**

22. (1) Subject to the provisions of sub-section (3) of section 6, any person except one dealing exclusively in goods declared tax-free under section 16, may apply in the prescribed manner to the designated officer for registration under this Act.

(2) The provisions of sub-sections (2), (3) and (5) of section 21, shall apply in respect of applications for registration under this section.

(3) Every person, who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act whether his gross turnover exceeds the taxable quantum or not.

**Amendment
of registration.**

23. The designated officer may from time to time, by order in writing, amend registration on information furnished under section 76.

**Cancellation
of registration.**

24. (1) The designated officer may, on an application made to him, or otherwise, by an order in writing, cancel registration, on -

- (a) an information received that a business, in respect of which a registration was granted under sub-section (3) of section 21, has been discontinued; or
- (b) an information received that the person has violated any of the provisions of this Act or the rules made there-under; or
- (c) non-filing of return or non-payment of due tax under this Act; or
- (d) any other sufficient cause including misuse of the registration or cessation of liability to payment of tax under this Act; or
- (e) the registration granted under the Central Sales Tax Act, 1956, to a person liable to pay tax by virtue of the provisions of section 7, but who is not otherwise liable to pay tax under section 6, has been cancelled.

(2) Where registration is cancelled under this section without making an application by the person concerned, no order for such cancellation shall be passed by the designated officer, without affording an opportunity of being heard.

**Security from
certain
classes of
persons.**

25. (1) Every person applying for registration under this Act, shall furnish a security of rupees fifty thousand in the manner, prescribed for securing proper and timely payments of tax or any other sum, payable by him under this Act:

Provided that the security already furnished by a person registered under the repealed Act, shall be deemed to have been furnished under this Act.

(2) The designated officer granting registration, may, on application made by a person for release, discharge or refund of the security, order the release, discharge or refund of the whole security or any part thereof, furnished by him, if the same is not required.

Explanation.- The designated officer shall not be required to retain security or surety furnished by a person on behalf of a taxable person or registered person, if the registration of such a person has been cancelled under this Act and nothing remains due against such a person.

(3) Where it appears expedient to the designated officer, granting registration, so to do, for the proper realisation of, tax payable under this Act, 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 person, to whom the registration has been granted, to furnish within such time, as may be specified in the order and in the prescribed manner, such additional security, not exceeding rupees two lac in addition to the security, furnished under sub-section (1), as may be specified in the order, for the aforesaid purpose:

Provided that no person shall be required to furnish any additional security under this sub-section, unless he has been given an opportunity of being heard.

(4) The designated officer, granting the registration, may, by an order in writing, for good and sufficient cause, forfeit or realise the whole or any part of the security or additional security furnished by a person for recovery of any amount of tax or penalty due or payable by a person:

Provided that no order shall be passed under this sub-section without giving the person concerned, an opportunity of being heard.

(5) In case the security is rendered insufficient because of the order made under sub-section (4), the person concerned shall furnish further security to make up for the amount, which has fallen short, in such manner and within such time, as may be prescribed.

CHAPTER-V

PROCEDURE AND ADMINISTRATION OF TAX

Returns.

26. (1) Every taxable person shall make self assessment of tax and shall file return for a period, within such time and in such form as may be prescribed.

(2) Every registered person shall make self assessment of tax and shall file return for a period, within such time and in such form as may be prescribed.

(3) Every person shall, in such manner, as may be prescribed, pay into a Government Treasury or any bank authorized to transact Government business or at the District Excise and Taxation Office, the full amount of tax due from him as per provisions of this Act and shall furnish along with the returns, receipt from such Treasury or Bank or District Excise and Taxation Office, as the case may be, showing the payment of such amount:

Provided that no payment of such amount shall be accepted at the District Excise and Taxation Office, except through a bank draft or crossed cheque drawn on a local Scheduled Bank in favour of the designated officer.

(4) If any person referred to in sub-sections (1) and (2), discovers any bonafide error or omission in any return furnished by him, he may rectify such error or omission in the return, due to be filed immediately following the detection of such error or omission. If such rectification results in a higher amount of tax to be due than the original return, it shall be accompanied by a receipt for payment of the additional amount of tax, payable along-with the interest at the rate specified under this Act for the period of delay, in the manner prescribed in sub-section (3). No such rectification shall, however, be allowed after the end of the financial year immediately following the year to which the rectification relates or issue of a notice for audit or assessment whichever, is earlier. Where such rectification results in excess amount of tax having been paid than due, such excess tax shall be refundable on application as per provisions of this Act and the rules framed thereunder. No adjustment shall, however, be allowed for such excess payment.

(5) In addition to any return under sub-sections (1) and (2), the Commissioner or the designated officer may, require a taxable person or a registered person to furnish such further information along-with the returns or at any other time, as may be deemed necessary.

(6) Notwithstanding anything contained in this section, the Commissioner or the designated officer, as the case may be, may by notice, direct a person other than a taxable person or a registered person, to file returns at such intervals and in such form and containing such information, as may be required.

(7) Every taxable person or registered person, as the case may be, shall file an annual statement in such form and in such manner, as may be prescribed.

(8) A taxable person or a registered person, whose registration is cancelled under section 24, shall file such final return, as may be prescribed, within thirty days from the date of cancellation by the Commissioner or the designated officer, as the case may be.

**Tax
deduction
from the
amount
payable to
works**

27. (1) Notwithstanding anything contained in any of the provisions of this Act, every contractee responsible for making payment to any person (hereinafter in this section referred to as the contractor) for discharge of any liability on account of valuable consideration, exceeding rupees five lac in a single contract payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of a works contract, shall, at the time of making such payment to the contractor either in cash or in any other manner, deduct an amount equal to two per cent of such sum towards the tax payable under this Act on account of such contract:

Provided that any individual or Hindu undivided family not registered under this Act, shall not be liable for deduction of such tax.

(2) Any contractor responsible for making any payment or discharge of any liability to any sub-contractor or in pursuance of a contract with the sub-contractor, for the transfer of property in goods (whether as goods or in some other form) involved in the execution whether wholly or in part, of the work undertaken by the contractor, shall, at the time of such payment or discharge, in cash or by cheque or draft or by any other mode, deduct an amount, equal to two per cent of such payment or discharge, purporting to be a part of the tax, payable under this Act on such transfer, from the bills or invoices raised by the sub-contractor, as payable by the contractor.

(3) Every person liable to deduct tax at source under sub-section (1) or sub-section (2), as the case may be, shall make an application in the prescribed manner to the designated officer for allotment of Tax Deduction Number. The designated officer, after satisfying that the application is in order, shall allot Tax Deduction Number.

(4) The amount deducted under sub-section (1) or sub-section (2), as the case may be, shall be deposited into the Government Treasury by the person making such deduction in the prescribed manner and shall also file a return of tax deduction and payment thereof in such form and in such manner, as may be prescribed.

(5) Any deduction made in accordance with the provisions of this section and credited into the Government Treasury, shall be treated as payment towards the tax payable on behalf of the person from whose bills and invoices, the deduction has been made and credit shall be given to him for the amount so deducted on the production of the certificate, in the prescribed form in this regard.

(6) If any contractee or the contractor, as is referred to in sub-section (1) or sub-section (2), as the case may be, fails to make the deduction or after deducting such amount fails to deposit the amount so deducted, the designated officer may, after giving an opportunity of being heard, by order in writing, direct that the contractee or the contractor shall pay, by way of penalty, a sum, equal to the amount deductible under this section, but not so deducted, and if deducted, not so deposited into the Government Treasury.

(7) Without prejudice to the provision of sub-section (6), if any contractee or the contractor, as the case may be, fails to make the deduction or after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the rate of one and half per cent per month on the amount deductible under this section, but not so deducted and, if deducted, but not so deposited, from the date on which such amount was deductible to the date, on which such amount is actually deposited.

(8) Where the amount has not been deposited after deduction, such amount together with interest referred to in sub-section (7), shall be a charge upon all the assets of the person concerned.

(9) Payment by way of deduction in accordance with sub-section (1) or sub-section (2), shall be without prejudice to any other mode of recovery of tax, due under this Act from the contractor or the sub-contractor, as the case may be.

(10) Where on an application being made by any contractor or sub-contractor, the Commissioner or designated officer is satisfied that no deduction of tax or deduction of tax at a lower rate is justified, he shall grant him such certificate permitting no deduction of tax or deduction of tax at a lower rate, as the case may be. On furnishing of such certificate, the person responsible for deduction of tax, shall comply with such certificate.

Audit of returns.

28. (1) The Commissioner or the designated officer with a view to ascertain the correctness of the returns in general and admissibility of various claims, including input tax credit and refund, may audit or cause to be audited, any of the returns filed, documents or information or statutory forms submitted by a person, subject to such conditions and in such manner, as may be prescribed.

(2) For the purpose of audit under sub-section (1), the Commissioner or any designated officer, may, after due notice to the person to be audited, proceed to examine the records, stock in trade and the related documents of the person. Such examination of records can be undertaken in any office of the Excise and Taxation Department of the State or at the business premises of the person.

(3) The audit under sub-section (1), may be carried out within a period of six years from the date of furnishing of returns.

Assessment of tax.

29. (1) Where a return has been filed under sub section (1) or sub-section (2) of section 26 or in response to a notice under sub section (6) of section 26, if any tax or interest is found due on the basis of such return, after adjustment of any tax paid on self-assessment and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the person specifying the sum so payable, and such intimation shall be deemed to be a notice of demand issued under sub-section (11) and all the provisions of this Act shall apply accordingly :

Provided that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section in case, either no sum is payable by the person or no refund is due to him:

Provided further that no intimation under this sub-section shall be sent after the expiry of one year from the end of financial year in which the return is filed.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner or the designated officer, as the case may be, may, on his own motion or on the basis of information received by him, order or make an assessment of the tax, payable by a person to the best of his judgement and determine the tax payable by him, where, -

(a) a person fails to file a return under section 26 ; or

- (b) there are definite reasons to believe that a return filed by a person is not correct and complete; or
- (c) there are reasonable grounds to believe that a person is liable to pay tax, but has failed to pay the amount due; or
- (d) a person has availed input tax credit for which he is not eligible; or
- (e) provisional assessment is framed.

(3) The Commissioner on his own motion or on the basis of information received by him may, by an order in writing, direct the designated officer to make an assessment of the amount of tax payable by any person or any class of persons for such period, as he may specify in his order.

(4) An assessment under sub-section (2) or sub-section (3), may be made within three years after the date when the annual statement was filed or due to be filed, whichever is later:

Provided that where circumstances so warrant, the Commissioner may, by an order in writing, allow assessment of a taxable person or of a registered person after three years, but not later than six years from the date, when annual statement was filed or due to be filed by such person, whichever is later.

(5) Where an assessment is to be made under this section, the designated officer shall, serve a notice to the person to be assessed and such notice shall state-

- (a) the grounds for the proposed assessment; and
- (b) the time, place and manner for filing objections, if any.

(6) The designated officer, after taking into account all relevant material, which the officer has gathered, shall on the day specified in the notice issued under sub-section (5) or as soon afterwards as may be, after hearing such evidence, as the assessee may produce, by an order in writing, make an assessment determining the sum payable or refund of any sum due to him on the basis of such assessment.

(7) The designated officer may, with the prior permission of the Commissioner, within a period of three years from the date of the assessment order, amend an assessment, made under sub-section (2) or sub-section (3), if he discovers under-assessment of tax, payable by a person for the reason that,-

- (a) such a person has committed fraud or wilful neglect; or
- (b) such a person has misrepresented facts; or
- (c) a part of the turnover has escaped assessment:

Provided that no order amending such assessment, shall be made without affording an opportunity of being heard to the affected person.

(8) The designated officer may, within a period of one year from the date of the assessment order, rectify an assessment, made under sub-section (2) or sub-section (3), if he discovers that there is a mistake apparent from record:

Provided that no order rectifying such assessment shall be made without affording an opportunity of being heard to the affected person.

(9) An assessment under sub-sections (7) and (8) shall be an assessment made under this Act for all intents and purposes.

(10) No assessment or other proceedings purported to be made, or executed under this Act or the rules made thereunder, shall be, -

(a) quashed or deemed to be void only for the reason that the same were not in the prescribed form; or

(b) affected by reason of a mistake, defect or omission therein:

Provided that such an assessment is substantially in conformity with this Act or according to the intent and meaning of this Act and the rules made thereunder.

(11) When any tax, interest, penalty or any other sum is payable in consequence of any order passed under this Act, the designated officer shall serve upon the person a notice of demand in the prescribed form specifying the sum so payable.

**Provisional
assessment.**

30. (1) Notwithstanding anything contained in section 29, where fraud or willful neglect has been committed with a view to evade or avoid the payment of tax or due tax has not been paid or a return has not been filed by or on behalf of a person, the designated officer may, for the reasons to be recorded in writing, make provisional assessment for any period to determine the tax liability so evaded, avoided or unpaid:

Provided that tax liability of such a person shall be assessed finally after he files his return in the prescribed manner.

(2) The provisional assessment under sub-section (1) shall be made within a period of six months from the date of detection. The Commissioner may, however, for reasons to be recorded in writing, extend the said period by another six months in a particular case referred to him by the designated officer.

**Tax liability
of a casual**

31. (1) If a casual trader organizes a business event for sale or purchase of taxable goods in the State, he shall apply for permission to do so to the designated officer in the prescribed form, along- with such fee, as may be prescribed.

(2) The designated officer on receipt of the application, may grant permission in the prescribed form, subject to such conditions, as may be prescribed.

(3) Where a business event for sale or purchase of taxable goods is organized by a taxable person or a registered person, he shall before organizing such event inform the designated officer in the prescribed manner.

(4) A casual trader organizing the business event, shall furnish, such amount of security, in the prescribed manner, as may be determined by the designated officer, keeping in view the nature and quantum of business, likely to be undertaken by the casual trader, but not exceeding rupees one lac.

(5) A casual trader, who brings taxable goods from outside the State, shall report to the nearest Information Collection Centre or check post on entry in the State, in the prescribed form by giving full detail of such goods, in the prescribed manner.

(6) A casual trader, shall make the payment of tax in such manner, as may be prescribed, and shall immediately on completion of such business event or the period for which the permission was granted by the designated officer, whichever is earlier, report to the designated officer, about the total amount of sales or purchases, the tax payable thereon and the tax paid and shall deposit the amount of balance tax, if any, in the Government treasury within such time and in such manner, as may be prescribed.

(7) Where a casual trader fails to apply for permission as required under sub-section (1) or fails to make a report as required under sub-sections (5) and (6), the designated officer shall assess to the best of his judgement, the amount of tax due and direct such person to pay the amount of tax within such time and in such manner, as may be prescribed:

Provided that no amount of tax under this sub-section shall be assessed without affording an opportunity of being heard to the casual trader.

(8) The provisions relating to penalty, interest and recovery of this Act shall mutatis mutandis apply to the tax payable by a casual trader under this section.

Explanation. - For the purpose of this section, “business event” shall include an event like exhibition-cum-sale, seasonal clearance-cum-sale or any such like activity where occasional transaction in the nature of business, is carried out.

Interest for
non-payment
or delayed
payment of

32. (1) If any person fails to pay the amount of tax due from him as per provisions of this Act, he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due from him at the rate of **half per cent** per month from the due date for payment till the date, he actually pays the amount of tax.

(2) If a person having furnished a return under this Act, rectifies any error or omission as per sub-section (4) of section 26, which results in higher amount of tax to be due than the original return, such a person shall be liable to pay interest at the rate of one and half per cent per month, in respect of the additional amount of tax payable from the due date for payment till the date, he actually pays the additional amount of tax.

(3) If a person fails to declare the amount of tax in a return, which should have been declared, such a person shall be liable to pay simple interest at the rate of one and half per cent per month on such amount of tax from the due date for payment till the date, he actually pays such amount of tax.

(4) If the amount of tax or penalty due from a person is not paid by him within the period specified in the notice of demand, or if no period is specified, within thirty days from the service of such notice, the person shall in addition to the amount of tax or penalty, be liable to pay simple interest on such amount at the rate of one and half per cent per month from the date immediately following the date, on which the period specified in the notice or the period of thirty days, as the case may be, expires till the date, he actually pays such amount of tax or penalty, as the case may be:

Provided that where the recovery of any tax or penalty is stayed by an order of any competent authority or any Court, the amount of tax or penalty shall, after the order of stay is vacated, be recoverable alongwith interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date, the tax or penalty had first become due.

- (5) The amount of interest payable under this section shall, -
- (a) be calculated by considering part of a month as one month;
 - (b) for the purposes of collection and recovery, be deemed to be tax under this Act; and
 - (c) be in addition to the penalty, if any, imposed under this Act.

Explanation. – If payment of the amount of tax is made by any person through cheque and the same is dishonoured by the bank, it will amount to failure on the part of the person to pay the amount of tax.

CHAPTER-VI

PAYMENT AND RECOVERY OF TAX

Due date of payment.

33. Value Added Tax or Turnover Tax due or payable under this Act, shall be paid,-

- (a) in the case of a taxable person whose gross turnover exceeds rupees one crore in the previous year, on monthly basis by such date, as may be prescribed;
- (b) in the case of a taxable person whose turnover is less than one crore in the previous year, by the date, the return for such a period is required to be filed or as may be prescribed;
- (c) in case of tax due as per assessment made under this Act, by the date, specified in the notice of demand or within a period of thirty days of the order, which ever is earlier;
- (d) in the case of turnover tax payable by a registered person under this Act, by the date, the return for the period is required to be filed;
- (e) in the case of a casual trader, by such date as may be prescribed; and

- (f) in any other case, the tax shall be payable by such date, as may be specified by the designated officer.

Tax as a debt due to the State Government.

34. Tax or any other amount due or payable by a person under this Act, shall be a debt, due to the State Government and shall be payable or recovered as per the provisions of this Act, and the rules framed thereunder.

Liability under this Act to be the first charge.

35. Notwithstanding anything to the contrary contained in any contract or law for the time being in force, any amount of tax, penalty, interest and any other sum, payable by a taxable, registered or any other person under this Act, shall be the first charge on the property of such person from the date on which the amount becomes due and payable.

Arrear recoverable as arrears of land revenue.

36. The amount of any tax, penalty, interest or any other sum due and payable under this Act, which remains unpaid after the due date, shall be recoverable as arrears of land revenue.

Adjustment of any payment.

37. Payment made by a person towards the amount, due as a result of any order passed under this Act, shall first be adjusted, except in so far as the recovery of the said amount or part thereof is stayed under the provisions of this Act, against the interest payable by him on the date of payment and thereafter towards the amounts due as a penalty. Any amount remaining unadjusted, shall be adjusted towards the tax payable.

Restrictions on transfer of property.

38. No person against whom any recovery proceedings under the provisions of this Act are pending, shall create a charge on or part with the possession by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever, of any of his assets, with the intention to avoid or evade payment of any tax, penalty, interest or any other sum due or likely to become due. In case, any charge or transfer is made in violation of the provisions of this section, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the taxable person, registered person or any other person, till the completion of the said proceedings:

Provided that such charge or transfer shall not be void, if it is made with the previous permission of the designated officer or the tax or any other amount due from such a person, has been fully secured for payment by furnishing a bank

guarantee. In case of outstanding arrears, the designated officer shall inform the appropriate Registering Authority about the liabilities under this Act.

Explanation.- In this section 'assets' means land, building, machinery, plant, shares, securities and fixed assets, charged to the banks to the extent, to which any of the assets, do not form part of the stock in trade of the business of the person.

CHAPTER VII

REFUND

Refund of tax.

39. (1) Subject to the provisions of this Act and the rules made thereunder, the Commissioner or the designated officer shall, in such manner and within such period, as may be prescribed, refund to a person, the amount of tax, penalty or interest, if any, paid by such person in excess of the amount due from him and also the excess of input tax credit over output tax payable under this Act. The refund may either be by refund voucher or at the option of the person, by refund adjustment order as may be specified:

Provided that, the Commissioner or the designated officer shall first apply such excess amount towards the recovery of any amount due in respect of which a notice under section 29 has been issued or any amount, which is due, but not paid, as the case may be, and shall refund the balance, if any.

(2) Where any refund is due to any taxable person or registered person according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 26 for any subsequent period:

Provided that the amount of tax or penalty or interest or all of these, due from, and payable by, the taxable person or the registered person, as the case may be, on the date of such adjustment, shall first be deducted from such refund while making adjustment:

Provided further that where an application for claim of refund is submitted by a person on the basis of his monthly return, the designated officer shall provisionally allow seventy five per cent of the amount of such claim, against submission of indemnity bond in the prescribed form for the amount, equal to the amount of refund claimed in the application, and after the receipt of the forthcoming quarterly returns, the designated officer shall cross check the transactions, and after satisfying about the genuineness of the claim, he shall determine the final amount of refund.

**Interest on
delayed
refund.**

40. Where an amount required to be refunded by the Commissioner or the designated officer, to any person, is not so refunded to him within a period of sixty days from the date of the application, a simple interest at the rate of half per cent per month on the said amount shall be paid to such person from the date, immediately following the expiry of the period of sixty days to the date of the refund.

Explanation.- (1) If the delay in granting the refund within the aforesaid period of **sixty** days is attributable to the taxable person or the registered person, as the case may be, whether wholly or in part, the period of the delay attributable to him, shall be excluded from the period for which interest is payable.

(2) Where any question arises as to the period to be excluded in terms of Explanation (1), for the purposes of calculation of interest, such question shall be determined by the Commissioner, whose decision shall be final.

(3) Interest under this section, shall be calculated by considering part of the month as one month.

**Power to
withhold
refund in
certain cases.**

41. (1) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the officer competent to grant such refund is of the opinion that the grant of the refund is likely to adversely affect the revenue, such officer may, with the previous approval of the Commissioner, withhold the refund till such time, as may be determined.

(2) Where a refund is withheld under sub-section (1), the Commissioner shall pay interest in accordance with the provisions of section 40 on the amount of refund ultimately determined to be due to the person as a result of appeal or further proceeding or any other proceeding for the period, from the date, immediately following the expiry of the period of ninety days from the date of the order referred to in sub-section (1), to the date of refund.

CHAPTER-VIII

LIABILITY TO PRODUCE ACCOUNTS

Accounts.

42. (1) Every taxable person, registered person, casual trader or any other person, who is required so to do by the Commissioner or the designated officer by notice served on him, shall keep a true account of the goods sold and purchased by him.

(2) If the officer referred to in sub-section (1), considers that the accounts kept are not sufficiently clear or intelligible to determine, whether or not a person is liable to pay tax during any period or the accounts are so kept as not to enable a proper scrutiny of the returns or the statements furnished, he may require such person by notice in writing to keep such accounts, including records of sales or purchases in such form or manner, as in his opinion are necessary for the purpose of proper assessment of tax.

(3) Every taxable person and registered person shall keep all his account books including those relating to his stock of goods or to purchases, sales and delivery of goods made by him or payments made or received, at the place or places of business,

specified in his registration certificate or with the previous approval of the Commissioner or the designated officer at such other place or places, as may be allowed.

(4) Every person, shall produce all account books relating to his business, if so required by the designated officer, for the purpose of authentication in the manner as may be prescribed.

**Audit of
accounts by
Chartered
Accountant.**

43. Every person whose gross turnover in a year exceeds the prescribed limit, shall have his accounts audited by an accountant and shall submit to the designated officer a VAT audit report in the prescribed form duly signed by such accountant and setting forth such particulars and certificates, as may be prescribed.

Explanation. – In this section “accountant” means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 (Central Act No. 38 of 1949), and includes any person, who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (Central Act No. 1 of 1956), is entitled to be appointed to act as an auditor of companies.

**Period of
retention of
accounts.**

44. Every person required under this Act to keep and maintain account books or other records, shall retain them until the expiry of six years after the end of the year to which these relate or for such other period, as may be required or until the assessment becomes final, whichever is later.

**Taxable person
and registered
person to
issue invoice.**

45. (1) Every taxable or registered person or an agent of such person shall, in respect of the goods sold by him or on his behalf for the value, exceeding rupees one hundred, issue to the purchaser, in such manner, a VAT invoice or a retail invoice, as the case may be, containing such information, as may be prescribed.

(2) Each sale below rupees one hundred, where a VAT invoice or a retail invoice has not been issued, shall also be recorded in the account books on daily basis.

(3) Notwithstanding anything contained in sub-sections (1) and (2) where a purchaser asks for an invoice, it shall be issued by the person irrespective of the fact that value of the goods sold is less than rupees one hundred.

(4) Where the goods are transferred otherwise than by way of sale, the taxable or registered person shall, in respect of the goods transferred or consigned by him or on his behalf, issue to the consignee a delivery challan in such manner and containing such particulars, as may be prescribed.

(5) Where a taxable person returns any goods purchased by him from another taxable person, against a VAT invoice, he shall issue to the selling taxable person at the time of return of the goods, a delivery cum debit note on the invoice book and shall reverse the input tax credit availed by him in respect of those goods.

Production and inspection of accounts, impounding of documents, search of premises and seizure of goods.

46. (1) The Commissioner or the designated officer, as the case may be, may, subject to such conditions, as may be prescribed, require any taxable person, registered person or any other person to produce before him any account and document or to furnish any information, relating to stocks of goods or sale, purchase and delivery of goods or payments made or received by the person or any other information relating to his business, as may be necessary.

(2) All accounts, registers and documents relating to stocks of goods or purchase, sale and delivery of goods, payments made or received by any taxable person, registered person or any other person and all goods kept in any place of business of any person, shall at all reasonable times be provided for inspection by an officer referred to in sub-section (1), and that officer may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of the goods, as appear to him to be necessary.

(3) If the officer referred to in sub-section (1), has reason to believe that any taxable person, registered person or any other person has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents, as may be necessary and shall issue a receipt for the same. The said officer shall retain such accounts, registers or documents for a period not exceeding thirty days in case of current account books and sixty days for old account books. The officer may, however, in case he finds any information necessary for further investigation, retain a photocopy of the documents, which shall be authenticated by the person himself and shall be treated as original.

(4) For the purpose of sub-section (2) or sub-section (3), the said officer may enter and search any place of business or any other place where he has reason to believe that the taxable person or registered person keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business:

Provided that no officer shall enter and search any premises, without prior permission of the Commissioner or of such other officer not below the rank of Assistant Excise and Taxation Commissioner, as the Commissioner may, authorize in writing.

(5) Where any books of accounts, documents, cash or goods are found in the possession or control of any person in the course of any search, it shall be presumed, unless the contrary is proved, that such books of accounts, documents, cash or goods belong to such person whose place of business is inspected.

(6) Any officer empowered to act under sub-section (2) or sub-section (3), shall have power to seize any goods, which are found in any office, shop, godown, vessel,

vehicle or any other place of business, but not accounted for by the person in his books, accounts, registers, records and other documents:

Provided that a list of all the goods seized under this sub-section, shall be prepared by such officer and be signed by the officer and two independent witnesses, and a receipt of the goods shall be given to the person from whose possession or control these are seized.

(7) The officer shall have the power to record the statement of a person 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.

(8) The Officer after seizing the goods, may hand over the goods on sapurdari to the owner of the goods or a person duly authorized by such owner with the direction that he shall not part with the goods till verification is done or inquiry is made by such officer. The Officer shall make necessary verification or inquiry within a period of fifteen days from the date of handing over the seized goods.

(9) The officer may release the goods, seized under sub-section (6), to the owner of the goods or to the person duly authorised by such owner, during the course of the proceedings, on furnishing security for an amount equal to the value of the goods to the satisfaction of such an officer.

(10) If the officer, on inquiry or verification is satisfied that the seized goods are not accounted for or that the person has attempted to evade payment of tax in respect of such goods, he shall, after giving the person an opportunity of being heard, impose penalty as per provisions of this Act.

(11) The penalty referred to under sub-section (10), shall be deposited by the person in the prescribed manner within a period of thirty days from the service of the notice. If the person does not deposit the penalty, the officer shall cause the goods to be sold in such manner, as may be prescribed and apply the sale proceeds thereof towards the penalty and tax and refund the balance, if any, to the owner or the person duly authorised by the owner of such goods, subject to provisions of section 37. In the event of the goods having been released against security under sub-section (9), the amount of penalty imposed, shall be recovered out of such security.

(12) Where the officer, seizing the goods or any other officer, as the case may be, is of the opinion that the goods are subject to speedy and natural decay or where the tax or penalty, as the case may be, is not deposited in accordance with the provisions of this Act, he may, without prejudice to any other action that may be taken in accordance with other provisions of this Act, cause the goods to be sold by public auction in the prescribed manner. The sale proceeds of such goods shall be adjusted towards the expenses of auction and amount of tax, penalty and interest, if, any. The balance, if any, shall be refunded to the person concerned in accordance with the provisions of this Act.

(13) Notwithstanding anything to the contrary contained in this Act, all the provisions of this section shall mutatis mutandis apply to an un-registered person, who

has failed to apply for registration for VAT or TOT, if the designated officer is satisfied on the basis of definite information that such a person is liable to pay tax under this Act.

Cross-checking of transactions.

47. (1) With a view to prevent evasion of tax and to ensure proper compliance of the provisions of this Act, the Commissioner or the designated officer may, from time to time, collect information in respect of sales and purchases effected by a person, class or group of persons and cause any of such sales and purchases to be cross-checked.

(2) The officer referred to in sub-section (1), may from time to time, require a person, class or group of persons to furnish such information, details and particulars, as may be specified in respect of sales and purchases effected by them during a particular period, to such authority and by such date, as may be required.

(3) The Commissioner or the designated officer, as the case may be, shall cause any of such transactions to be cross-checked by reference to the books of accounts of the purchasing and selling persons. For this purpose, the designated officer shall send a notice to the person, whose books of accounts are required for the purpose of cross-checking, stating therein the details of the transactions proposed to be cross-checked and the time and date on which any officer, duly authorized to cross check the transactions, shall visit the place, where the books of accounts are kept by the taxable person or registered person or any other person.

Survey.

48. (1) With a view to identify persons, who are liable to pay tax under this Act, but have remained unregistered, the Commissioner may, from time to time, order survey of such unregistered persons to be conducted.

(2) The Commissioner or the designated officer, for the purpose of conducting survey under sub-section (1), may, by giving a notice, require any person, class or group of persons, to furnish the names, addresses and other particulars of the person or persons, who have purchased any goods from or sold any goods to any such person, class or group of persons during a given period.

(3) The officer referred to in sub-section (2), may, by issuing a notice, call for details and particulars of the services, provided by the financial institutions, Banking companies and other institutions, which shall be relevant and useful for the purpose of the survey. He may, from time to time, cause the results of the survey to be published in any manner that he deems proper. However, such publication shall not disclose or indicate the identity of any particular unregistered person identified during the survey.

(4) The officer referred to in sub-section (2), may, for the purpose of the survey, enter the place of business of a person, who is unregistered or has not applied for registration under this Act irrespective of the fact whether such place is the principal place of business or not of a person and he may, require any proprietor, partner, employee or any other person, who may at that time be attending to, in any manner or helping in the business -

- (a) to afford him the necessary facility to inspect such account books, as he may require or which may be available at such place;
- (b) to afford him the necessary facility to check or verify the stock or other things, which may be found therein; and
- (c) to furnish such information, as he may require in respect of any matter, which may be useful for or relevant to any proceedings under this Act.

Explanation. – A place of business, will also include any other place in which the person, engaged in business, or the said employee or other person attending to or helping in business states that any of the books of accounts or other documents or any part of cash, stock or other valuable articles or things relating to the business, are or is kept.

(5) The officer referred to in sub-section (2), shall enter the place of business only during the hours at which such place is open for business after sunrise and before sunset. The Commissioner or the designated officer may, make or cause to be made extracts or copies from books of accounts and other documents, inspected by him, make an inventory of any stock or other things checked or verified by him, and record the statement of any person, which may be useful for or relevant to, any proceedings under this Act.

(6) The officer referred to in sub-section (2), in exercise of the powers conferred under this section, shall on no account, remove or cause to be removed from the place, where he has entered any books of accounts, other documents or any stock or other things.

Power to collect statistics.

49. (1) The Commissioner may, for the purposes of better administration of this Act, direct that statistics be collected relating to any matter under this Act.

(2) Upon the direction made under sub-section (1), the Commissioner or the designated officer may, if found necessary, by notice in leading newspapers or in such other manner, as the Commissioner or the designated officer may deem fit, call upon all persons or any class or group of persons to furnish such information or returns, as may be stated therein for the purpose of collection of statistics.

(3) Without prejudice to the generality of the foregoing provisions, the State Government may provide that every person or class or group of persons, registered under this Act, shall furnish, in addition to any other returns, provided for elsewhere, an annual return in such form, by such date and to such authority, as may be notified, and different provisions may be made for different classes or group of persons.

Publication and disclosure of information in public interest.

50. (1) Notwithstanding anything contained in section 69, if the State Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any person or persons and any other particulars relating to any proceedings under this Act in respect of such person or persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner, as it may deem fit.

(2) No publication or disclosure under this section, shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction inflicted for any offence, connected with any proceeding under this Act, until the time for presenting an appeal to the appropriate appellate authority has expired, if the appeal has not been filed or if the appeal has been filed, the same has been disposed of.

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

CHAPTER-IX

ESTABLISHMENT OF

INFORMATION COLLECTION CENTRES

Establishment of information collection centres or check posts and inspection of goods in transit.

51. (1) If, with a view to prevent or check avoidance or evasion of tax under this Act, the State Government considers it necessary so to do, it may, by notification, direct for the establishment of a check post or, information collection centre or both at such place or places, as may be specified in the notification.

(2) The owner or person Incharge of a goods vehicle shall carry with him a goods vehicle record, goods receipt, a trip sheet or a log-book, as the case may be, and a sale invoice or bill or cash memo, or delivery challan containing such particulars, as may be prescribed, in respect of such goods meant for the purpose of business, as are being carried in the goods vehicle and produce a copy each of the aforesaid documents to an officer Incharge of a check post or

information collection centre, or any other officer not below the rank of an Excise and Taxation Officer checking the vehicle at any place:

Provided that a person selling goods from within or outside the State in the course of inter-State trade or commerce, shall also furnish or cause to be furnished a declaration with such particulars, as may be prescribed:

Provided further that a taxable person, who sells or despatches any goods from within the State to a place outside the State or imports or brings any goods or otherwise receives goods from outside the State, shall furnish particulars of the goods in a specified form obtained from the designated officer, duly filled in and signed.

(3) At every check post or information collection centre or at any other place when so required by an officer referred to in sub-section (2), the driver or any other person Incharge of the goods vehicle shall stop the vehicle and keep it stationary, as long as may reasonably be necessary, and allow the officer Incharge of the check post or the information collection centre or the aforesaid officer to check the contents in the vehicle by breaking open the package or packages, if necessary, and inspect all records relating to the goods carried, which are in the possession of the driver or any other person, as may be required by the aforesaid officer, and if considered necessary, such officer may also search the goods vehicle and the driver or other person Incharge of the vehicle or of the goods.

(4) The owner or person Incharge of a goods vehicle entering the limits or leaving the limits of the State, shall stop at the nearest check post or information collection centre, as the case may be, and shall furnish in triplicate a declaration mentioned in sub-section (2) alongwith the documents in respect of the goods carried in such vehicle before the officer Incharge of the check post or information collection centre. The officer Incharge shall return a copy of the declaration duly verified by him to the owner or person Incharge of the goods vehicle to enable him to produce the same at the time of subsequent checking, if any:

Provided that where a goods vehicle bound for any place outside the State passes through the State, the owner or person Incharge of such vehicle shall furnish, in duplicate, to the officer Incharge of the check post or information collection centre, a declaration in respect of his entry into the State in the prescribed form and obtain from him a copy thereof duly verified. The owner or person Incharge of the goods vehicle, shall deliver within forty-eight hours the aforesaid copy to the officer Incharge of the check post or information collection centre at the point of its exit from the State, failing which, he shall be liable to pay a penalty to be imposed by an order, made by the officer incharge of the

check post or information collection centre equal to fifty per cent of the value of the goods involved:

Provided further that where the goods carried by such vehicle are, after their entry into the State, transported outside the State by any other vehicle or conveyance, the burden of proving that the goods have actually moved out of the State, shall lie on the owner or person Incharge of the vehicle:

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

(5) At every station of transport of goods, bus stand or place of loading or unloading of goods, when so required by the Commissioner or the designated officer, the driver or the owner of the goods vehicle or the employee of transport company or goods booking agency, shall produce for examination, transport receipts and all other documents and accounts books concerning the goods carried, transported, loaded, unloaded, consigned or received for transport, maintained by him in the prescribed manner. The Commissioner or the designated officer shall, for the purpose of examining that such transport receipts or other documents or account books are in respect of the goods carried, transported, loaded, unloaded or consigned or received for transport, have the powers to break open any package, or packages of such goods.

(6) (a) If the officer Incharge of the check post or information collection centre or any other officer as mentioned in sub-section (2), has reasons to suspect that the goods under transport are meant for trade and are not covered by proper and genuine documents as mentioned in sub-section (2) or sub-section (4), 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 person concerned, order detention of the goods alongwith the vehicle for a period not exceeding seventy-two hours. Such goods shall be released on furnishing of security or executing a bond with sureties in the prescribed form and manner by the consignor or the consignee, if registered under this Act to the satisfaction of the officer on duty and in case the consignor or the consignee is not registered under this Act, then on furnishing of a security in the form of cash or bank guarantee or crossed bank draft, which shall be equal to the amount of penalty leviable rounded upto the nearest hundred.

(b) If the owner or the person Incharge of the goods has not submitted the documents as mentioned in sub-sections (2) and (4) at the nearest check post or information collection centre, in

the State, as the case may be, on his entry into or before exit from the State, such goods shall be detained alongwith the vehicle for a period not exceeding seventy-two hours subject to orders under clause (c) of sub-section (7).

- (7) (a) The officer detaining the goods under sub-section (6), shall record the statement, if any, given by the consignor or consignee of the goods or his representative or the driver or other person Incharge of the goods vehicle and shall require him to prove the genuineness of the transaction before him in his office within the period of seventy-two hours of the detention. The said officer shall, immediately thereafter, submit the proceedings alongwith the concerned records to the designated officer for conducting necessary enquiry in the matter;
- (b) The designated officer shall, before conducting the enquiry, serve a notice on the consignor or consignee of the goods detained under clause (a) of sub-section (6), and give him an opportunity of being heard and if, after the enquiry, such officer finds that there has been an attempt to avoid or evade the tax due or likely to be due under this Act, he shall, by order, impose on the consignor or consignee of the goods, a penalty, which shall be equal to thirty per cent of the value of the goods. In case he finds otherwise, he shall order release of the goods and the vehicle, if not already released, after recording reasons in writing and shall decide the matter finally within a period of fourteen days from the commencement of the enquiry proceedings;
- (c) The officer referred to in clause (b), before conducting the enquiry, shall serve a notice on the consignor or consignee of the goods detained under clause (b) of sub-section (6) and give him an opportunity of being heard and if, after the enquiry, such officer is satisfied that the documents as required under sub-sections (2) and (4), were not furnished at the information collection centre or the check post, as the case may be, with a view to attempt to avoid or evade the tax due or likely to be due under this Act, he shall by order, for reasons to be recorded in writing, impose on the consignor or consignee of the goods, penalty equal to fifty per cent of the value of the goods involved. In case, he finds otherwise, he shall order release of the goods for sufficient reasons to be recorded in writing. He may, however, order release of the goods and the vehicle on furnishing of a security by the consignor or the consignee in the

form of cash or bank guarantee or crossed bank draft for an amount equal to the amount of penalty imposable and shall decide the matter finally within a period of fourteen days from the commencement of the enquiry proceedings;

- (d) The officer incharge of a check post or information collection centre or any other officer referred to in sub-section (2), may receive the amount of cash security as referred to in clause (a) of sub-section (6) and clause (c) of sub-section (7) and the amount of penalty imposed under sub-section (4) and clauses (b) and (c) of sub-section (7) against a proper receipt in the prescribed manner.

Explanation. -The detained goods and the vehicle shall continue to be so detained beyond the period specified in sub-sections (6) and (7), unless released by the detaining officer or enquiry officer against surety or security as provided for in these sub-sections or the penalty imposed, has been realized or the enquiry officer orders release of the detained goods after enquiry, whichever is earlier.

(8) In the event of the consignor or consignee of the goods not paying the penalty imposed under sub-section (7), within thirty days from the date of the communication of the order imposing the penalty, the goods detained, shall be liable to be sold by the officer, who imposed the penalty for realization of the penalty, by public auction in the prescribed manner. If the goods detained are of perishable nature or subject to speedy or natural decay or when the expenses of keeping them in custody are likely to exceed their value, the officer Incharge of the check post or information collection centre or any other officer referred to in sub-section (2), as the case may be, shall order immediately to sell such goods or otherwise dispose them off after giving notice to the consignor or consignee in the prescribed manner. The sale proceeds shall be deposited in the State Government Treasury and the consignor or consignee of the goods shall be entitled to only the balance amount of sale proceeds after deducting the amount of penalty, interest and expenses and other incidental charges incurred in detaining and disposing of the goods:

Provided that if the consignor or consignee of the goods does not come forward to claim the goods, then the entire sale proceeds, shall be deposited in the State Government Treasury and no claim for balance amount of sale proceeds shall be entertained from any other person.

(9) The officer detaining the goods shall issue to the owner of the goods or his representative or the driver or the person Incharge of the goods vehicle, 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 acknowledgment, then record the fact of refusal in the presence of two witnesses.

(10) If the order of detention of goods under sub-section (6) or of imposition of penalty under sub-section (4), or sub-section (7) or order under sub-section (8), is in the meantime set aside or modified in appeal or other proceedings, the officer imposing the penalty shall give effect to the orders in such appeal or other proceedings, as the case may be.

(11) No person or any individual including a carrier of goods or agent of a transport company or booking agency, acting on behalf of a taxable person or a registered person, shall take delivery of, or transport from any station, airport or any other place, whether of similar nature or otherwise, any consignment of goods, other than personal luggage or goods for personal consumption, the sale or purchase of which, is taxable under this Act, except in accordance with such conditions, as may be prescribed, with a view to ensure that there is no avoidance or evasion of the tax imposed by or under this Act.

(12) Where a transporter fails to give information as required under sub-section (2) about the consignor or consignee of the goods, within such time, as may be specified, or transports the goods without documents or with ingenuine documents, he shall be liable to pay, in addition to the penalty leviable under this section, the tax due on such goods at the VAT rate applicable under this Act.

(13) The provisions of this Act shall, for the purpose of levy and collection of tax, determination of interest and recovery of tax and interest, apply to the transporter.

Explanation. – (1) For the purposes of this section, where goods are delivered to a carrier, a goods booking agency or any other bailee for transportation, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time, such delivery is taken from such carrier, goods booking agency or any other bailee, as the case may be.

(2) For the purpose of sub-section (7), service of notice on the representative of the owner or the driver or other person Incharge of the goods vehicle, shall be deemed to be a valid service on the consignor or consignee of the goods.

CHAPTER-X

OFFENCES AND PENALTIES

Penalty for failure to register.

52. Whoever fails to make an application for registration, as required under sub-section (2) of section 21, shall be liable for penalty equal to the amount of tax, in addition to the tax due, and the interest payable from the date, the person

becomes liable for registration as a taxable person or a registered person, as the case may be, till the application for registration is made.

Penalty for failure to pay tax when due.

53. If a person registered under this Act, fails to pay the amount of tax in accordance with the provisions of this Act, he shall be liable to pay, in addition to the tax and the interest payable by him, a penalty, at the rate of two per cent per month on the tax, so due and payable from the date, it had become due to the date of its payment, or to the date of the order of the assessment, whichever is earlier. The amount of penalty payable under this section, shall be calculated by considering a part of the month as one month.

Penalty for failure to file return or annual statement.

54. If a person registered under this Act or any other person required to furnish return or annual statement without sufficient cause -

- (a) fails to furnish any return or annual statement by the prescribed date; or
- (b) fails to furnish along-with the return or annual statement, the proof of payment of tax in accordance with the provisions of this Act; or
- (c) fails to rectify any error or omission in any return or annual statement in accordance with the provisions of this Act; or
- (d) fails to comply with the requirements of any notice issued under this Act,

the Commissioner or the designated officer, may, direct him to pay in addition to tax, interest and penalty under any other provisions of this Act, a further penalty of a sum of rupees one hundred, per day of default, subject to the maximum of rupees ten thousand.

Penalty for unauthorized collection of tax.

55. Where a person collects tax in contravention of the provisions of this Act, he shall be liable to pay by way of penalty, a sum equal to one and half times of the tax so collected.

Penalty for evasion of tax.

56. If the Commissioner or the designated officer is satisfied that the person, in order to evade or avoid payment of tax -

- (a) has concealed any particulars from any return furnished by him; or
- (b) has deliberately furnished incorrect particulars therein; or
- (c) has concealed any transactions of sale or purchase from his account books; or
- (d) has not maintained intelligible accounts, which prevent the Commissioner or the designated officer to assess the tax due from him; or

- (e) has availed input tax credit to which he is not entitled to; or
- (f) has claimed refund which was not due to him; or
- (g) has claimed credit in respect of tax, which was not actually paid,

he shall direct that the person shall pay, by way of penalty, in addition to the tax and interest payable by him, a sum equal to twice the amount of tax, assessed on account of the aforesaid reasons.

Penalty for failure to issue invoice and use of false invoice

57. (1) A person, who fails to issue invoice for any sale transaction as required under section 45, shall be liable to pay a penalty of rupees two thousand or double the amount of tax involved in the transaction, whichever is higher.

(2) A person, who issues a false invoice or receives and uses an invoice knowing such invoice to be false, shall be liable, to pay a penalty of rupees five thousand or double the amount of tax involved in the false invoice, whichever is higher.

Penalty for misuse of registration number.

58. A person, who knowingly uses a false VAT registration number or TOT registration number, or uses a registration number of another person with a view to evade payment of due tax, he shall be liable to pay, in addition to the due tax, penalty equal to the amount of tax evaded on this account.

Penalty for non-payment of assessed demand.

59. Where a person fails to make payment of the tax assessed or interest levied or penalty imposed on him or any other amount due from him under this Act within a period of thirty days from the date of service of the notice of demand, he shall be liable, in addition to the interest and the amount due, to pay, by way of penalty, a sum equal to two per cent per month of such amount of tax, penalty, interest or any other amount due for the period for which payment has been delayed by him after the date on which such amount was due to be paid.

Penalty in cases not covered elsewhere.

60. (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 is provided under this Act for such contravention or failure, be liable to pay penalty, not exceeding rupees ten thousand, subject to a minimum of rupees one thousand.

(2) Where such contravention or failure continues thereafter, the person shall be liable to pay a further penalty of rupees one hundred per day from the due date specified for payment of penalty under sub-section (1).

**Authority
competent to
impose penalty.**

61. The Commissioner or the designated officer shall be the competent authority to impose penalty under this Act. No penalty shall, however, be imposed, unless the person concerned is afforded an opportunity of being heard by serving a notice.

CHAPTER-XI

APPEAL AND REVISION

First appeal.

62. (1) An appeal against every original order passed under this Act or the rules made thereunder shall lie, -

- (a) if the order is made by a Excise and Taxation Officer or by an officer-Incharge of the information collection centre or check post or any other officer below the rank of Deputy Excise and Taxation Commissioner, to the Deputy Excise and Taxation Commissioner; or
- (b) if the order is made by the Deputy Excise and Taxation Commissioner, to the Commissioner; or
- (c) if the order is made by the Commissioner or any officer exercising the powers of the Commissioner, to the Tribunal.

(2) An order passed in appeal by a Deputy Excise and Taxation Commissioner or by the Commissioner or any officer on whom the powers of the Commissioner are conferred, shall be further appeal-able to the Tribunal.

(3) Every order of the Tribunal and subject only to such order, the order of the Commissioner or any officer exercising the powers of the Commissioner or the order of

the Deputy Excise and Taxation Commissioner or of the designated officer, if it was not challenged in appeal or revision, shall be final.

(4) No appeal shall be entertained, unless it is filed within a period of thirty days from the date of communication of the order appealed against.

(5) No appeal shall be entertained, unless such appeal is accompanied by satisfactory proof of the prior minimum payment of twenty-five per cent of the total amount of tax, penalty and interest, if any.

(6) In deciding an appeal, the appellate authority, after affording an opportunity of being heard to the parties, shall make an order -

(a) affirming or amending or canceling the assessment or the order under appeal; or

(b) may pass such order, as it deems to be just and proper.

(7) The appellate authority shall pass a speaking order while deciding an appeal and send copies of the order to the appellant and the officer whose order was a subject matter of appeal.

Appeal to the Tribunal.

63. (1) A person or authorized officer of the State Government, feeling aggrieved with the order of the Appellate Authority, made under this Act, may file an appeal before the Tribunal.

(2) The appeal can be filed within a period of thirty days from the date of the communication of the order of the first Appellate Authority.

(3) The Tribunal may, on an application made by the appellant, order the stay of the recovery of the amount involved, subject to the payment of minimum twenty five per cent of the amount and fulfillment of such other conditions, as it may deem necessary.

(4) In deciding an appeal, the Tribunal, after affording an opportunity of being heard to the parties may, make an order –

(a) affirming or amending or canceling the order against which appeal has been filed; or

(b) may pass such order as it deems to be just and proper.

(5) The Tribunal shall pass a speaking order while deciding an appeal and send copies of the order to the appellant and the Commissioner.

Condonation of delay.

64. Notwithstanding any-thing contained in sub-section (4) of sections 62 and sub-section (2) of section 63, the appellate authority may, in the interest of justice, for the

reasons to be recorded in writing, condone delay in cases where appeal is not filed within the stipulated period.

Revision.

65. (1) The Commissioner or the designated officer may, at his own motion, call for the record of any proceedings, which are pending before or have been disposed of by any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto, as he may think fit.

(2) A Tribunal, on application made to it against an order of the Commissioner under sub-section (1), within a period of thirty days from the date of communication of the order, may call for and examine the record of any such case and pass such order thereon, as it thinks just and proper.

(3) No application for revision under sub-section (2), shall be entertained unless such application is accompanied by satisfactory proof of the prior minimum payment of twenty -five per cent of the total amount of tax, penalty and interest, if any.

(4) No order shall be passed under this section, which adversely affects any person unless such person has been given an opportunity of being heard.

Rectification of mistakes.

66. (1) The Commissioner or a designated officer may, at any time within three years from the date of any order passed by him, not being an order passed under sub-section (2) or sub-section (3), of section 29 at his own motion, rectify any mistake, apparent from the record, and shall within a like period, rectify any such mistake, which has been brought to his notice by any person affected by such order:

Provided that no such rectification shall be made, if it has the effect of enhancing the tax or reducing the amount of refund without affording an opportunity of being heard to the effected person.

(2) The Tribunal may suo-moto or on a reference from the affected person or the Commissioner or any other officer so authorised by the Commissioner may, consider rectification of an order passed by it. The provision of sub-section (1), shall apply mutatis mutandis to the rectification of mistake by the Tribunal.

(3) Where any such rectification has the effect of reducing the amount of the tax or penalty, the Commissioner shall in the prescribed manner, order the refund of the amount so due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or penalty or reducing the amount of the refund, as the case may be,

the Commissioner shall make order for the recovery of the amount, due as per provisions of this Act.

Bar on appeal against certain orders.

67. No appeal or revision shall lie against -
- (a) a notice issued under this Act calling upon a person for audit or assessment or for any other purposes including for recording statements; or
 - (b) a notice issued under this Act asking to show cause as to why the penalty for an offence under this Act should not be levied; or
 - (c) a notice providing an opportunity of being heard as required under this Act; or
 - (d) any order pertaining to seizure or retention of accounts books; or
 - (e) any order issued under section 74; or
 - (f) any order issued under sub-section (1) of section 87; or
 - (g) a direction to maintain certain accounts or furnish certain information, statements, statistics or return; or
 - (h) any guidelines formulated, instructions issued or directions given by the Commissioner for carrying out any purposes of this Act.

Appeal or revision to High Court.

68. (1) An appeal or revision shall lie to the High Court from every order passed in appeal or revision by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Commissioner or a person aggrieved by any order passed by the Tribunal, may file an appeal to the High Court and such appeal shall be –

(a) filed within a period of sixty days from the date on which the order appealed against is received by the aggrieved person or the Commissioner; and

(b) in the form of a memorandum of appeal, precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal or revision shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal or revision, be allowed to argue that the case does not involve such question:

Provided that nothing in this section shall be deemed to take away or abridge the power of the High Court to hear, for reasons to be recorded, the appeal or revision on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law, so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which -

(a) has not been determined by the Tribunal; or

(b) has been wrongly determined by the Tribunal, by reason of a decision on such question of law as is referred to in sub-section(1).

(7) The payment of any amount, due to be paid by a person, in accordance with the order of the Tribunal in respect of which an appeal has been preferred under this section, shall not be stayed by the High Court pending the final disposal of such appeal, but if such amount is reduced as the result of such appeal, the excess tax, penalty, interest or sum forfeited, shall be refunded in accordance with the provisions of section 39 of this Act.

(8) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, (5 of 1908) relating to appeals to the High Court shall, as far as may be, apply in the case of appeals or revisions under this section.

CHAPTER-XII

MISCELLANEOUS

Returns to be
confidential.

69. (1) Subject to provisions of section 50, all particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act or in any evidence recorded in the course of any proceedings under this Act, other than the proceedings before a Criminal Court, shall, save as provided in sub-section (2), be treated as confidential.

(2) Notwithstanding anything contained in the Indian Evidence Act, 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, record or document or any part thereof or to give evidence before it in respect thereof.

(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 prosecution under the Indian Penal Code, 1860 (Central Act 45 of 1860) in respect of any such statement, return, accounts,

records, documents or evidence or for use of the Excise and Taxation Department of the State or of the officials of the Government of India or any State Government or for the purpose of preparing data by the official of an agency with whom the State Government have entered into a contract.

Power to make rules.

70. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) The rules under this Act, may be made either with prospective effect or with retrospective effect:

Provided that the rules shall be made under this Act with retrospective effect only, if the same are required to be made in public interest.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of the State Legislature, while it is in session, for a total period of ten days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rules, or the House agrees, that the rules should not be made, the rules 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 or omitted to be done under that rule.

Court fees on memorandum of appeal and application for revision.

71. A memorandum of appeal filed under sections 62 and 63, and an application for revision made under section 65, shall bear court fee stamps of such value, as may be prescribed.

No time limit for completion of assessment or amended assessment in certain cases.

72. (1) Notwithstanding the period of limitation provided for assessment or amended assessment in section 29 or in any other provisions of this Act, the assessment or amended assessment may be made at any time in consequence of or to give effect to, any order made by any court or other authority, in exercise of the powers vested in it under the law for the time being in force.

(2) Where the assessment proceedings relating to any person remained stayed under the orders of any court or other authority for any period, such period shall be excluded in computing the period of limitation for assessment or amended assessment provided under this Act.

Assessee permitted to attend through authorized agent.

73. (1) A person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may represent through an agent. For the purpose of this section, an agent means a person authorised by the principal in writing to appear on his behalf before a designated officer, the Commissioner or the Tribunal or any other officer appointed by the State Government to assist the Commissioner under sub-section (1) of section 3 being, -

- (a) a relative; or
- (b) a person regularly employed; or
- (c) a legal practitioner, who is entitled to plead in any court of law in India; or
- (d) a bonafide income tax practitioner; or
- (e) a chartered accountant within the meaning of the Chartered Accountants Act, 1949, (38 of 1949) and includes a person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956 (1 of 1956), is entitled to be appointed to act as an auditor of companies registered in the State; or
- (f) a retired gazetted officer of the Punjab Excise and Taxation Department, who has an experience of working in any capacity for a minimum period of five years under this Act and/or the repealed Act; provided a period of two years had elapsed since the date of his retirement.

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

(3) If any practitioner or an agent of a person, is found guilty of misconduct in any proceedings before any authority under this Act by the Commissioner, the Commissioner may order that he shall be disqualified to represent under sub-section (1):

Provided that no such order shall be made in respect of such person unless he is given an opportunity of being heard.

(4) Any person against whom any order is made under sub-section (3), may appeal to the Tribunal against such order in accordance with the provisions of section 63.

Power to call for

74. The Commissioner or any officer, appointed to assist him under sub-section (1) of section 3, may, for carrying out the purposes of this Act, by an order in writing, require any person, including a banking company, Railways, Post Office or any officer thereof to furnish any information or statement, useful for or relevant to any proceeding under this Act.

Delegation of powers.

75. Subject to such conditions, as may be prescribed, the Commissioner may, by an order in writing, delegate any of his powers under this Act, to any officer appointed under sub-section (1) of section-3 to assist him:

Provided that the powers conferred upon the Commissioner specifically by the State Government, shall not be delegated.

Information to be furnished regarding change of business.

76. If any taxable person or registered person –

- (a) sells or otherwise disposes of his business or any place of business; or
- (b) discontinues or transfers his business or changes his place of business or opens a new place of business; or
- (c) changes the name, constitution or nature of his business; or
- (d) wants to make any change in the class or classes of goods dealt by him,

he shall, inform the designated officer in the prescribed manner, and, if any such person dies, his legal representative shall in the like manner, inform the said authority.

Transfer of business.

77. Where the ownership of the business of a person is entirely transferred and the transferee carries on such business either in the same name or in some other name, the transferee shall for all the purposes of this Act, be deemed to be and to have always been registered as if, the registration of such person had initially been granted to the transferee; and the transferee shall on application to the designated officer, be entitled to have the registration amended accordingly in the prescribed manner.

Liability to tax on stock in certain cases.

78. Notwithstanding any-thing to the contrary contained in this Act, a person whose registration has been cancelled, shall be liable to pay tax on the unsold stock, held on the date of cancellation, as per the provisions of this Act.

Liability of partners.

79. (1) Notwithstanding anything contained in the Indian Partnership Act, 1932 or any agreement to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm, shall be jointly and severally liable for such payments and accordingly any notice or order under this Act, may be served on any person, who was a partner during the relevant time whether or not the firm has been dissolved and all the provisions of this Act shall apply accordingly.

(2) Where any such partner retires from the firm, he shall be liable to pay the tax, penalty, sum forfeited and interest remaining unpaid at the time of his retirement

and any such amount due up to the date of retirement, though un-assessed on that date.

**Liability to
pay tax in
case of death.**

80. (1) Where a person, liable to pay tax under this Act, dies then -

- (a) if the business carried on by that person is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay tax including any penalty, sum forfeited and interest due from such person under this Act or under the repealed Act, in the like manner and to the same extent as the deceased person was; and
- (b) if the business carried on by the person is discontinued whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased person would have been liable to pay if he had not died, the tax including any penalty, sum forfeited and interest due from such person under this Act or under the repealed Act, whether such tax including any penalty, sum forfeited and interest has been assessed before his death, but has remained unpaid, or is assessed after his death.

(2) Where a person, liable to pay tax under this Act, is a Hindu Undivided Family and the joint family property is apportioned amongst the various members or group of members, then each member or group of members shall be jointly and severally liable to pay the tax including any penalty, sum forfeited and interest due from the person under this Act or under the repealed Act, up to the time of the partition, whether such tax including any penalty, sum forfeited and interest has been assessed before partition, but has remained unpaid, or is assessed after partition.

(3) Where a person liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who was a partner, shall be jointly and severally liable to pay to the extent to which he is liable under this section, the tax including any penalty, sum forfeited and interest due from the firm under this Act or under the repealed Act, up to the time of dissolution, whether such tax including any penalty, sum forfeited and interest has been assessed before such dissolution, but has remained unpaid or is assessed after dissolution.

(4) Where a person, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, then both the persons shall jointly and severally be liable to pay the tax including any penalty, sum forfeited and interest due from the person under this Act or under the repealed Act, up to the time of such transfer, disposal or change, whether such tax including any penalty, sum forfeited and interest has been assessed before such transfer, disposal or change, but has remained unpaid, or is assessed thereafter.

- (5) Where the person, liable to pay tax under this Act –
- (a) is the guardian of a ward on whose behalf the business is carried out by the guardian; or
 - (b) is trustee, who carries on the business under a trust for the beneficiary, then -

if the guardianship or the trust is terminated, the ward or, as the case may be, the beneficiary, shall be liable to pay the tax including any penalty, sum forfeited and interest due from the person up to the time of the termination of the guardianship or trust, whether such tax including any penalty, sum forfeited and interest has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

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

Certain agents liable to pay tax for sales on behalf of principal.

81. (1) Where any person sells or purchases any taxable goods on behalf of his principal, any taxable goods dispatched to/by him from/to outside the State, then such person and his principal, shall both be jointly and severally liable to pay tax on the turnover of such sales or purchases.

(2) If the principal, on whose behalf the Commission agent has sold or purchased any goods, shows to the satisfaction of the Commissioner that the tax has been paid by such Commission agent on such goods under sub-section (1), the principal shall not be liable to pay the tax again in respect of the same transaction.

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

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

Amalgamation of companies.

82. (1) When two or more companies are to be amalgamated by the order of a Court or of the Central Government and the order is to take effect from a date earlier to the date of the order, and such companies have sold or purchased any goods to or from each other in the period commencing on the date from which the order is to take effect, and ending on the date of the order, then such

transactions of sale or purchase shall be included in the turnover of the sales or of the purchases of the respective companies and will be assessed to tax accordingly.

(2) Notwithstanding anything contained in the said order, for all purposes of this Act, the said two or more companies shall be treated as distinct companies and shall be treated as such for all periods upto the date of the said order and the registration of the said companies under this Act, shall be cancelled with effect from the date of the said order.

(3) The words and expressions used in this section, but not defined, shall have their respective meanings, assigned to them in the Companies Act, 1956 (1 of 1956).

Liability in case of company, firm or society in liquidation.

83. (1) Every person –

- (a) who is a liquidator of any company, firm or society, which is being wound up whether under the orders of a Court or otherwise; or
- (b) who has been appointed as receiver of any assets of a company (hereinafter referred to as the “liquidator”), shall within thirty days after he has become such liquidator, give notice of his appointment as such to the Commissioner or the designated officer.

(2) The Commissioner or the designated officer shall, after making such inquiries or calling for such information, as he may deem fit, notify the liquidator within three months from the date on which he received notice of appointment of the liquidator, the amount, which in the opinion of the Commissioner or the designated officer, would be sufficient to provide for any tax, interest or penalty, which is then, or is likely thereafter, to become payable by the company.

(3) Notwithstanding anything contained in the Companies Act, 1956, when any private company is wound up and any tax, interest or penalty assessed under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person, who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax, interest or penalty, unless such person proves to the satisfaction of the Commissioner or the designated officer that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation.—For the purpose of this section, the expression ‘private company’ shall have the meaning, assigned to it under section 3 of the Companies Act, 1956 (1 of 1956).

Provisions in case of inter-state trade.

84. 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; or

- (b) where such sale or purchase takes place in the course of inter-State trade or commerce; or
- (c) 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:

Provided that the last sale or purchase of any goods preceding the sale or purchase occasioning the export of such goods out of the territory of India, shall also be deemed to be in the course of such export, if such last sale or purchase takes place after making an agreement or order for such export subject to furnishing a declaration in form 'H' as specified in the Central Sales Tax (Regulation and Turnover) Rules, 1957, by the purchaser.

**Determination
of disputed
questions.**

85. If any question arises, otherwise than in proceedings before a Court or before the commencement of assessment of a person under section 29, whether or not, for the purposes of this Act, -

- (a) any person, society, club or association or any firm or any branch or department of any firm, is a person; or
- (b) any particular thing done to any goods amounts to or results in the manufacture of goods, within the meaning of that term; or
- (c) any transaction is a sale or purchase or where it is a sale or purchase, the sale price or the purchase price, as the case may be, thereof; or
- (d) any particular person is required to be registered ; or
- (e) in the case of any person liable to pay tax, any tax is payable by such person in respect of any particular sale or purchase or if, tax is payable, the rate thereof ; or
- (f) input tax credit can be claimed on any particular transaction of purchase and if, it can be claimed, then what are the conditions and restrictions subject to which, such credit can be claimed; or
- (g) any other question, as may be raised relating to the procedures and processes under this Act or the rules made thereunder,

the Commissioner shall, subject to the provisions of this Act and the rules framed thereunder, make an order determining such question.

Explanation.—(1) For the purposes of this section, the assessment of the person shall be deemed to have commenced under section 29 when the person is served with any notice by the designated officer.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, in respect of any sale or purchase, effected prior to the determination.

(3) If any such question arises from any order already passed under this Act or the repealed Act, no such question shall be entertained for determination under this section, but such question may be raised in appeal against such order.

**Power to
seek
assistance
from police
officer or
...**

86. An officer exercising the powers under this Act, may take the assistance of any police officer or other officer of the State Government, as and when required and upon such request for assistance being made, the police officer or the other officer, shall render necessary help in accordance with law.

**Powers to
summon
witness and
production
of records.**

87. (1) In exercising the functions conferred on it by or under this Act, the Tribunal or the Commissioner or the officers appointed under sub-section (1) of

section 3, to assist the Commissioner, shall have all the powers conferred on a Civil Court under the provisions of the Civil Procedure Code, 1908 (Central Act 5 of 1908) in respect of the following matters, namely -

- (a) summoning and enforcing the attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents and impounding them;
- (c) proof of facts by affidavits; and
- (d) issuing commissions for examination of witnesses.

(2) In the case of an affidavit, any officer appointed under sub-section (1) of section 3, may administer the oath to the deponent.

(3) Any proceeding under this Act before the Tribunal or the Commissioner or any person appointed to assist the Commissioner under sub-section (1) of section 3, shall be deemed to be "judicial proceedings" within the meaning of sections 193 and 228 of The Indian Penal Code, 1860 (Central Act 45 of 1860) and for the purposes of section 199 of that code.

**Bar on
certain**

88. No assessment made and no order passed under this Act or the rules made thereunder, shall be called into question in any Civil Court.

Indemnity.

89. 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.

**Burden of
proof.**

90. The burden of proving that any sale or purchase, effected by a person, is not liable to tax under this Act or to prove entitlement for input tax credit on any purchase, shall be on such person.

**Power to
remove
difficulties.**

91. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provision not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section, shall be laid, as soon as may be, after it is made, before the Legislative Assembly.

CHAPTER-XIII

REPEAL AND SAVING

**Repeal and
saving of
Punjab Act 46
of 1948**

92. (1) With effect from the date of coming into force of this Act, the Punjab General Sales Tax Act, 1948 (Punjab Act. 46 of 1948), shall stand repealed.
- (2) The repealing of the Act under sub-section (1) shall not, –
- (a) revive anything not in force or existing at the time when the repeal takes effect; or
 - (b) affect the previous operation of the repealed Act or anything done or suffered thereunder; or
 - (c) affect any obligation, or liability acquired, accrued or incurred under the repealed Act; or
 - (d) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Act; or
 - (e) affect any investigation, enquiry, assessment, proceeding, any other legal proceeding or remedy instituted, continued or enforced under the repealed Act, and any such penalty, forfeiture or punishment or any proceeding or remedy instituted, continued, or enforced under the repealed Act, shall be deemed to be instituted, continued or enforced under the corresponding provisions of this Act.
- (3) Notwithstanding such repeal, –
- (a) the provisions of sections 10A, 10B and 30A of the repealed Act and the rules framed thereunder relating to tax concessions to industrial units and assessment thereof, shall remain in force subject to the exceptions, restrictions and conditions, as may be notified by the State Government from time to time;
 - (b) all rules made and notification issued under the provisions of the repealed Act and/or rules made thereunder and in force on the date of the commencement of this Act, shall remain in force, unless such rules and notifications are superseded in express terms or by necessary implication by the provisions of this Act or the rules made and notifications issued thereunder;
 - (c) any reference to any section of the repealed Act in any rule or notification, shall be deemed to refer to the relevant corresponding section of this Act, until necessary amendments are made in such rule or notification;
 - (d) the limitations provided in this Act, shall apply prospectively, and all events occurred and all issues, which arose prior to the date of commencement of this Act, shall be governed by the limitations provided or the provisions contained in the repealed Act;

- (e) anything done or any action taken under the Act so repealed (including any notification, order, notice issued, application made, or permission granted), which is not inconsistent with the provisions of this Act, shall be deemed to have been done or taken under the corresponding provisions of this Act as if, this Act was in force at the time when such thing was done, or action was taken, and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act;
- (f) any reference to any provisions of the repealed Act by this Act to an officer, authority or Tribunal shall, for the purposes of carrying into effect the provisions contained in this section, be construed as reference to the corresponding officer, authority or Tribunal, appointed or constituted by or under this Act; and if any question arises as to who such corresponding officer, authority or Tribunal is, then the matter shall be referred to the State Government and the decision of the State Government thereon shall be final; and
- (g) if any difficulty arises in giving effect to the provisions of this section, the State Government may, by general or special order published in the Official Gazette, do anything not inconsistent with such provisions which appears to it to be necessary or expedient, keeping in view the context of the subject matter.

Transitional provisions.

93. (1) A person, who would have continued to be liable to pay tax under the repealed Act, had this Act not come into force, shall be deemed to be registered under this Act, till a fresh registration is granted to him under this Act or till a period of sixty days expires from the date of the appointed day, which ever is earlier.

(2) Notwithstanding anything contained in this Act, -

- (a) for the purposes of the levy, assessment, reassessment, appeal, revision, review, rectification, reference, registration, collection, refund or credit of input tax, or allowing benefit of exemption or deferment of tax, imposition of any penalty or of interest or forfeiture of any sum, which relates to any period ending before the appointed day or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid, and whether or not ,the tax, penalty, interest or sum forfeited, if any, in relation to such proceedings, is paid before or after the appointed day, the repealed Act and all rules, regulations, orders, notifications, forms and notices issued thereunder and in force immediately before the appointed day shall, in so much as they apply, shall continue to have effect, till the conclusion of proceedings;
- (b) any person appointed as Commissioner or any person appointed to assist the Commissioner under the repealed Act and continuing in

office as such immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such, till such person ceases to be the Commissioner or ceases to be the person appointed to assist the Commissioner;

- (c) the Presiding officer of the Sales Tax Tribunal, appointed under the repealed Act and continuing in office as such, immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed as the Chairman of the Tribunal under this Act and shall continue in office as such, till the constitution of the Tribunal under this Act or till he ceases to be such Presiding Officer (Chairman) as per the terms and conditions under the repealed Act, whichever is earlier;
- (d) any order or notification delegating any power or conferring any jurisdiction under the repealed Act or the repealed rules, by the State Government or the Commissioner to any person appointed by any designation, under sub-section (1) of section 3 of the repealed Act to assist him before the appointed day and continuing in force on the day immediately before the appointed day shall, with effect from such appointed day, continue in force until the State Government or the Commissioner amends, varies or rescinds such order after such appointed day under this Act;
- (e) any accounts, registers or documents of any person, seized before the appointed day under any of the provisions of the repealed Act and not returned till the day, immediately before such appointed day, shall continue to be retained in accordance with the provisions of such Act;
- (f) any goods seized or detained before the appointed day under any of the provisions of the repealed Act or the repealed rules and not released before such appointed day, shall continue to remain seized, until such goods are released in accordance with the provisions of such Act;
- (g) all forms or declarations under the repealed Act or the repealed rules and continuing in force on the day immediately before the appointed day, shall with effect from such appointed day, continue in force and shall be used mutatis mutandis for the purposes for which those were being used before such appointed day, until the State Government directs by notification, the discontinuance of the use of such forms, till such time, as the State Government may specify, in this behalf;
- (h) any tax assessed, deferred, interest determined or penalty imposed under the repealed Act in respect of the sales or purchases made or in respect of the tax payable or in respect of the contravention of any provision of the repealed Act before the appointed day, shall be

payable or recoverable in accordance with the provisions of the repealed Act;

- (i) a person liable to furnish return under the repealed Act, immediately before the appointed day, shall, notwithstanding that a period in respect of which, he is so liable to furnish return, begins on any day before such appointed day and ends on any day after such appointed day, furnish such return in respect of the tax, payable for sales or purchases made up to the day immediately before such appointed day and pay tax in accordance with the provisions of the repealed Act, and shall furnish a separate return in respect of the remaining part of the period, which commences on such appointed day and pay tax due on such return for sales or purchases, made on and from such appointed day in accordance with the provisions of this Act; and
- (j) any prescribed declaration / form, obtained or obtainable by the person from any designated officer or any declaration, furnished or to be furnished by or to the person under the repealed Act or the rules made thereunder in respect of any sale of goods before the appointed day, shall be valid where such declaration / form is furnished on or after such appointed day.

**Repeal of
Punjab
Ordinance 5
of 2005.**

94. The Punjab Value Added Tax Ordinance, 2005 (Punjab Ordinance 5 of 2005), is hereby repealed.