

## **THE TAMIL NADU GENERAL SALES TAX ACT, 1959**

**Section 1. Short title, extent and commencement.** – This Act may be called the Tamil Nadu General Sales Tax Act, 1959.

**Section 1(2)** It extends to the whole of the State of Tamil Nadu.

**Section 1(3)** It shall come into force on such date as the Government may, by notification, appoint.

**Section 2 Definition** – In this act, unless the context otherwise requires, –

**Section 2(a)** “Administrative Assistant Commissioner” means any person appointed to be an Administrative Assistant Commissioner of Commercial Taxes (appellate Assistant Commissioner under section 28;)

**Section 2(aa)** “Appellate Assistant Commissioner” means any person appointed to be an Appellate Assistant Commissioner under section 28;

**Section 2(aaa)** “Appellate Deputy Commissioner” means any person appointed to be an Appellate Deputy Commissioner of Commercial Taxes under section 28;

**Section 2(b)** “Appellate Tribunal” means the Tribunal appointed under section 30;

**Section 2(c)** “Assessing Authority” means any person authorized by the Government or by any authority empowered by them, to make any assessment under this Act;

**Section 2(cc)** “Assistant Commercial Tax Officer” means any person appointed by the Deputy Commissioner by name or by virtue of his office, to exercise the powers of an Assistant Commercial Tax Officer;

**Section 2(ccc)** “Assistant Commissioner (Assessment)” means any person appointed to be an Assistant Commissioner of Commercial Taxes (Assessment) under section 28;

**Section 2(cccc)** “Assistant Commissioner (check-posts)” means any person appointed to be an Assistant Commissioner of Commercial Taxes (check-posts) under section 28;

**Section 2(ccccc)** “Assistant Commissioner (Enforcement)” means any person appointed to be an Assistant Commissioner of Commercial Taxes (Enforcement) under section 28;

**Section 2(d)** “business” includes, –

- (i) any trade, or commerce or manufacture or any adventure or (concur) concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern; and
- (ii) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;

**Section 2(e)** “Casual trader” means a person who has, whether as principal, agent or in any other capacity, occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash, or for deferred payment, or for commission, remuneration, or other valuable consideration and who does not reside or has no fixed place of business within the State;

**Section 2(f)** “Commercial Tax Officer” means any person appointed to be Commercial Tax Officer under section 28;

**Section 2(ff)** “Commissioner” means any person appointed to be a Commissioner of Commercial Taxes under section 28;

**Section 2(g)** “dealer” means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, and includes –

- (i) A local authority, company, Hindu undivided family, firm or other association of persons which carries on such business;
- (ii) a casual trader,
- (iii) a factor, a broker, a commission agent or *arhati*, a *del credere* agent or an auctioneer, or any other mercantile agent by whatever name called, and whether of the same description as herein before or not, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal, or through whom the goods are bought, sold, supplied or distributed;
- (iv) every local branch of a firm or company situated outside the State;
- (v) a person engaged in the business of transfer otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;
- (vi) a person engaged in the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

- (vii) a person engaged in the business of delivery of goods on hire purchase or any system of payment by installments;
- (viii) a person engaged in the business of 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;
- (ix) a person engaged in the business of supplying 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;

Explanation (1)- A society (including a co-operative society), club or firm or an association which, whether or not in the course of business, buys, sells, supplies or distributes goods from or to its members for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act .

Explanation (2)- The Central Government or any State Government which, whether or not in the course of business, buy, sell, supply or distribute goods, directly or otherwise, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act;

Explanation (3) - Each of the following persons or bodies who dispose of any goods including unclaimed or confiscated or unserviceable or scrap surplus, old or obsolete goods or discarded materials or waste products whether by auction or otherwise directly or through an agent for cash or for deferred payment for any other valuable consideration, notwithstanding anything contained in this Act, shall be deemed to be a dealer for the purposes of this Act to the extent of such disposals, namely :-

- (a) Post Trust;
- (b) Municipal Corporations, Municipal Councils and other local authorities constituted under any law for the time being in force ;
- (c) Railways administration as defined under the Railways Act, 1989 (Central Act 24 of 1989);
- (d) Shipping, transport and construction companies ;
- (e) Air Transport Companies and Airlines;
- (f) Any person holding permit for the transport vehicles granted under the Motor Vehicle Act, 1988 (Central Act 59 of 1988) which are used or adopted to be used for hire’
- (g) The Tamil Nadu State Road Transport Corporations;
- (h) Customs Department of the Government of India administering the Customs Act, 1962 (Central Act LII of 1962);
- (i) Insurance and Financial Corporations or Companies and Banks included in the Second Schedule to the Reserve Bank of India Act, 1934(Central Act II of 1934);
- (j) Advertising Agencies ; and

(k) Any other Corporation, Company, body or authority owned or set up by , or subject to administrative control of, the Central Government or any State Government;

**Section 2(h)** “declared goods” means goods declared by section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), to be of special importance in inter-State trade or commerce;

**Section 2(hh)** “Deputy Commercial Tax Officer” means any person appointed by the Deputy Commissioner by name or, by virtue of his office, to exercise the powers of Deputy Commercial Tax Officer;

**Section 2(i)** “Deputy Commissioner” means any person appointed to be a Deputy Commissioner of Commercial Taxes under section 28;

**Section 2(j)** “goods” means all kinds of movable property (other than newspapers, actionable claims, stocks and shares and securities) and includes all materials, commodities, and articles including the goods( as goods or in some other form) involved in the execution of a works contract or those goods to be used in the fitting out, improvement or repair of movable property; and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale;

**Section 2(k)** “Government” means the State Government;

**Section 2(kk)** “Input tax” means tax paid or payable , by the purchaser being a dealer, to the supplier or to the Government;

**Section 2(kkk)** “Joint Commissioner” means any person appointed to be a Joint Commissioner of Commercial Taxes under section 28;

**Section 2(l)** “Place of business” includes a warehouse, godown, or other place where a dealer stores his goods or a place where a dealer keeps his books of account;

**Section 2(m)** “registered dealer” means a dealer registered under this Act;

**Section 2(mm)** “resale” for the purpose of (section 3-C) section 3-H means the sale of goods mentioned in the First Schedule or the (Sixth) Eleventh Schedule, purchased within the State, in the same form in which such goods are purchased or with modifications or improvements thereto which do not amount to manufacture;

Explanation – For the purpose of this clause, “sale of goods” shall mean sale of goods at points other than the point of levy specified in the respective schedule.

**Section 2(n)** “sale” with all its grammatical variations and cognate expressions means every transfer of the property in goods (other than by way of mortgage,

hypothecation, charge or pledge) by one person to another in the course of business for cash, deferred payment or other valuable consideration and includes –

- (i) a transfer, otherwise than in pursuance of a contract, of property in any goods of cash, deferred payment or other valuable consideration;
- (ii) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (iii) a delivery of goods on hire-purchase or any system of payment by installments;
- (iv) a 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) a supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
- (vi) a supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration,

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making (such) the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;

**Sec.2(n)** Explanation(1)- The transfer of property involved in the supply or distribution of goods by a society (including co-operative society ), club, firm or any association to its members, for cash, or for deferred payment or other valuable consideration , whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

Explanation (1-A)- Every transfer of property in goods by the Central Government or any State Government for cash or for deferred payment or other valuable consideration , whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

Explanation.(1-B)- The transfer of property involved in the purchase, sale, supply or distribution of goods through a factor, broker, commission agent or arhati, del credere agent or an auctioneer or any other mercantile agent, by whatever name called, whether for cash or for deferred payment or other valuable consideration, shall be deemed to be a purchase or sale, as the case may be, by such factor , broker, commission agent or arhati, del credere agent, auctioneer or any other mercantile agent, by whatever name called, for the purposes of this Act.

Explanation.(1-C)- Every transfer of property in goods including goods as unclaimed or confiscated or as unserviceable or as scrap surplus, old, obsolete or

discarded materials or as waste products , by the persons or bodies referred to in Explanation (3) in clause (g) of section 2 of this Act, for cash or for deferred payment or for any other valuable consideration whether or not in the course of business shall be deemed to be a sale for the purposes of this Act.

Explanation (2) [.....]

Explanation (3)-(a) The sale of purchase of goods shall be deemed for the purpose of this Act, to have taken place in the State, wherever the contract of sale or purchase might have been made, if the goods are within the State-

- (i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made; and
- (ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party ins prior or subsequent to such appropriation.

Explanation (3)-(b) Where there is single contract of sale or purchase of goods , situated at more places than one, the provisions of clause (a) shall apply as if there were separate contracts in respect of the goods at each of such places.

Explanation (4)- Notwithstanding anything to the contrary contained in this Act, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place-

- (a) when the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser , or
- (b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid-

- (i) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate, or
- (ii) to have purchased goods at one rate and to have passed them on to his principal at another rate, or
- (iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal;

**Section 2(nn)** “Special Tribunal” means as defined in clause (i) of section 2 of The Tamil Nadu Taxation Special Tribunal Act, 1992;

**Section 2(o)** “State means the State of Tamil Nadu;

**Section 2(oo)** “Surcharge” means surcharge on tax levied under this Act;

**Section 2(ooo)** “Tax “ means and includes a sales tax, purchase tax, resale tax or surcharge, as the case may be , payable under this Act;

**Section 2(p)** “taxable turnover” means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed;

**Section 2(pp)** “Territorial Assistant Commissioner” means any person appointed to be a Territorial Assistant Commissioner of Commercial Taxes under section 28;

**Section 2(q)** “total turnover” means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or any portion of such turnover is liable to tax;

**Section 2(r)** <sup>1</sup>[“turnover” means the aggregate amount for which goods are bought or sold, or delivered or supplied or otherwise disposed of in any of the ways referred to in clause (n), by a dealer either directly or through another, on his own account or on account of others whether for cash or for deferred payment or other valuable consideration, provided that the proceeds of the sale by a person of agricultural or horticultural produce other than tea, and rubber (natural rubber latex) and all varieties and grades of raw rubber) grown within the State by himself or on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, shall be excluded from his turnover;

Explanation (1)- “Agricultural or horticultural produce” shall not include such produce as has been subjected to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting or dying;

Explanation (1-A).- Any amount charged by a dealer by way of tax separately without including the same in the price of the goods bought or sold shall not be included in the turnover.

Explanation (2)- Subject to such conditions and restrictions, if any, as may be prescribed in this behalf-

(i)[.....]

Explanation (2) (ii) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof;

Explanation (2) (iii) any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover; and

Explanation (2) (iv) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former;

Explanation (3)- Any amount realised by a dealer by way of sale of his business as a whole, shall not be included in the turnover.

Explanation (4)-The aggregate amount for which the goods are bought or sold or delivered or supplied through a factor, broker, commission agent or arhati, delcredere agent or an auctioneer or any other mercantile agent, by whatever name called, whether for cash or for deferred payment or other valuable consideration, shall be deemed to be the turnover of such factor, broker, commission agent, arhati, del credere agent, auctioneer or any other mercantile agent, by whatever name called.

**Section 2(rr)** [.....]

**Section 2(s)** – [.....].

**Section 2(t)** – “year” means the financial year.

**Section 2(u)** “works contract” includes any agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning, of any movable or immovable property.

**Section 3.levy of taxes on sales or purchases of goods.**-(1)(a)(i) Every dealer other than the dealer, casual trader or agent of a non- resident dealer refer to in clause (ii), whose total turnover for a year exceeds three lakhs of rupees; and

(ii)every dealer in bullion , gold, silver and platinum jewellery including articles thereof and worn-out or beaten jewellery and precious stones and every casual trader or agent of a non-resident dealer , whatever be his turnover for the year,

\*\*[Sec.3(1)(b) Notwithstanding anything contained in clause (a), every dealer (other than \*\*\*[a dealer in bullion , gold, silver and platinum jewellery including articles thereof and worn-out or beaten jewellery and precious stones and casual trader or agent of a non- resident dealer]) whose total turnover for a year exceeds three lakhs of rupees but does not exceed ten lakhs of rupees shall not be liable to pay tax on the first three lakhs of rupees of his total turnover, provided that no amount by way of tax or purporting to be by way of tax has been collected by him under this Act in respect of that first three lakhs of rupees]

Note: 1 \* The expressin “exceeds three lakhs of rupees” was substituted for the expression “is not less than one lakh of rupees” by Act 38 / 96 – Gazette dated 17-9-1996 – Efective from 17-7-1996 (Retrospective)



2. \*\* sub section (1) of Section 3 existed upto 31.3.2000 was renumbered as clause (a) of the sub section and clause (b) of sub section (1) was inserted by Act 14 / 2000 – Gazette dated 2-6-2000 – Effective from 1-4-2000 (Restrospective)
3. \*\*\* The expression “ a dealer in bullion .... non resident dealer” was substituted for the expression “ a casual trader or agent of a non resident dealer” by Ordianance 6 of 2002 - Gazette dated 19-8-2002 – Act 48/2002 – Gazette dated 18-11-2002 – Effective from 19-8-2002.

**Sec. 3(2)** Subject to the provisions of sub-section (1), in the case of goods mentioned in the First Schedule, the tax under this Act shall be payable by a dealer at the rate and [...] at the point specified therein on the turnover in each year relating to such goods:

Provided that all spare parts, components and accessories of such goods shall also be taxed at the same rate as that of the goods if such spare parts, components and accessories are not specifically enumerated in the First Schedule and made liable to tax under that Schedule.

[Provided further that in the case of goods mentioned in the First Schedule which are taxable at the point of first sale, the tax under this Act shall be payable by the first or earliest of the successive dealers in the State who is liable to tax under this section.]

**Sec. 3(1) (ii)** [...]

**Sec. 3(2)** Notwithstanding anything contained in sub-section (1) in the case of goods mentioned in the First Schedule, the tax under this Act shall be payable by a dealer at the rate and at the point specified therein on the turnover in each year relating to such goods whatever be the quantum of his turnover in that year.

**Section 3(2-A)** Subject to the provisions of sub-section (1) in the case of goods mentioned in the (First) Fifth Schedule, the tax under this Act shall be payable by a dealer at the rate and at the point specified therein on the turnover in each year relating to such goods:

**Section 3(2-B)** Subject to the provisions of sub-section (1), in the case of goods mentioned in the Sixth schedule, the tax under this Act shall be payable by a dealer at the first point of sale and the second point of sale, and at the rate specified therein in the turnover in each year relating to such goods.

Provided that at (any) second point of sale , the turnover of the goods liable to tax shall be arrived at by deducting the turnover of such goods on which tax has been levied at the (preceding) first point or points of sale:

**Sec.3(2-C)** Subject to the provisions of sub-section (1), in the case of goods mentioned in the Eleventh Schedule, the tax under this Act, shall be payable by a dealer at the rate and at the point specified therein on the turnover or quantity in each year relating to such goods;

**Section 3(3)** Notwithstanding anything contained in sub-section(2),(2-A) or (2-C), but subject to the provisions of sub-section (1), the tax payable by a dealer in respect of sale of any goods including consumables, packing materials and labels, but excluding plant and machinery, to another dealer for use by the latter in the manufacture, and assembling, packing or labeling in connection with such manufacture inside the Sate, for sale by him of any goods other than ethyl alcohol, absolute alcohol, methyl alcohol, rectified spirit, neutral spirit and denatured spirit, goods falling under Part A of the Third Schedule, goods falling under item 1 of the Sixth Schedule and arrack, shall be at the rate of only three percent on the turnover relating to such sale.

Provided that the provisions of this sub-section shall not apply to –

(a) any sale of high speed diesel oil, light diesel oil and molasses ; and

((a)) any sale of goods falling under items 1 and 2 in Part F and item 2 in part I of the said schedule; and

**Section 3(3)(b)** any sale, unless the dealer selling such goods furnishes to the assessing authority in the prescribed manner and within the prescribed period, a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in the prescribed form obtained from the prescribed authority;

Provided further that any dealer who, after purchasing the goods in respect of which he had furnished any declaration, fails to make use of the goods so purchased for the purpose specified in the declaration but disposes of such goods in any other manner, shall pay the difference of tax payable on the turnover relating to sale of such goods at the rate prescribed and three per cent:

Provided also that the dealer purchasing the goods maintains a separate stock account for each of the goods purchased by him showing such particulars as may be prescribed.

**Section 3(4)** Where any dealer, after availing the concessional rate of tax under sub-section (3), does not sell the goods so manufactured, but despatches them to a place outside the State either by branch transfer or by transfer to an agent, by whatever name called, for sale, or in any other manner, except as a direct result of sale or purchase in the course of inter-State trade or commerce, shall pay, in addition to the concessional rate of tax already paid under sub-section (3), tax at <sup>1</sup>[one per cent on the value of the goods so purchased.

**Section 3(5)** Notwithstanding anything contained in sub-section (2), but subject to the provisions of sub-section (1), the tax payable by a dealer in respect of sale of any of the goods mentioned in the Eighth Schedule to any other dealer for installation of, and use in his factory site situate within the State for the manufacture of any goods shall be at the rate of three per cent on the turnover relating to such sale;

Provided that the provisions of this sub-section shall not apply to any sale, unless the dealer selling such goods furnishes to the assessing authority in the prescribed manner and within the prescribed period, a declaration duly filled in and signed by the dealer to whom the goods are sold, containing the prescribed particulars in the prescribed form obtained from the prescribed authority;

Provided further that any such dealer, who, after purchasing the goods in respect of which he had furnished any declaration, fails to install the goods and make use of the goods so purchased for the purpose specified in the declaration or disposes of such goods in any other manner within a period of five years shall pay the difference of the tax payable on the turnover relating to sale of such goods at the rate prescribed and three per cent.

**Section 3(6)** Notwithstanding anything contained in sub-section (2) and subject to the provisions of sub-section (1), the tax payable by a dealer in respect of sale of rubber products including tyres, tubes and flaps inside the State, manufactured by him inside the State out of Raw Rubber purchased inside the State shall be reduced to the extent of an amount equal to the purchase tax paid on raw rubber over and above three per cent:

Provided that the dealer purchasing the raw rubber maintains a separate stock account for the raw rubber purchased by him inside the State, showing such particulars as may be prescribed.

**Section 3(7)** \*Notwithstanding anything contained in sub-sections\*\* (2), (2-A), (2-B) (2-C) or (3) but subject to sub-sections (1) and (8), where goods are sold or purchased together with the containers or packing materials the turnover of such goods shall include the price, cost or value of such containers or packing materials, and the

packing charges, whether such price, cost or value or packing charges, are charged separately or not, and tax shall be levied thereon at the rate applicable to the goods contained or packed as if such containers or packing materials were the parts of the goods sold or purchased.

**Section 3(8)** Where the sale or purchase of goods contained in any container or packed in any packing material is exempt from tax at the hands of the dealer, then the price, cost or value of such container or packing material and the charges for packing, forming part of the turnover of the goods under sub-section (7), shall not be liable to tax.

*Explanation:-* For the purpose of Sub Sections (7) and (8), “containers” includes gunny bags, tins, bottle or any other containers.

**Section 3-A. Levy of tax on right to use any goods.** – (1) Notwithstanding anything contained in sub-sections \*[(2-A), (2-B), (2-C) (3), (4), (7) or (8) of section 3], or section 7-A but subject to the other provisions of this Act including the provisions of sub-section (1) of section 3, every dealer referred to in item (viii) of clause (g) of section 2 shall pay, for each year, a tax on his taxable turnover relating to the business of transfer of the right to use any goods for any purpose at the rates mentioned in \*\*[sub-section (2), (2-A) or (2-C) of section 3] or as the case may be, in section 4.

**Note1:** \*The expression “sub-sections (2-A), (2-B), (2-C), (3), (4), (7) or (8) of Section (3)” was substituted for the expression “sub-section (2-A), (2-B) (3), (4), (7) and (8) of section (3)” by Act 47/2002 – Gazette dated 18-11-2002 – Effective from 1-7-2002 (Retrospective).

2: \*\*The expression “sub-section (2) or (2-A) of section 3” was substituted for the expression “sub-section (2) of section 3 by Act 47/2002 – Gazette dated 18-11-2002 – Effective from 27-3-2002 (Retrospective).  
By the same amendment Act 47/2002, the expression “sub-section (2), (2-A) or (2-C) of section 3” was substituted for the expression “sub-section (2) or (2-A) of section 3” with effect from 1-7-2002 (Retrospective).

(2) The taxable turnover of the dealer, of the business of transfer of the right to use any goods for any purpose, shall, on and from the 1<sup>st</sup> day of April 1986 be arrived at after deducting the following amounts from the total turnover of that dealer: –

- (a) all amounts involved in respect of goods involved in the business of transfer of the right to use any goods for any purpose, in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India or in the course of inter-State trade or commerce;
- (b) all amounts for which any goods specified in the First Schedule or Second Schedule are purchased from registered dealers liable to pay tax under this Act and used in the same form in the transfer of the right to use such goods for any purpose; and

- (c) all amounts relating to sale of any goods involved in the business of transfer of the right to use, which are specifically exempted from tax under any of the provisions of this Act.

**Section 3-B. Levy of tax on the transfer of goods involved in works contract.** – (1) Notwithstanding anything contained in sub-sections (2-B), (3), (4), (7) and (8) of section 3, or section 7-A, but subject to the other provisions of this Act including the provisions of sub-section (1) of section 3, every dealer referred to in item (vi) of clause (g) of section (2) shall pay, for each year, a tax on his taxable turnover of transfer of property in goods involved in the execution of works contract at the rates mentioned in [sub-section (2), (2-A) or (2-C)] of section 3 or, as the case may be, in section 4.

*Explanation:-* Where any works contract involves more than one item of work, the rate of tax shall be determined separately for each item of work.

(2) The taxable turnover of the dealer of transfer of property involved in the execution of works contract shall, on and from the 26<sup>th</sup> day of June 1986, be arrived at after deducting the following amounts from the total turnover of that dealer:-

(a) all amounts involved in respect of goods involved in the execution of works contract in the course of export of the goods out of the territory of India, or in the course of import of the goods into the territory of India or in the course of inter-State trade or commerce:

(b) all amounts for which any goods, specified in the First Schedule or Second Schedule, are purchased from registered dealers liable to pay tax under this Act and used in the execution of works contract in the same form in which such goods were purchased:

(c) all amounts paid to the sub-contractors as consideration for execution of works contract whether wholly or partly:

(d) all amounts paid to the sub-contractors as consideration for execution of works contract whether wholly or partly:

Provided that no such deduction shall be allowed unless the dealer claiming deduction, produces proof that the sub-contractor is a registered dealer liable to pay tax under this Act and that the turnover of such amounts is included in the return filed by such sub-contractor: and

(e) all amounts towards ‘labour charges and other like charges’ not involving any transfer of property in goods, actually incurred in connection with the execution of works contract, or such amounts calculated at the rate specified in column (3) of the Table below, if they are not ascertainable from the books of accounts maintained and produced by a dealer before the assessing authority.

**THE TABLE**

Serial number (1)	Type of works contract (2)	Labour or other charges as a Percentage value of the works contract (3)
1	Electrical Contractors	15
2	All structural contractors	15
3	Sanitary contracts	25
4	Watch and/or clock repair contracts	50
5	Dyeing contracts	50
6	All other contracts	30

[(f) all amounts (including the tax collected from the customer) refunded to the customer or adjusted towards any amount payable by the customer, in respect of unexecuted portion of works contract based on the corrections on account of measurements or check measurements, subject to the conditions that –

- (i) the turnover was included in the return and tax paid: and
- (ii) the amount (including the tax collected from the customer) is so refunded or adjusted, within a period of six months from the due date for filing of the return in which the said amount was included and tax paid.]

**Section 3-C. Input tax credit.-** (1) Notwithstanding anything contained in sub-section(2) of section 3, every dealer shall pay tax at the rate specified in the First Schedule, on every sale made by him within the State, in respect of goods as may be notified by the Government from among the goods specified in the First Schedule.

**Sec.3C(2)** A registered dealer shall be entitled to claim input tax credit, subject to such conditions as may be prescribed.

**Section 3-D. Payment of tax by hotels, restaurants and sweet stalls.** – (1) Notwithstanding anything contained in sub-section (1) of section 3, every dealer whose total turnover is not less than twenty five lakhs of rupees for the year shall pay tax at the rate of two per cent on the first point of sale of ready to eat unbranded foods including sweets, savouries, unbranded non-alcoholic drinks and beverages served in or catered indoors or outdoors by hotels, restaurants, sweetstalls, clubs, caterers and any other eating houses other than those falling under item 29 of Part-C of the First Schedule.

*Explanation (1)* – For the purpose of computing the total turnover under this sub-section, the purchase turnover liable to tax under section 7-a shall be added to the sales turnover.

*Explanation (2)* – For the purpose of computing the total turnover under this sub-section, the sales turnover of all business units in a common premises sharing the common kitchen or common employees shall be added to the sales turnover of the business unit having higher turnover.

**Sec.3-D(2)** Notwithstanding anything contained in sub-section (1), every dealer whose total turnover is not more than fifty lakhs of rupees for the year may, at his option, pay tax at the rates specified in PART-A of the Ninth Schedule.

**Sec.3D(3)** Every dealer, who opts for payment of tax under sub-section(2), shall apply to the assessing authority in such form as may be prescribed, on or before the 30<sup>th</sup> day of April of the year or within thirty days of commencement of business, as the case may be, and shall pay tax in advance during the year in monthly instalments and for this purpose, he shall furnish such return, within such period and in such manner, as may be prescribed:

Provided that the option under this sub-section for the year commencing on the 1<sup>st</sup> day of April 1999 shall be exercised on or before the [31<sup>st</sup> day of January, 2000].

**Sec.3-D(4)** The option so exercised under sub-section (2) shall be final for that year and shall continue for subsequent years until the dealer becomes ineligible or withdraws his option in writing.

**Sec.3-D(5)** A dealer liable to pay tax under sub-section (2) shall not collect any amount by way of tax or purporting to be by way of tax on the sale of food and drinks.

**Section 3-E. Payment of tax by dealers in jewellery.** – (1) Notwithstanding anything contained in sub-section (1) of section 3, every dealer whose total turnover is not more than fifty lakhs of rupees for the year on the sale of gold and silver jewellery including articles thereof may, at his option, instead of paying tax in accordance with the provisions of sub-section (2) of section 3, shall pay tax at the rate specified in Part B of the Ninth Schedule.

**Sec.3-E(2)** Every dealer, who opts for payment of tax under sub-section (1), shall apply to the assessing authority in such form as may be prescribed, on or before the 30<sup>th</sup> day of April of the year or within 30 days of commencement of business, as the case may be, and shall pay tax in advance during the year in monthly instalments and for the purpose, he shall furnish such return, within such period and in such manner, as may be prescribed:

Provided that the option under this sub-section for the year commencing on the 1<sup>st</sup> day of April, 1999 shall be exercised on or before the [31<sup>st</sup> day of January, 2000].

**Sec.3-E(3)** The option so exercised under sub-section (2) shall be final for that year and shall continue for subsequent years until the dealer becomes ineligible or withdraws his option in writing.

**Sec.3-E(4)** A dealer who has been permitted to pay the tax under sub-section (1) shall not collect any amount by way of tax or purporting to be by way of tax on the sale so long as he opts to pay tax as provided under sub-section (1).

**Section 3-F** [.....]

**Section 3-G. Payment of tax at compounded rate by Printers.** – (1) Notwithstanding anything contained in sub-section (2) of section 3 or section 3-B, every dealer who carries on the business of printing may, at his option, instead of paying tax in accordance with sub-section (2) of section 3 or section 3-B, pay tax at the rate of three per cent on the total turnover.

**Sec.3-G(2)** Every dealer who opts for payment of tax under sub-section (1), shall apply to the assessing authority in such form as may be prescribed on or before the 30<sup>th</sup> day of April of the year or within thirty days of commencement of business, as the case may be, and shall pay tax along with such return, within such period and in such manner, as may be prescribed:

Provided that the option under this sub-section for the year commencing on the 1<sup>st</sup> day of April 2002 shall be exercised on or before the 31<sup>st</sup> day of July 2002.

**Sec.3-G(3)** The option so exercised under sub-section (2) shall be final for that year and shall continue for subsequent years until the dealer withdraws his option in writing on or before the 30<sup>th</sup> day of April of the subsequent year.

**Section 3-H. Levy of resale tax** - Notwithstanding anything, contained in [sub-sections (1) and (2) of section 3, section 3-A or 3-B], every dealer, other than the dealer liable to pay tax under section 3-J, whose total turnover is not less than ten lakhs of rupees for the year, shall pay a resale tax at such rate not exceeding one per cent as may be fixed by the Government, by notification, on the turnover of resale of goods specified in the First Schedule and the Eleventh Schedule other than the goods notified by the Government under section 3-C, at a point other than the point of levy specified therein:

Provided that any resale turnover included in the total turnover of a dealer paying tax under sub-section (2) of section 3-D and sections 3-E, 7-C, 7-D and 7-E is not liable for resale tax:

Provided further that the goods taxable at the point of last purchase in the State are not liable to resale tax.

Explanation. – For the purpose of this section, the turnover of resale in respect of goods taxable at the point of first purchase means the sales turnover of such goods at all points of sale by subsequent dealers.



**Section 3-I. Levy of surcharge.** – A surcharge at the rate of five percent shall be levied on the tax levied under sub-sections (2), (2-C), (3) and (5) of section 3, sections 3-A, 3-B and 3-C, sub-sections (1) of section 3-D and sections 3-G,3-J, 5, 7-A and 7-C and at the first point of sale in the State under sub-section (2-A) of section 3.

**Section 3-J. Levy of tax on trade mark holder.-** Notwithstanding anything contained in this Act, whenever a dealer, who holds the trade mark or the patent thereof, sells goods other than the declared goods at any point of sale other than the first point of sale, he shall be deemed to be the first seller in the State and shall be liable to pay tax accordingly and for determining the tax due to be paid by him, the tax levied and collected, if any, at the immediate preceding point of sale, on the same goods shall be deducted from the tax payable by him at the point of sale.

**Section 4. Tax in respect of declared goods.-** [Notwithstanding any thing contained in Sub-section (2) to (8) of Section 3 or Section 3-A or Section 3-B but subject to the provisions of sub-section (1) of Section 3], the tax under this Act shall be payable by a dealer on the sale or purchase inside the State of declared goods at the rate and only at the point specified against each in the Second Schedule on the turnover in such goods in each year, [.....].

**Section 4-A.** <sup>1</sup>**[Reimbursement or refund of tax paid in certain cases.** – (1) Where a tax has been levied and collected under section 4 or section <sup>2</sup>[7-A] in respect of the sale or purchase of declared goods and such goods are sold in the course of inter-State trade or commerce <sup>3</sup>[and tax has been paid under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), in respect of the sale of such goods in the course of inter-State trade or commerce, the tax levied and collected under section 4 or section 7-A <sup>4</sup>[shall be reimbursed to the person making such sale in the course of inter-State trade or commerce] in such manner and subject to such conditions as may be prescribed.

Note : Section 4 A was inserted by Act 6 of 1963

Item 1 in the marginal heading, the expression “ Re-embursement or refund” was substituted for the expression “refund” by Act 39 of 1973.

Item 2 in section 4-A was inserted by Act 2 of 1970 with effect from 27-11-1969.

Item 3 in section 4 – A was substituted by Act 39 of 1973 and deemed always to have been substituted.

Item 4 in section 4-A was substituted by Act 39 of 1973. Effective from 1-4-1973.

**Section 4-A (2)** Where a tax at the point of last purchase in the State has been levied and collected under this Act in respect of goods liable to tax at such point and where the said purchase ceases to be the last purchase in the State by reason of a subsequent purchase of such goods by another dealer in the State, the tax so levied and collected shall be refunded to the dealer concerned in such manner and subject to such conditions as may be prescribed.

**Section 4-B. Special provisions in respect of certain declared goods.** – (1)

Where a tax has been levied under this Act in respect of the sale or purchase of any paddy referred to in sub-item (I) of item 1 of the Second Schedule, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy.

**Section 4-B (2).** Each of the pulses referred to in item 6-A of the Second Schedule, whether whole or separated, and whether with or without husk, shall be treated as a single commodity for the purposes of levy of tax under this Act.

**Section 4-C. Refund of tax on sales returns.** – Where a dealer has refunded the price of the goods returned by customers together with the tax collected from such customers in respect of the sale of such goods and where the amount representing the price refunded by the dealer is included in his turnover, the dealer shall be entitled to claim refund of the tax paid by the dealer in respect of such sale, subject to the following conditions, namely: –

- (a) that the sale or purchase was included in the return and the tax (was) paid;
- (b) that the goods were received back or returned within a period of six months of the date of sale or purchase, as the case may be;
- (c) that the price of the goods and the tax, if any, charged thereon were refunded in full to the buyer or seller, as the case may be; and
- (d) that the claim for refund of tax is filed within a period of thirty days of the receipt or despatch of the goods or before the completion of final assessment, whichever is latter, to such authority, in such manner and subject to such conditions as may be prescribed.

**Section 4-D. Refund of tax on unfructified sale.** – Where the goods despatched by a dealer are returned for the reason that they were not taken delivery of by the person for whom they were intended for the reason that they were not taken delivery of by the person for whom they were intended, the dealer shall be entitled to claim refund of the tax paid by him on such unfructified sale:

Provided that the claim is preferred within a period of thirty days of the receipt of the goods returned, to such authority, in such manner and subject to such conditions as may be prescribed.

**Section 4-E. Refund of tax paid in certain cases.** – A registered 100% export oriented unit or unit located in Madras Export Processing Zone shall be entitled for refund of the whole of the tax paid by it on the purchase of any goods, including consumables, packing materials and labels, but excluding plant and machinery, which has been used by such unit in the manufacture and assembling, packing or labelling of goods manufactured within the State and sold by way of export by such unit:

Provided that the unit shall satisfy such conditions and shall submit an application for refund in such manner and in such form as may be prescribed.

**Section 4-F Payment of tax by dealer's in rice** – (1) Notwithstanding anything contained in sub-section (1) of section 3 and section 4, every dealer whose turnover on the sale of rice including broken rice does not exceed two crores of rupees for a year shall pay tax on the sale of rice including broken rice at the rate specified in Part-C of the Ninth Schedule.

**Sec.4-F(2)** A dealer liable to pay tax under sub-section (1) shall not collect any amount by way of tax or purporting to be by way of tax on the sale of rice including broken rice.

**Sec.4-F(3)** A dealer liable to pay tax under sub-section (1) shall pay tax in advance during the year in monthly instalments and for the purpose, he shall furnish such return, within such period and in such manner as may be prescribed.

**Section 5. tax on goods purchased by dealers registered under Central Act 74 of 1956.** – Notwithstanding anything contained in sub-section (1) of section 3, every dealer registered under sub-section (3) of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall, whatever be the quantum of his turnover, pay tax for each year in respect of the sale of goods with reference to the purchase of which he has furnished a declaration under sub-section (4) of section 8 of the said Central Act, at the rates specified under [sub-sections (2), (2-A), (2-B) and (2-C) of section 3 or section 3-A, 3-B or 4.

**Section 6. Tax under this Act to be in addition to tax under Central Act 74 of 1956 or any other Law.** – The provisions of this Act relating to taxation of successive sales or purchases inside the State, only at a single point or at one or more points shall apply only to sales or purchases inside the State (other than sales or purchases in the course of inter-State trade or commerce) and the tax under this Act shall be in addition to any tax levied under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) or any other law for the time being in force.

**Section 7. Payment of tax at compounded rates.** – (1) [Notwithstanding anything contained in sub-section (1) of section (3) but subject to sub-section (4)] every dealer [other than a casual trader or an agent of a non-resident dealer] whose total turnover is not less than one lakh of rupees but not more than two lakhs of rupees, may at his option instead of paying the tax in accordance with the provisions of that sub-section pay tax at the following rates, namely: –

	<b>Rate of tax</b>
(i) Where the total turnover is not less than one	Two thousand five hundred and

lakh of rupees, but is less than one lakh ten thousand rupees.	eighty rupees per annum
(ii) Where the total turnover is not less than one lakh ten thousand rupees, but is less than one lakh twenty thousand rupees.	Two thousand eight hundred and eighty rupees per annum
(iii) Where the total turnover is not less than one lakh twenty thousand rupees, but is less than one lakh thirty thousand rupees.	Three thousand one hundred and eighty rupees per annum
(iv) Where the total turnover is not less than one lakh thirty thousand rupees, but is less than one lakh forty thousand rupees.	Three thousand four hundred and eighty rupees per annum
(v) Where the total turnover is not less than one lakh forty thousand rupees, but is less than one lakh fifty thousand rupees.	Three thousand seven hundred and eighty rupees per annum
(vi) Where the total turnover is not less than one lakh fifty thousand rupees, but is less than one lakh sixty thousand rupees.	Four thousand eighty rupees per annum
(vii) Where the total turnover is not less than one lakh sixty thousand rupees, but is less than one lakh seventy thousand rupees.	Four thousand three hundred and eighty rupees per annum
(viii) Where the total turnover is not less than one lakh seventy thousand rupees, but is less than one lakh eighty thousand rupees.	Four thousand six hundred and eighty rupees per annum
(ix) Where the total turnover is not less than one lakh eighty thousand rupees, but is less than one lakh ninety thousand rupees.	Four thousand nine hundred and eighty rupees per annum
(x) Where the total turnover is not less than one lakh ninety thousand rupees, but is not more than two lakhs of rupees.	Five thousand two hundred and eighty rupees per annum

**Section 7(2).** Any dealer [other than a casual trader or an agent of a non-resident dealer] who estimates his total turnover for a year to be not more than [two lakhs of rupees] may apply to the assessing authority to be permitted to pay tax under this section and on being so permitted, he shall pay the tax due in advance during the year in monthly or prescribed installments and for the purpose shall submit such returns in such manner as may be prescribed:

Provided that any dealer paying tax under sub-section (1) of section 3 and desirous of paying the tax for any year under this section may, at any time before final assessment for that year, exercise his option to be assessed under this section and for that purpose shall submit such returns in such manner as may be prescribed:

Provided further that any dealer paying tax under this section and desirous of paying tax under sub-section (1) of section 3 may, at any time before final assessment for that year, exercise his option to pay tax in accordance with that sub-section and for that purpose shall submit such returns in such manner as may be prescribed.

**Section 7(2-A).** The permission granted by the assessing authority under sub-section (2) shall continue in force so long as the dealer is eligible to be assessed under this section and has not withdrawn his option to be so assessed.

**Section 7(3).** The tax paid under sub-section (2) shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

**Section 7(4).** The provisions of this section shall not apply in respect of any sale or purchase made on or after the 1<sup>st</sup> April 1990.

**Section 7-A. Levy of purchase Tax.** – (1) <sup>1</sup>[Subject to the provisions of sub-section (1) of section 3, every dealer] who in the course of his business purchases from a registered dealer or from any other person, any goods, (the sale or purchase of which is liable to tax under this Act) in circumstances in which [no tax is payable under <sup>2</sup>(sections 3 or 4,) as the case may be, \*[not being a circumstance in which goods liable to tax under \*\*[sub-section (2), (2-A) or (2-C) of section 3 or section 4, were purchased at a point other than the taxable point specified in the First, the Fifth, the Eleventh or the Second Schedule], respectively, and either, –

**Note 1:** \*The expression “not being .....second schedule” was substituted for the expression ‘no tax is payable under sections, 3, 4, or 5 as the case may be and either’ by Act 78 of 1986. Gazette Notn. Dt. 18-12-86. G.O.P.1322 CT & RE, dated 29-12-1986 – Effective from 1-1-1987.

2: \*\*The expression “sub-section (2) or (2-A) of section 3 or section 4, were purchased at a point other than the taxable point specified in the First, the Fifth or the Second Schedule, respectively, and either” was substituted for the expression “sub-section (2) of section 3 or section 4, were purchased at a point other than the taxable point specified in the First, the Fifth or the Second Schedule and either” by Act 47/2002 – Gazette dated 18-11-2002 – Effective from 27-3-2002 (Retrospective).

By the same amendment Act 47/2002, the expression “sub-section (2), (2-A) or (2-C) of section 3 or section 4 were purchased at a point other than the taxable point specified in the First, the Fifth, the Eleventh or the Second Schedule, respectively, and either” was substituted

for the expression “sub-section (2) or (2-A) of section 3, or section 4, were purchased at a point other than the taxable point specified in the First, the Fifth or the Second schedule, respectively, and either “with effect from 1-7-2002 (Retrospective)

(a) \*[consumes or uses such goods in or for the manufacture of other goods for sale or otherwise; or]

(b) disposes of such goods in any manner other than by way of sale in the State, [.....]\*

(c) <sup>3</sup>[despatches or carries them] to a place outside the State except as a direct result of sale or purchase in the course of inter-State trade or commerce, [or]\*\*

(e) installs and uses such goods in the factory for the manufacture of any goods.

shall pay tax on the turnover relating to the purchase aforesaid at the rate mentioned in <sup>2</sup>[sections 3 or 4], as the may be.<sup>4</sup>[.....]

<sup>5</sup>[.....]

**Section 7-A(2).** Notwithstanding anything contained in sub-section (1), the provisions of section 7 shall apply to a dealer referred to in sub-section (1) who purchases goods { the sale of which is liable to tax under sub-section (1) of section 3 } and whose total turnover for a year is not less than one lakh of rupees but not more than two lakhs of rupees, and such a dealer may, at his option instead of paying the tax in accordance with the provisions of sub-section (1), pay tax at the rates mentioned in sub-section (1) of section 7:

Provided that this sub-section shall not apply to the purchase made on or after the 1<sup>st</sup> day of April, 1990.

**Section 7-A (3).** Every dealer liable to pay purchase tax under sub-section (1), shall, for the purpose of this Act, be deemed to be a registered dealer.

**Section 7-B. Payment of tax at compounded rate by hotels and restaurants. –**  
(1) Notwithstanding anything contained in sub-section (1) of section 3, every dealer whose total turnover is not less than ten lakhs of rupees but not more than fifteen lakhs of rupees on the sale of food and drinks in hotels and restaurants, may at his option instead of paying the tax in accordance with the provisions of that sub-section pay tax at the following rates, namely:–

**Rate of tax**

- (i) Where the total turnover is not less than ten lakhs of rupees, but is less than eleven lakhs of rupees per annum
- Thirty-one thousand five hundred

of rupees.

- |       |   |   |
|-------|---|---|
| (ii)  | Where the total turnover is not less than eleven lakhs of rupees, but is less than twelve lakhs of rupees.        | Thirty-seven thousand three hundred rupees and seventy five rupees per annum. |
| (iii) | Where the total turnover is not less than twelve lakhs of rupees, but is less than thirteen lakhs of rupees.      | Forty-three thousand seven hundred and fifty rupees per annum.                |
| (iv)  | Where the total turnover is not less than thirteen lakhs of rupees, but is less than fourteen lakhs of rupees.    | Fifty-four thousand rupees per annum.   |
| (v)   | Where the total turnover is not less than fourteen lakhs of rupees, but is not More than fifteen lakhs of rupees. | Sixty-five thousand two hundred and fifty rupees per annum.                   |

**Section 7-B(2).** Any dealer who estimates his total turnover for a year to be not more than fifteen lakhs of rupees may apply to the assessing authority to be permitted to pay the tax under this section and on being so permitted he shall pay the tax due in advance during the year in monthly or prescribed installments and for that purpose shall submit such returns in such manner as may be prescribed;

Provided that any dealer paying tax under sub-section (1) of section 3 and desirous of paying tax for any year under this section may, at any time, before final assessment for that year, exercise his option to be assessed under this section and for that purpose shall submit such returns in such manner as may be prescribed:

Provided further that any dealer paying tax under this section and desirous of paying tax under sub-section (1) of section 3 may, at any time, before final assessment for that year, exercise his option to pay tax in accordance with that sub-section and for that purpose shall submit such returns in such manner as may be prescribed.

**Section 7-B(3)** The permission granted by the assessing authority under sub-section (2) shall continue in force so long as the dealer is eligible to be assessed under this section and has not withdrawn his option to be so assessed.

**Section 7-B(4)** The tax paid under sub-section (2) shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

**Section 7-B(5)** A dealer who has been permitted to pay the tax under sub-section (1), shall not collect any amount by way of tax or purporting to be by way of tax on the sales so long as he opts to pay the tax as provided under sub-section (1).

**Section 7-B(6)** The provisions of this section shall not apply in respect of any sale or purchase made on or after the 1<sup>st</sup> day of April, 1992.

**Section 7-C. Payment of tax at compounded rates by (works contractors)**—  
[(1) Notwithstanding anything contained in section 3-B, every dealer referred to in item (vi) of clause (g) of section 2, May, at his option, instead of paying tax in accordance with section 3-B, pay, [either on the total value of each works contract or on the total value of all works contract, executed by him in a year,] tax calculated at the following rate, namely;-

- |                                |   |
|--------------------------------|---|
| (i) Civil Works contract       | Two per cent of the total contract value of the civil works executed; |
| (ii) All other Works contracts | Four per cent of the total contract value of the works executed.]     |

**Section 7-C (2).** Any dealer who executes [works contract] may apply to the assessing authority along with the first monthly return for the financial year, his option to pay the tax under sub-section (1) and shall pay the tax during the year in monthly instalments and for this purpose, he shall furnish such returns within such period and in such manner as may be prescribed:

Provided that the option under this sub-section for the financial year commencing on the 1<sup>st</sup> day of April 1993 and the 1<sup>st</sup> day of April 1994, shall be exercised on or before the 30<sup>th</sup> day of June 1994.

[Provided further that the option under this sub-section in respect of works contract other than civil works contract for the financial year commencing the 1<sup>st</sup> day of April 1999 shall be exercised on or before the [31<sup>st</sup> day January, 2000]]

Sec.7-C(2-A) Notwithstanding anything contained in sub-section (2), any dealer who executes works contract may apply to the assessing authority along with the first monthly return on the commencement of each works contract, his option to pay the tax under sub-section (1) in respect of each works contract.

**Section 7-C(3).** . Where a dealer has exercised his option under sub-section (1):-

- (a) in respect of each works contract, such option shall be final till the completion of such works contract;
- (b) in respect of all works contract, such option shall be final for that financial year.



**Section 7-C(4).** A dealer, exercising option under sub-section (1) shall, so long as the option remains in force, not be required to maintain accounts of business under this Act or the rules made thereunder except the records in originals of the [works contract], extent of their execution and payments received or receivable in relation to such [works contract], executed or under execution.

*Explanation:-* For the purpose of this section “civil works contract” , means civil works of construction of new building, bridge, road, runway, dam or canal including any lining, tiling, painting or decorating which is an inherent part of the new construction; but shall not include any repair, maintenance, improvement or upgradation of such civil work by means of fixing and laying of all kinds of floor tiles, mosaic tiles, slabs, stones, marbles, glazed tiles, painting, polishing, partition, wall paneling, interior decoration, false ceiling, carpeting and extra fittings, or any manner of improvement on an existing structure.

*Explanation.-* For the purpose of this section “civil works contract”, means civil works of construction of new building, bridge, road, runway, dam or canal including any lining, tiling, painting or decorating which is an inherent part of the new construction; but shall not include any repair, maintenance, improvement or upgradation of such civil work by means of fixing and laying of all kinds of floor tiles, mosaic tiles, slabs, stones, marbles, glazed tiles, painting, polishing, partition, wall paneling, interior decoration, false ceiling, carpeting and extra fittings, or any manner of improvement on an existing structure.

**Section 7-D. Levy of tax on lottery tickets.-** (1) Notwithstanding anything contained in sub-section (1) of section 3, every dealer in lottery tickets in the State shall pay tax at the rates specified in the Tenth Schedule:

Provided that where a dealer has paid the tax under this sub-section in respect of a particular name and type of lottery tickets of a particular State and for a particular draw, the tax in respect of the sale of such lottery tickets, by any other dealer or any person in this State liable to pay tax under this Act shall be deemed to have been paid under this Act.

(2) The dealer shall pay the tax under sub-section (1), thirty days prior to the draw in such manner as may be prescribed.

(3) A dealer liable to pay tax under sub-section (1) shall not collect any amount by way of tax or purporting to be by way of tax on the sale of lottery tickets.

**Section 7-E. Payment of tax at compounded rates.** – (1) Notwithstanding anything contained in \*[sub-section (2),(2-A) and (2-C) of section 3 and section 4, every dealer (other than a casual trader or an agent of a non-resident dealer);

(a) whose total turnover exceeds three lakhs of rupees but does not exceed ten lakhs of rupees in the immediately preceding year, or

(b) whose total turnover would exceed three lakhs of rupees but would not exceed ten lakhs of rupees in the immediately preceding year if proportionately calculated for a full year with reference to his turnover for the actual period of business, may, at his option, instead of paying tax in accordance with the provisions of sub-section (2), (2-A) and (2-C) of section 3 or section 4, as the case may be, pay tax at the following rates, namely: –

	<b>Rate of tax</b>
(i) Where the total turnover does not exceed five lakhs of rupees	3 per cent of the total turnover
(ii) Where the total turnover exceeds five lakhs of rupees, but does not exceed ten lakhs of rupees	Rs.15,000+5 per cent of the total turnover in excess of rupees five lakhs

Provided that such dealer shall not be required to maintain detailed commodity-wise accounts, other than purchase and sale bills and total accounts relating to monthly sales, monthly tax collection and tax payments, annual purchases and annual opening and closing stocks;

Provided further that this sub-section shall not apply to –

(a) any dealer whose total turnover exceeds rupees ten lakhs in the course of a year; or

(b) any dealer who has issued declaration under sub-section (4) of section 8 of Central Sales Tax Act, 1956 (Central Act 74 of 1956) for the purchase of goods, in relation to the turnover relating to sale of such goods;

(2) Every dealer who opts for payment of tax at the compounded rate, shall apply to the assessing authority in such form as may be prescribed, on or before the 30<sup>th</sup> day of April of the year, exercising his option to pay tax as specified under sub-section (1) and shall pay tax in advance during the year in monthly installments, and, for this purpose, he shall furnish such returns within such period and in such manner as may be prescribed;

Provided that the option under this sub-section for the year commencing on the 1<sup>st</sup> day of April 1996 shall be exercised on or before the 31<sup>st</sup> day of October 1996;

(3) The option so exercised under this section shall be final for that year and shall continue for subsequent years until the dealer becomes ineligible, or withdraws his option in writing.

(4) A dealer who has been permitted to pay the tax under sub-section (1) shall not collect any amount by way of tax or purporting to be by way of tax on the sale so long as he opts to pay the tax as provided under sub-section (1);

Section 7-F. Deduction of tax at source in works contract.- (1) Notwithstanding anything contained in this Act, every person responsible for paying any sum to any dealer for execution of works contract shall, at the time of payment of such sum, deduct an amount calculated, at the following rate, namely:-

- |      |                            |  |
|------|----------------------------|--|
| (i)  | Civil Works Contract.      | Two per cent of the total amount payable to such dealer.   |
| (ii) | All other works contracts. | Four per cent of the total amount payable to such dealers. |

Provided that no deduction under sub-section (1) shall be made where,-

- (a) no transfer of property in goods (whether as goods or in some other form) is involved in the execution of such works contract; or
- (b) the dealer produces [a certificate in such form as may be prescribed from the assessing authority concerned that he has no liability to pay or has paid the tax under section 3-B or section 7-C; or
- (c) declared goods are purchased from a registered dealer within the State and used in the execution of works contract in the same form in which such goods were purchased:

Provided further that no such deduction shall be made under this section, where the amount or the aggregate of the amount paid or credited or likely to be paid or credited, during the year, by such person to the dealer for execution of the works contract including civil works contract does not or is not likely to, exceed one lakh rupees.

Explanation.- For the purpose of this section,-

- (i) the term 'person' shall include –
  - (a) the Central or a State Government,
  - (b) a local authority,
  - (c) a corporation or body established by or under a Central or State Act,
  - (d) a company incorporated under the Companies Act, 1956 (Central Act 1 of 1956) including a Central or State Government undertaking,
  - (e) a society including a Co-operative Society,
  - (f) an educational institution, or

(g) a trust.

(ii) the term “civil works contract” shall have the same meaning as in the Explanation to section 7-C.

Sec.7-F(2) Any person making such deduction shall deposit the sum so deducted to such authority, in such manner and within such time, as may be prescribed.

Sec.7-F(3) Any person who makes the deduction and deposit, shall, within fifteen days of such deposit, issue to the said dealer a certificate in the prescribed form for each deduction, separately, and send a copy of the certificate of deduction to the assessing authority, having jurisdiction over the said dealer together with such documents, as may be prescribed.

Sec.7-F(4) On furnishing a certificate of deduction referred to in sub-section (3), the amount deposited under sub-section (2), shall be adjusted by the assessing authority towards tax liability of the dealer under section 3-B or section 7-C, as the case may be, and shall constitute a good and sufficient discharge of the liability of the person making deduction to the extent of the amount deposited:

Provided that the burden of proving that the tax on such works contract has already been deposited and of establishing the exact quantum of tax so deposited shall be on the dealer claiming the deduction.

Sec.7-F(5) Any person who contravenes the provisions of sub-section (1) or sub-section (2), shall pay, in addition to the amount required to be deducted and deposited, interest at two per cent per month of such amount for the entire period of default.

Sec.7-F(6) Where the dealer proves to the satisfaction of the assessing authority that he is not liable to pay tax under section 3-B or section 7-C, the assessing authority shall refund the amount deposited under sub-section (2), after adjusting the arrears of tax, if any, due from the dealer, in such manner as may be prescribed.

Sec.7-F(7) The tax or interest under this section shall become due without any notice of demand on the date of accrual for the payment by the person as provided under sub-section (1) and (2).

Sec.7-F(8) If any person contravenes the provisions of sub-section (1) or sub-section (2), the whole amount of tax payable shall be recovered from such person and all provisions of this Act for the recovery of tax including those relating to levy of penalty and interest shall apply, as if the person is an assessee for the purpose of this Act.

**Section 8. Exemption from tax.** – Subject to such restrictions and conditions as may be prescribed, a dealer who deals in the goods specified in the Third Schedule shall not be liable to pay any tax under this Act in respect of such goods.

**Section 9. Stage of levy of taxes in respect of imported and exported goods.** – Where in the case of any goods tax is leviable at one point in a series of sales or purchases, such series shall –

(a) in the case of goods imported into the State either from outside the territory of India or from any other State in India, be deemed to commence at the stage of the sale or purchase effected immediately after the import of such goods;

(b) in the case of goods exported out of the State to any place outside the territory of India or to any other State in India, be deemed to conclude at the stage of sale or purchase effected immediately before the export of such goods;

Provided that in the case of goods exported out of the State to any place outside the territory of India, where the sale or purchase effected immediately before the export of such goods is under sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), a sale or purchase in the course of export, the series of sales or purchases of such goods shall be deemed to conclude at the stage of the sale or purchase immediately preceding such sale or purchase in the course of export.

**Section 10. Burden of proof:** – (1) For the purpose of assessment of tax under this Act the burden of proving that any transaction or any turnover of a dealer is not liable to tax shall lie on such dealer.

Sec.10(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, a dealer in any of the goods liable to tax in respect of the first sale or first purchase in the State shall be deemed to be the first seller or first purchaser as the case may be of such goods and shall be liable to pay tax accordingly on his turnover of sale or purchase relating to such goods, unless he proves that the sale or purchase, as the case may be of such goods had already been subjected to tax under this Act.

Sec.10(3) Where any dealer knowingly produces a false bill, vouchers, declaration, certificate or other document with a view to support or make any claim that a transaction of sale or purchase effected by him is not liable to be taxed or liable to be taxed at a lower rate, the assessing authority shall on detecting such production direct the dealer producing such document to pay as penalty a sum –

(i) Which shall be in the case of first such detection fifty per cent of the tax due in respect of such transaction; and

(ii) which shall be in the case of second or subsequent deductions one hundred per cent of the tax due in respect of such transaction;

Provided that no penalty shall be levied without giving the dealer an opportunity of being heard.

**Section 11. Assessment of tax.** – The tax under this Act shall be assessed, levied and collected in such manner as may be prescribed.

**Section 12. Procedure to be followed by the assessing authority.** – (1)(a) The assessment in respect of a dealer shall be on the basis of the return relating to his turnover submitted in the prescribed manner within the prescribed period:

Sec.12(1)(b) Notwithstanding anything contained in clause (a) of this sub-section, a dealer whose turnover which includes the total turnover under this Act, inter-State sales, export sales and stock transfers to outside the State does not exceed ten crores of rupees in a year, may make a self-assessment for that year in the manner and subject to such conditions as may be prescribed.

Sec.12(1)(c) The provisions of clause (b) and sub-section (1-A) shall apply to the assessments for the financial years commencing from the 1<sup>st</sup> day of April 2001.

(aa) The provisions of clause (a) and sub-section (1-A) shall apply to the assessments for the financial years, commencing on the 1<sup>st</sup> day of April 1999.]

(b) [...]

**Section 12(1-A).** Notwithstanding anything contained in the [clause (b) of sub-section (1), five per cent of the total number] of such assessments, shall be selected by the Commissioner in such manner as may be prescribed for the purpose of detailed scrutiny regarding the correctness of the return submitted by the dealer in this connection and in such cases, final assessment orders shall be passed in accordance with the provisions of this Act.

**Section 12(1-B).** Save as otherwise provided in this Act and subject to such rules as may be prescribed, the procedure relating to assessment shall apply to the <sup>1</sup>[self assessment] under the proviso to sub-section (1).

**Section 12(2)** If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incomplete or incorrect, the assessing authority shall, after making such enquiry as

it may consider necessary, assess the dealer to the best of its judgement [subject to such conditions as may be prescribed]:

Provided that before taking action under this sub-section the dealer shall be given a reasonable opportunity of proving the correctness or completeness of any return submitted by him.

Sec.12(2-A) and 12(2-B) [.....]

**Section 12(2-A)** (a) An assessment in respect of registered dealers under sub-sections (1), (1-A) and (2) shall be made within a period of three years from the expiry of the year to which the assessment relates and in the case of other dealers the assessment shall be completed within a period of seven years from the expiry of the years to which the assessment relates:

Provided that where an assessment made under this section or section 16 is set aside by the authorities under section 31, 31-A, 34 or 36 or 38, as the case may be, and thereby, the assessing authority is directed to make a fresh assessment, the assessing authority shall pass fresh orders within a period of one year from the date of receipt of such direction:

Provided further that the time limit shall apply to the assessment for the financial years commencing on the 1<sup>st</sup> day of April 1996.

Provided also that any assessment relating to any financial year prior to the financial year commencing on the 1<sup>st</sup> day of April 1996 shall be completed on or before the 31<sup>st</sup> day of March 2000.

Sec.12(2-A)(b) The Commissioner of Commercial Taxes may, by order, direct any assessing authority to defer assessment pending clarification by him on any question referred to him under section 28-A if such question has a bearing on such assessment. The period between the date of such direction and the date on which such clarification has been received shall be excluded in computing the period specified in this sub-section for the purpose of making the assessment.

Sec.12(2-A)(c) Where an assessment is not concluded within the time specified, the total and the taxable turnover declared by a dealer in his return shall be deemed to have been assessed for that year on the basis of the said return under the provisions of this Act.

Sec.12(2-B) In computing the period of limitation for assessment under this section the following period shall be excluded, namely: –

(i) the time during which the proceedings for assessment remained stayed under the orders of a civil court or other authority;

(ii) the time during which any appeal or other proceeding in respect of any other assessment or reassessment is pending before the Special Tribunal, the High Court or the Supreme Court involving a question of law having a direct bearing on the assessment in question;

(iii) the time during which any appeal or proceeding in respect of any assessment or reassessment of the same part of the turnover made under any other enactment was pending before any appellate or revisional authority or the Special Tribunal or the High Court or the Supreme Court.)

**Section 12(3)** In addition to the tax assessed [under sub-section (1) or (2),] the assessing authority shall, in the same order of assessment passed [under sub-section (1) or (2) or by a separate order, direct the dealer to pay by way of penalty, a sum –

(a) which shall be, in the case of failure to submit return, one hundred and fifty per cent of the tax assessed on final assessment; and

(b) which shall be, in the case of submission of incorrect or incomplete return, –

(i) twenty-five per cent of the difference of the tax assessed and the tax paid as per return, if the tax paid as per the return falls short of the tax assessed on final assessment by not more than five per cent;

(i-a) fifty per cent of the difference of the tax assessed and the tax paid as per return, if the tax paid as per the return falls short of the tax assessed on final assessment by more than five per cent but not more than fifteen per cent;

(ii) seventy-five per cent of the difference of the tax assessed and the tax paid as per return, if the tax paid as per the return falls short of the tax assessed on final assessment by more than fifteen per cent but not more than twenty-five per cent;

(iii) one hundred per cent of the difference of the tax assessed and the tax paid as per the return, if the tax paid as per return, falls short of the tax assessed on final assessment by more than twenty-five per cent but not more than fifty per cent;

(iv) one hundred and twenty five per cent of the difference of the tax assessed and the tax paid as per the return, if the tax paid as per the return, falls short of the tax assessed on final assessment by more than fifty per cent, but not more than seventy-five per cent;

(v) one hundred and fifty per cent of the difference of the tax assessed and the tax paid as per the return, if the tax paid as per the return, falls short of the tax assessed on final assessment by more than seventy-five per cent;



(c) which shall be, in the case of submission of the prescribed return after ten days after the expiry of the prescribed period, two per cent of the tax payable for every month or part thereof during which the default in the submission of the return continued:

Provided that no penalty under this sub-section shall be imposed after the period of five years from the date of the order of the final assessment under this section and unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

Provided further that no penalty under this sub-section or the interest under sub-section (3) of section 24 of the Act, shall be imposed on the oil companies as explained in the Explanation-II of the Eleventh Schedule if the difference of tax due as per accounts and the tax paid as per the returns is less than five per cent and revised return is filed along with the difference of tax due within a period of three months from the due date for filling the monthly return.

[Explanation- For the purpose of levy of penalty under clause (b) above, the tax assessed on the following kinds of turnover shall be deducted from the tax assessed on final assessment:-

- (i) Turnover representing additions to the turnover as per books made by the assessing authority without any reference to any specific concealment of turnover from the accounts;
- (ii) Any turnover estimated by the Assessing Authority with reference to any specific concealment of any turnover from the accounts;
- (iii) Any turnover on which tax is paid at the concessional rate subject to the condition of furnishing any declaration but where such declaration could not be furnished at the time of assessment.]

**Section 12-A. Assessment of sales shown in accounts at low prices.** – (1) If the assessing authority is satisfied that a dealer as, with a view to evade the payment of tax, shown in his accounts, sales or purchases of any goods, at prices which are abnormally low compared to the prevailing market price of such goods, it may, at any time within a period of five years from the expiry of the year to which the tax relates, assess or reassess the dealer to the best of its judgement on the turnover of such sales or purchases after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such assessment.

**Section 12-A(2)** The provisions of sub-sections (2) to (5) of section 16, shall, as far as may be, apply to assessment or reassessment under sub-section (1) as they apply to reassessment of escaped turnover under sub-section (1) of section 16.

**Section 12-B. Assessment of sales in certain cases.** – (1) Notwithstanding anything contained in this Act but subject to the provisions of section 16, the assessment of a dealer in respect of the assessment for the period prior to the 1<sup>st</sup> day of April 1999 shall

be on the basis of the return relating to his turnover and on the basis of the declaration or certificate furnished on or before the 30<sup>th</sup> day of September 2002 and such return shall be accepted subject to such conditions as may be prescribed.

Provided that this sub-section shall not apply to a dealer who has filed an appeal or other proceeding in respect of any assessment for the period referred to in this sub-section and is pending before the Special Tribunal, the High Court or the Supreme Court, as the case may be.

Sec 12-B(2) Every dealer who claims to be not liable to pay tax and has not filed return, shall file the return on or before the 30<sup>th</sup> day of September 2002 in the prescribed manner relating to his turnover for the period prior to the 1<sup>st</sup> day of April 2001 and such return shall be accepted subject to the provisions of section 16; failing which his registration shall be cancelled after giving him a reasonable opportunity of being heard.

**Section 13. Advance payment of tax.** – (1) The tax for each year payable under any of the provisions of this Act may be collected in advance during the year in monthly or other prescribed instalments and for this purpose a dealer may be required to furnish within the prescribed period such returns as may be prescribed. The assessing authority may provisionally determine the amount of tax payable in advance during any year or in respect of any period and on such determination and intimation to the dealer, he shall pay such tax in such instalments and within such period as may be prescribed.

**Section 13(2).** In lieu of the tax provisionally determined under sub-section (1), a dealer may, at his option, pay tax in advance during the year on the basis of his actual turnover for each month or for such other periods as may be prescribed. For this purpose, he may be required to furnish returns showing his actual turnover for each month or other periods as may be prescribed and to pay tax on the basis of such returns. The tax under this sub-section shall become due without any notice of demand to the dealer on the date of receipt of return or on the last due date as prescribed, whichever is later.

Sec. 13(2-A) Notwithstanding anything contained in sub-sections (1) or (2), every dealer other than those paying tax under sub-section (2) of section 3-D, sections 3-E or 7-E, whose total turnover in the preceding year was not less than ten lakhs of rupees or his taxable turnover was not less than three lakhs of rupees and all dealers newly registered in the year shall pay tax in advance during the year on the basis of his actual turnover for each month or for such other periods, as may be prescribed.

**Section 13(3).** If no return is submitted by the dealer under sub-section (1) or sub-section (2) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incomplete or incorrect, the assessing authority may, after making such enquiry as it considers necessary, determine the tax payable by the dealer to the best of its judgement:

Provided that, before taking action under this sub-section on the ground that the return submitted by the dealer is incomplete or incorrect, the dealer shall be given a reasonable opportunity of proving the correctness or completeness of the return submitted by him.

**Section 13(4)** If the assessing authority has reason to believe that the tax determined by it for any period was based on too low a turnover or was made at too low a rate or was based on too high a turnover or was made at too high a rate it may enhance or reduce, as the case may be, such determination of tax:

Provided that before making an enhancement of the tax payable as aforesaid, the assessing authority shall, except where such enhancement is based on the turnover finally determined for the preceding year, give a reasonable opportunity to the dealer to show cause against such enhancement and make such enquiry as it may consider necessary.

**Section 13(5)** The determination and collection of tax under this section shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

**Section 13-A. Dealer to continue payment for the year of tax [as determined] in the preceding year under section 13.** – (1) A dealer in whose case the tax due during the preceding year has been provisionally determined under section 13 shall, unless he is not liable to pay tax for the year, continue to pay for the year the tax so determined in the preceding year in the prescribed manner until the tax due from him is again provisionally determined for the year under section 13.

**Section 13-A(2).** Any tax paid in accordance with the provisions of sub-section (1) shall be adjusted in the prescribed manner against the tax found due on the [provisional determination] for the year under section 13.

**Section 14. Fresh assessment in certain cases.** – (1) Any dealer assessed under sub-section (2) of section 12 may, within a period of thirty days from the date of service of assessment order, apply to the assessing authority for re-assessment, along with the correct and complete return as prescribed. On such application, the assessing authority shall, if it is satisfied that the failure to submit the return in time or the submission of the incorrect or incomplete return was due to reasons beyond the control of the applicant, cancel the assessment made and make a fresh assessment on the basis of the return submitted.

Provided that no application shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of tax admitted by the applicant to be due or any such installment thereof as might have become payable, as the case may be.

**Section 14(2)** If the amount of tax on the basis of the cancelled assessment has already been collected and if the amount of tax arrived at as a result of the fresh assessment is difference from it, any amount overpaid by the dealer shall be refunded to him without interest, or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

**Section 14(3)** Penalty, if any, imposed and collected under sub-section (3) of section 12, shall be refunded to the dealer without interest on cancellation of the order of original assessment.

**Section 15. Assessment of legal representatives.** – Where a dealer dies, his executor, administrator, or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer, provided that, in respect of any tax or fee assessed as payable by any such dealer or any tax, or fee which would have been payable by him under this Act if he had not dies, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

**Section 16. Assessment of escaped turnover.** – (1) (a) Where, for any reason, the whole or any part of the turnover of business of a dealer has escaped assessment to tax, the assessing authority may, subject to the provisions of sub-section (2), at any time within a period of five years from the \*[date of order of the final assessment by the assessing authority], determine to the best of its judgement the turnover which has escaped assessment and assess the tax payable on such turnover after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such assessment.

**Section 16(1) (b)** Where, for any reason, the whole or any part of the turnover of business of a dealer has been assessed at a rate lower than the rate at which it is assessable, the assessing authority may, at any time within a period of five years from the \*[date of order of the final assessment by the assessing authority], reassess the tax due after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity to show cause against such re-assessment.

**Section 16(2)** In making an assessment under clause (a) of sub-section (1), the assessing authority may, if it is satisfied that the escape from the assessment is due to willful non-disclosure of assessable turnover by the dealer, direct the dealer, to pay, in addition to the tax assessed under clause (a) of sub-section (1), by way of penalty a sum which shall be –

(a) fifty per cent of the tax due on the turnover that was willfully not disclosed if the tax due on such turnover is not more than ten per cent of the tax paid as per the return;

(b) one hundred per cent of the tax due on the turnover that was willfully not disclosed if the tax due on such turnover is more than ten per cent but not more than fifty per cent of the tax paid as per the return;

(c) one hundred and fifty per cent of the tax due on the assessable turnover that was willfully not disclosed, if the tax due on such turnover is more than fifty per cent of the tax paid as per the return;

(d) one hundred and fifty per cent of the tax due on the assessable turnover that was willfully not disclosed in the case of self-assessment referred to in sub-section (1) of section 12.

Provided that no penalty under this sub-section shall be imposed unless the dealer effected has had a reasonable opportunity of showing cause against such imposition.

Provided that no penalty under sub-section (2) shall be imposed unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

**Section 16(3)** The powers under sub-section (1) may be exercised by the assessing authorities even though the original order of assessment, if any, passed in the matter has been the subject matter of an appeal or revision.

**Section 16(4)** In computing the period of limitation for assessment or reassessment under this section, the time during which the proceedings for assessment or reassessment remained stayed under the orders of a Civil Court or other competent authority shall be excluded.

**Section 16(5)** In computing the period of limitation for assessment or reassessment under this section, the time during which any appeal or other proceeding in respect of any other assessment or reassessment is pending before the [Special Tribunal] or the Supreme Court involving a question of law having a direct bearing on the assessment or reassessment in question, shall be excluded.

**Section 16(6)** In computing the period of limitation for assessment or reassessment under this section, the time during which any appeal or proceeding in respect of any assessment or reassessment of the same or part of the turnover made under any other enactment was pending before any appellate or revisional authority or the [Special Tribunal] or the Supreme Court shall be excluded.

Section 16-A. Assessment of turnover and disclosed under the compounding provisions-  
(1) Where for any reason, any part of the turnover of business of a dealer who has been permitted

to pay tax under sub-section (2) of section 3-D, sections 3-E, 3-G or 7-E has escaped assessment from the tax, the assessing authority, may at any time within a period of five years from the date of order of the final assessment by the assessing authority, determine to the best of its judgment the turnover which has escaped assessment and re-assess the tax payable on the total turnover including the turnover already assessed under the said sections.

(i) in the case where such total turnover is not more than two lakhs of rupees in accordance with the provisions contained in sub-section (1) of section 7 or in case where such total turnover is not more than fifteen lakhs of rupees in accordance with the provisions contained in sub-section (1) of section 7-B: and

(ii) in other cases, where the total turnover is more than two lakhs of rupees under section 7 or fifteen lakhs of rupees under section 7-B in accordance with the other provisions contained in this Act.

(i) in case where such total turnover is not more than [two lakhs of rupees] in accordance with the provisions contained in sub-section (1) of section 7; and

(ii) in other cases where the total turnover is more than [two lakhs of rupees] in accordance with the other provisions contained in this Act.)]

**Section 16-A(2)** Before making the re-assessment under sub-section (1), the assessing authority may make such enquiry as it may consider necessary and give the dealer concerned a reasonable opportunity to show cause against such re-assessment.

Sec.16-A(3) The amount of tax already paid by the dealer concerned in pursuance of the permission to compound [under the sections referred to in sub-section (1)] shall be adjusted towards the amount of tax due as the result of re-assessment under sub-section (1).

**Section 16-A(4)** The provisions of sub-sections (2) to (5) of section 16 shall as far as may be, apply to re-assessment under sub-section (1) as they apply to the re-assessment of escaped turnover under sub-section (1) of section 16.

**Section 16-AA. Assessment of turnover not declared under section 7-C.** – (1) Where for any reason, any part of the turnover of business of a dealer who has been permitted to pay the tax under section 7-C has escaped assessment from the tax, the assessing authority may, at any time within a period of five years from the \*[date of order of final assessment by the assessing authority], determine to the best of its judgement, the turnover which has escaped assessment and re-assess the tax payable on the total turnover (including the turnover already assessed under section 7-C) in accordance with the provisions of this Act.

**Section 16-AA(2)** Before making the re-assessment under sub-section (1), the assessing authority may make such enquiry as it may consider necessary and give the dealer concerned a reasonable opportunity to show cause against such re-assessment.

**Section 16-AA(3)** The amount of tax already paid by the dealer concerned in pursuance of the permission to compound under section 7-C, shall be adjusted towards the amount of tax due as the result of re-assessment under sub-section (1).

**Section 16-AA(4)** The provisions of sub-sections (2) to (5) of section 16 shall, as far as may be, apply to re-assessment under sub-section (1) as they apply to the re-assessment of escaped turnover under sub-section (1) of section 16.

**Section 16-AAA. Assessment of draw not declared under section 7-D.** – (1) Where for any reason, any draw has escaped assessment from the payment of compounded amount under section 7-D, the assessing authority may, at any time within a period of five years from the **\*\***[date of order of final assessment by the assessing authority,] determine to the best of its judgement, the amount in respect of the draw which has escaped assessment and re-assess the amount payable in respect of such draw (including the draw already assessed under section 7-D) in accordance with the provisions of section 7-D.

**Section 16-AAA(2)** Before making the re-assessment under sub-section (1), the assessing authority may make such enquiry as it may consider necessary and give the dealer concerned a reasonable opportunity to show cause against such re-assessment.

**Section 16-AAA(3)** The compounded amount already paid by the dealer concerned [...] under section 7-D shall be adjusted towards compounded amount due as a result of re-assessment under sub-section (1).

**Section 16-AAA(4)** In making an assessment under sub-section (1), the assessing authority may, if it is satisfied that the escape from the assessment is due to willful non-disclosure of assessable amount in respect of a draw by the dealer, direct the dealer to pay, in addition to the amount assessed under sub-section (1), by way of penalty, a sum which shall be –

**Section 16-AAA(4)(a)** fifty per cent of the amount due on the draw that was willfully not disclosed, if the amount due on such draw is not more than ten per cent of the amount paid as per the return;

**(b)** one hundred per cent of the amount due on the draw that was willfully not disclosed, if the amount due on such draw is more than ten per cent but not more than fifty per cent of the amount paid as per the return;

(c) one hundred and fifty per cent of the amount due on the assessable draw that was willfully not disclosed, if the amount due on such draw is more than fifty per cent of the amount paid as per the return:

Provided that no penalty under this sub-section shall be imposed unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

**Section 16-AAA(5)** The provisions of sub-sections (3) to (5) of section 16 shall, as far as may be, apply to re-assessment under sub-section (1) as they apply to the re-assessment of escaped turnover under sub-section (1) of section 16.

**Section 16-B. Power to reduce or waive penalty in certain cases.** – (1) Notwithstanding anything contained in sub-section (3) of section 12 or sub-section (2) of section 16, the <sup>1</sup>[Commissioner of Commercial taxes may, in his discretion, whether on his own motion or otherwise, reduce or waive the amount of penalty imposed or impossible on a dealer, if he is satisfied that] such dealer has –

(a) voluntarily and in good faith made full and true disclosure of his turnover prior to the detection by any officer of the Commercial Taxes Department;

(b) co-operated in any enquiry relating to the assessment of such turnover; and

(c) either paid or made satisfactory arrangements for the payment of any tax or any other amount payable in consequence of an order passed under this Act in respect of the relevant assessment year.

**Section 16-B(2)** Every order made under sub-section (1) shall be final and shall not be called into question by any other authority.

**Section 16-C Assessment in cases of price variation** .– Notwithstanding anything contained in \*[sections 16,16-A,16-AA.-]

(a) If a dealer received in any year any amount due to price variations, which would have been included in his turnover for any previous year if it had been received by him in that year, he shall, within thirty days from the end of the year in which such amount is received, submit a return in the prescribed form to the assessing authority and thereupon the assessing authority shall proceed to assess the tax payable on such amount;

(b) if a dealer returns in any year any amount due to price variations, which would have been excluded in his turnover for any previous year if it had been returned by him in that year, he shall, within thirty days from the end of the year in which such amount is returned, submit a return in the prescribed form to the assessing authority and thereupon the assessing authority shall proceed to arrive at the quantum of the tax refundable on the amount returned by the dealer;



(c) if the assessing authority is satisfied that any return submitted under clause (a) or clause (b) is correct and complete, it shall assess or re-assess, as the case may be, the dealer on the basis thereof;

(d) if the return submitted by a dealer under clause (a) appears to the assessing authority to be incorrect or incomplete, the assessing authority shall, after making such enquiry, as it may consider necessary and after taking into account all relevant materials gathered by it, assess the dealer to the best of its judgement:

Provided that before taking action under this clause, the dealer shall be given a reasonable opportunity to prove that correctness and completeness of the return;

(e) if no return is submitted by the dealer under clause (a), the assessing authority may, within five years from the expiry of the period within which such returns must have been submitted, proceed to assess the tax payable on the amount referred to in the said clause:

Provided that before making any assessment under this clause, the assessing authority shall give the dealer an opportunity of being heard and make such other enquiry as it may consider necessary.

- (f) in addition to the tax assessed under clauses (d) or (e), the dealer is liable to pay a penalty, at the rate specified in sub-section (3) of section 12 and the assessing authority shall in the same order of assessment or by a separate order direct the dealer to pay such penalty;
- (g) in making the re-assessment under clauses (d) or (e), in addition to the tax assessed, the dealer is liable to pay a penalty, at the rate specified in sub-section (2) of section 16, if there is willful non-disclosure of assessable turnover by the dealer to the satisfaction of the assessing authority.

**Section 16-D.** Constitution of Special Committee.- (1) The Government shall appoint a Special Committee consisting of:

- (1) Secretary to Government, Commercial Taxes Department;
- (2) Commissioner of Commercial Taxes; and
- (3) Secretary to Government, Finance Department or his nominee.

Sec. 16-D(2) Notwithstanding anything contained in this Act, the Special Committee may, of its own motion or on application, call for and examine the records of the assessing authority in respect of any proceeding or order under sub-section (2) or (3) of section 12 or sub-section (1) or (2) of section 16, if such proceeding or order passed in violation of the provisions of the Act or rules made thereunder or without following the principles of natural justice, set aside the said proceedings or order and direct the assessing authority to make a fresh assessment and pass fresh proceeding or order in such manner as may be directed:

Provided that such proceeding or order against which any appeal or writ is pending shall not be entertained under this sub-section.

Sec.16-D(3) The order passed under sub-section (2) shall be final.

**Section 17 Power of Government to notify exemptions and reductions of tax.** – (1) The Government may, by notification, [issued whether prospectively or retrospectively,] make an exemption, or reduction in rate, in respect of any tax payable under this Act –

(i) on the sale or purchase of any specified goods or class of goods, at all points or at a specified point or points in the series of sales by successive dealers; or

(ii) by any specified class of persons, in regard to the whole or any part of their turnover; [or]

(iii) on the sale or purchase of any specified classes of goods by specified classes of dealers in regard to the whole or part of their turnover.

**Section 17(2)** Any exemption from tax, or reduction in the rate of tax, notified under sub-section (1) –

(a) may extend to the whole State or to any specified area or areas therein;

(b) may be subject to such restrictions and conditions as may be specified in the notification.

**Section 17(3)** The Government may, by notification, cancel or vary any notification issued under sub-section (1)

**Section 17(4)** The Government may, in such circumstances and subject to such conditions as may be prescribed, by notification, remit the whole or any part of the tax or penalty or fee payable in respect of any period by any dealer under this Act.

**Section 17-A. Power of Government to notify deferred payment of tax for new industries, etc.** – (1) The Government may, in such circumstances and subject to such conditions as may be prescribed, by notification issued whether prospectively or retrospectively, defer the payment by any new industrial unit or sick unit or sick textile mill of the whole or any part of the tax payable in respect of any period:

Provided that such retrospective effect shall not be earlier than the 9<sup>th</sup> May, 1988.

**Section 17-A(1-A)** The Government may, by general or special order, authorise the Territorial Assistant Commissioner to exercise such of their powers specified in sub-section (1).

Sec.17-A(2) Notwithstanding anything contained in this Act, the deferred payment of tax under sub-section (1) or sub-section (1-A) shall not attract interest under sub-section (3) of section 24 provided the conditions laid down for payment of the tax deferred are satisfied.

**Section 18. liability to tax of persons not observing restrictions and conditions notified under section 17.** –If any restriction or condition notified under section 17 is contravened or is not observed by a dealer, the sales or purchases of such dealer may, with effect from the commencement of the year in which such contravention or non-observance took place, be assessed to tax or taxes under the appropriate provisions of this Act as if the provisions of the notification under section 17 did not apply to such sales or purchases.

**Section 19. Liability of firms.** – (1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

**Section 19(2).** Where a partner of a firm liable to pay any tax or any amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax or other amount remaining unpaid at the time of his retirement and any tax or other amount due up to the date of retirement, though unassessed.

**Section 19-A. Liability to tax of partitioned Hindu family, dissolved firm, etc.,** – Where a dealer is a Hindu undivided family, firm, or other association of persons, and such family, firm or association is partitioned, or dissolved, as the case may be –

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

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

**[Section 19-B. Liability to tax of private company on winding up.** – Where a dealer is a private company and such company is wound up, every person who was a director of such company at the time of such winding up shall, notwithstanding such winding up, be jointly and severally liable for the payment of tax, penalty or other amount payable under this Act by such company whether assessment is made prior to or after such winding up unless he proves that the non-payment of tax cannot be attributed

to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the Company.]

**Section 20. Registration of dealers.** – (1)(a) Every dealer whose total turnover in any year is not less than [three lakhs rupees] shall, and any other dealer or person intending to commence business may, get himself registered under this Act.

Sec.20(1)(b) [.....]

**Section 20(1-A)** Where a person intending to commence business is a minor or where a minor inherits an existing business or succeeds a dealer, the certificate of registration shall be issued in the name of any guardian, trustee or agent of the minor carrying on business on behalf of and for the benefit of such minor.]

**Section 20(2)** Notwithstanding anything contained in sub-section (1) –

(i) [.....]

(ii) every casual trader;

(iii) every dealer registered under sub-section (3) of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956);

(iv) every dealer residing outside the State, but carrying on business in the State;

(iv-a) every dealer in bullion, gold, silver and platinum jewellery including articles thereof and worn out or beaten jewellery and precious stones.

(v) every agent of a non-resident dealer; and

(vi) every factor, broker, commission agent or *arhati, del credere* agent or auctioneer or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore or not, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal, or through whom the goods are bought, sold, supplied or distributed.

<sup>2</sup>[shall get himself registered under this Act, irrespective of the quantum of his turnover in such goods, and irrespective of the point of levy of tax]

**Section 20(2-A)** Where a registered dealer

(i) dies, or

(ii) transfers or otherwise disposes of his business, in the whole or in part or

(iii) effects any change in the ownership of his business, in consequence of which he is succeeded in the business, or part thereof, by any other person, such successor in business shall (unless he already holds a certificate of registration) get himself registered under this Act.

**Section 20(2-AA)** The Government may, from time to time, by notification –

(i) exempt from the operation of sub-section (1), or sub-section (2) or sub-section (2-A) any specified class of dealers or dealers in any specified goods or class of goods;

(ii) enhance the total turnover limit specified in sub-section (1) for the registration of any specified class of dealers or dealers in any specified goods or class of goods.

**Section 20(2-B)** Any exemption under clause (i) and any enhancement of the total turnover limit under clause (ii) of sub-section (2-AA) –

(i) may extend to the whole State or to any specified area or areas therein;

(ii) may be subject to such restrictions and conditions as may be specified in the notification.

**Section 20(2-C)** The Government may, by notification, cancel or vary any notification issued under sub-section (2-AA).]

**Section 20(3)** Nothing contained in this section shall apply to any State Government or the Central Government.

**Section 21 Procedure for registration:-** (1) An application for registration shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by a fee of two thousand and five hundred rupees in respect of public limited companies, one thousand rupees in respect of private limited companies and five hundred rupees in respect of other dealers for the principal place of business and in addition a further fee of two hundred rupees in respect of public limited companies, one hundred rupees in respect of private limited companies and fifty rupees in respect of other dealers in respect of each of the places of business other than the principal place of his business.

Provided that any dealer who has registered under the Companies Act, 1956 (Central Act I of 1956) and who desires to pay a registration fee for five years in a lumpsum may do so at his option by paying a sum equal to five times the fees specified for the purpose.

**Section 21(1-A)** Where it appears necessary to the authority to whom an application is made under sub-section (1) so to do for the proper realisation of the tax payable under this Act, it may, by order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time, as may be specified in the order, such security as may be specified for the aforesaid purpose:

Provided that the security shall not exceed one half of the tax payable on the taxable turnover upto the end of the year as estimated by the applicant himself.

**Section 21(2)** If the prescribed authority is satisfied that the application is in order and the condition, if any, imposed under sub-section(1-A) has been complied with, it shall register the applicant and grant to him a certificate of registration in the prescribed form specifying all his places of business with copies for each of his place of business other than the principal place of business.

**Section 21(2-A)** A certificate issued under sub-section (2) shall take effect from such date as may be prescribed.

**Section 21(2-B)** Where it appears necessary to the authority granting a certificate of registration under this section so to do for the proper realisation of the tax payable under this Act it may, at any time, while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer to whom the certificate has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security, or, if the dealer has already furnished any security in pursuance of an order under this sub-section or sub-section (1-A) such additional security as may be specified in the for the aforesaid purpose.

**Section 21(2-C)** No dealer shall be required to furnish any security under sub-section (1-A) or any security or additional security under sub-section (2-B) by the authority referred to therein, unless he has been given an opportunity of being heard. The amount of security which a dealer may be required to furnish under sub-section (1-A) or sub-section (2-B) or the aggregate of the amount of such security and the amount of additional security which he may be required to furnish under sub-section (2-B) by the authority referred to therein, shall not exceed one half of the tax payable, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security or, as the case may be, additional security, is required to be furnished.

**Section 21(2-D)** Where the security furnished by a dealer under sub-section(1-A) or sub-section (2-B) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

**Section 21(2-E)** The authority granting the certificate of registration may by order and for good and sufficient cause forfeit the whole or any part of the security furnished by the dealer for realising any amount of tax or penalty payable by the dealer.

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

**Section 21(2-F)** Where by reason of an order under sub-section (2-E), the security furnished by any dealer is rendered insufficient, he shall make-up the deficiency in such manner and within such time as may be prescribed.

**Section 21(2-G)** The authority granting a certificate of registration may, on application by the dealer to whom it has been granted, order the refund of any amount or part thereof deposited by the dealer by way of security under this section or, where the security is furnished by the dealer in the form of a pledge, release the pledge, if it is not required for the purpose of this Act, or if in the course of three years the dealer proves himself to be prompt in payment of tax and above reproach in the conduct of his business.

**Section 21(3)** The certificate issued under sub-section(2) \*[shall be valid for one year or five years, as the case may be] and shall be renewed in such manner and within such period as may be prescribed on payment of the fees specified in sub-section (1). The certificate shall be deemed to have been cancelled unless it has been renewed.

Provided that a registered dealer who fails to renew the certificate of registration within the prescribed period shall be permitted to renew the certificate before a further period, as may be prescribed, on payment of renewal fee and also a penalty equal to renewal fee.

**Section 21(3-A)** [ ...]

**Section 21(3-B)** If the prescribed authority is satisfied that a registration certificate or a copy thereof is lost or accidentally destroyed, it shall, on an application by the registered dealer accompanied by a fee of \*[one hundred rupees], issue to him a duplicate of the registration certificate.

**Section 21(3-C)** A registered dealer shall exhibit at each place of his business the registration certificate or a duplicate, or a copy thereof.

**Section 21(4)** A registered dealer shall be entitled to have his registration cancelled if he is able to prove to the satisfaction of the prescribed authority that his turnover in each of the two consecutive years immediately preceding the application was less than [three lakhs of rupees].

**Section 21(5)** The prescribed authority shall have power for good and sufficient reasons to cancel, modify or amend any certificate of registration granted by him.

**Section 21(6)** <sup>1</sup>[No application for registration or for a copy or duplicate of the certificate] and no renewal under this section shall be refused and no order under sub-section(5) shall be made, unless the dealer concerned has been given an opportunity of being heard.

**Section 21(7)** [...]

**Section 21-A Issue of permit:- (1)** Every registered dealer who transacts business at places other than his registered place or places of business or employs a travelling salesman or representative to transact business as aforesaid shall obtain a permit issued under this Act authorising him so to do.

**Section 21-A (1-A)** Where a registered dealer to whom sub-section (1) applies.

(i) dies, or  
(ii) transfers or otherwise disposes of his business in whole or in part, or  
(iii) effects any change in the ownership of his business in consequence of which he is succeeded in the business or part thereof by any other person, such successor in business shall unless he already holds a permit obtain a permit referred to in sub-section (1).

**Section 21-A(1-B)** (a) Where a registered dealer, who has been granted a permit under sub-section(1) or sub-section(1-A) employs a travelling salesman or representative to transact business, he shall give a written authorisation in favour of such travelling salesman or representative and also furnish a copy of such authorisation to the assessing authority concerned.

**Section 21-A(1-B)** (b) The authorisation shall be in such form, shall contain such particulars and shall be subject to such conditions, as may be prescribed.

**Section 21-A(1-B)** (c) The form of authorisation shall be obtained from such authority and on payment of such fee as may be prescribed.

**Section 21-A(2)** The entire turnover of business carried on [under the permit and authorization] shall be included and accounted for by the registered dealer in his accounts and returns and shall be dealt with as if it were the turnover of business done by the registered dealer himself at the registered place of business.

**Section 21-A(3)** Every permit holder or travelling salesman or representative shall carry the permit or the authorization as the case may be, on his person and shall produce it on demand by any Officer of the Commercial Taxes Department empowered by the Government in this behalf. Every permit holder or travelling salesman or



representative shall maintain and produce on demand to any such officer a true and correct account of all the transactions carried on under the permit, or authorisation, as the case may be, and every travelling salesman or representative shall also maintain and produce on demand to any such officer a stock-book showing the quantities of goods entrusted to him by the registered dealer, the quantities disposed of from day-to-day by sale or otherwise and the balance on hand at the end of each day.

**Section 21-A(4)** An application for permit referred to in <sup>1</sup>[sub-section (1) or sub-section(1-A)] shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by <sup>2</sup>[a fee of one hundred rupees].

Explanation <sup>2</sup>(.....)

**Section 21-A(5)** If the prescribed authority is satisfied that the application is in order, it shall issue the permit in the prescribed form.

**Section 21-A(5-A)** A permit issued under sub-section(5) shall take effect-

(a) in the case of a person succeeding to the business or part thereof, from the date on which such person succeeded to the business; and

(b) in the case of any other person from the date of issue of the permit.

**Section 21-A(6)** A permit issued under sub-section (5) shall be valid for a year and shall be renewed from year to year on receipt of an application from the registered dealer accompanied by [a fee of one hundred rupees.]

**Section 21-A(6-A)** If the prescribed authority is satisfied that the permit issued under sub-section(5) is lost or accidentally destroyed, it shall, on application by the registered dealer accompanied by a fee of [twenty rupees] issue to him a duplicate of the permit.

**Section 21-A(7)** The prescribed authority shall cancel a permit-

(a) on requisition made in writing by the registered dealer, and

(b) on the cancellation of the certificate of registration.

**Section 21-A(8)** No application for a permit or for a duplicate thereof shall be refused unless the registered dealer has been given a reasonable opportunity of being heard.

**Section 21-A(9)** No permit holder and no travelling salesman or representative shall contravene any of the terms or conditions of the permit or authorisation, as the case may be, or any of the provisions of this Act or the rules made thereunder.

**Section 21-A(10)** The prescribed authority may cancel a permit if the permit holder has contravened any of the terms or conditions of the permit or any of the provisions of this Act or the rules made thereunder:

Provided that no prosecution for an offence under sub-section (1-B) of section 45 shall be instituted in respect of the same facts on which a permit has been cancelled under this sub-section.

**Section 21-A(11)** No permit shall be cancelled under clause(b) of sub-section(7) or under sub-section (10) unless the permit holder has been given a reasonable opportunity of being heard.

**Section 22. Collection of tax by dealer:-** (1) No person who is not a registered dealer shall collect any amount by way of tax or purporting to be by way of tax under this Act; and no registered dealer shall made any such collection except in accordance with the provisions of this Act and the rules made thereunder:

Provided that nothing in this sub-section shall apply to the collection of an amount by a registered dealer towards the amount of tax already suffered under this Act, in respect of goods, the sale or purchase price of which is controlled by any law in force.

Explanation – For the purpose of this sub-section, any State Government or Central Government, or any dealer exempt under sub-section (2-AA) of section 20, shall be deemed to be a registered dealer.

**Section 22-(2)** If any person or registered dealer collects any amount by way of tax or purporting to be way of tax in contravention of the provisions of sub-section (1), whether or not any tax is due from such person or dealer under this Act in respect of the transaction in which he collects such amount, the assessing authority may, after giving such person or dealer a reasonable opportunity of being heard, by order in writing impose upon him by way of penalty [a sum which shall be-

(i) where the excess amount has been collected in the bonafied belief that it had to be collected, one hundred per cent of the amount collected;

(ii) where the excess amount has been collected willfully and knowing that it was not due to be collected, one hundred and fifty per cent of the amount collected:]

Provided that no proceedings under this sub-section shall be commenced after a period of \*[five years from the date of order of the final assessment by the assessing authority]:.

Provided further that no prosecution for an offence under sub-section (1-A) of section 45 shall be instituted in respect of the same facts on which a penalty has been imposed under this sub-section.

**Section 23. Levy of penalty in certain cases:-** If any person purchasing goods is guilty of an offence under clause(e) of sub-section(2) of section 45, the assessing authority may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax payable on the turnover relating to the sale of such goods at a rate which is equal to the rate prescribed in the First Schedule less <sup>1</sup>[three percent: ]

Provided that no prosecution for an offence under section 45 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

**Section 24. Payment and recovery of tax:** (1) Save as otherwise provided for in sub-section(2) of section 13, the tax assessed or has become payable under this Act from a dealer or person and any other amount due from him under this Act shall be paid in such manner and in such installments, if any and within such time as may be specified in the notice of assessment, not being less than twenty-one days from the date of service of the notice. The tax under sub-section (2) of section 13 shall be paid without any notice of demand. In default of such payments the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax or interest under this Act.

**Section 24-(2)** Any tax assessed on or has become payable by, or any other amount due under this Act from a dealer or person and any fee due from him under this Act, shall, subject to the claim of the government in respect of land revenue and the claim of the Land Development Bank in regard to the property mortgaged to it under section 28(2) of the Tamil Nadu Co-operative Land Development Banks Act, 1934(Tamil Nadu Act X of 1934), have priority over all other claims against the property of the said dealer or person and the same may without prejudice to any other mode of collection be recovered:-

(a) as land revenue, or

(b) on application to any Magistrate by such Magistrate as if it were a fine imposed by him:

Provided that no proceedings for such recovery shall be taken or continued as long as he has, in regard to the payment of such tax, other amount or fee, as the case may be, complied with an order by any of the authorities to whom the dealer or person has appealed or applied for revision, under sections 31, 31-A, 33, 35, 36, 37 or 38.

**Section 24-(3)** On any amount remaining unpaid after the date specified for its payment as referred to in sub-section (1) or in the order permitting payment in instalments, the dealer or person shall pay, in addition to the amount due, \*[interest at one and half per cent per month of such amount for the first three months of default and two per cent per month of such amount for the subsequent period of default]:

Provided that if the amount remaining unpaid is less than one hundred rupees and the period of default is not more than a month, no interest shall be paid:

Provided further that where a dealer or person has preferred an appeal or revision against <sup>1</sup>[any order of assessment or revision of assessment under this Act], the interest payable under this sub-section, in respect of the amount in dispute in the appeal or revision, shall be postponed till the disposal of the appeal or revision, as the case may be, and shall be calculated on the amount that becomes due in accordance with the final order passed on the appeal or revision <sup>2</sup>[as if such amount had been specified in the order of assessment or revision of assessment, as the case maybe].

**Section 24-(3-A)** Where a dealer submits the prescribed return within ten days after the expiry of the prescribed period, he shall also pay, in addition to the amount of tax due as per his return, interest at two per cent of the tax payable for every month or part thereof.

**Section 24-(4)** Where the tax paid under this Act is found to be in excess on final assessment or revision of assessment, or as a result of an order passed in appeal, revision or review, the excess amount shall be refunded to the dealer after adjustment of arrears of tax, if any, due from him. Where the excess amount is not refunded to the dealer within a period of ninety days (from the date of the order of assessment or revision of assessment and in the case of order passed in appeal, revision or review, within a period of ninety days from the date of receipt of the order), the Government shall pay by way of interest, where the amount refundable is not less than one hundred rupees, a sum equal to a sum calculated at the rate of one per cent or part thereof such amount for each month or part thereof after the expiry of the said period of ninety days.

Explanation- For the purpose of this section, the expression “order passed in appeal, revision or review” shall not include order passed in such appeal, a revision or review with direction to make fresh assessment order.

**Section 24-A Transfers to defraud revenue void:-** Where, during the pendency of any proceeding under this Act or after the completion thereof, any dealer creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of any of his assets in favour of any other person, with the intention to defraud the revenue, such charge or transfer shall be void as against any claim in respect of any tax, or any other sum payable by the dealer as a result of the completion of the said proceeding or otherwise:

Provided that, such charge or transfer shall not be void if it is made-

(i) For adequate consideration and without notice of the pendency of such proceeding under this Act or, as the case may be, without notice of such tax or other sum payable by the dealer; or

(ii) with the previous permission of the assessing authority.

Explanation- In this section, “assets” means land, building, machinery, plant, shares, securities and fixed deposits in banks to the extent to which any of the assets aforesaid does not form part of the stock-in-trade of the business of the dealer.

**Section 25. Recovery of [ penalty or interest ]** :-Any [penalty or interest] payable under this Act shall be deemed to be tax under this Act for the purpose of collection and recovery and shall be without prejudice to the institution of any proceeding for an offence under this Act, or for the recovery of the entire amount remaining unpaid under this Act.

**Section 26. Further mode of recovery:-** (1) The assessing authority may, at any time or from time to time, by notice, in writing ( a copy of which shall be forwarded to the dealer at his last address known to the assessing authority), require-

(i) Any person from whom money is due or may become due to the dealer or to any person who has become liable to pay any amount due under this Act, or

(ii) any person who holds or may subsequently hold money for on account of the dealer or other person who has become liable to pay any amount due under this Act,

to pay to the assessing authority either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer or other person in respect of the arrears that have become payable under this Act or the whole of the money when it equal to or is less than the arrears aforesaid.

**Section 26 (2)** The assessing authority may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

**Section26 (3)** Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

**Section 26(4)** Any person making any payment to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the payment made or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

**Section 26(5)** Where any person to whom a notice under this section is served objects to it by a statement in the prescribed form that the sum demanded or any part thereof, is not due by him to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay the sum demanded or part thereof, as the case may be, to the assessing authority but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the assessing authority to the extent of his own liability to the dealer on the date of the notice, or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

**Section 26(6)** Any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrears of land revenue.

Explanation-For the purpose of this section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

**Section 27. Recovery of tax where business of dealer is transferred:-** Where the ownership of the business of a dealer liable to pay tax or other amount is transferred, any tax or other amount payable under this Act in respect of such business and remaining unpaid at the time of the transfer and any tax or other amount due upto the date of transfer though unassessed, may, without prejudice to any action that may be taken for its recovery from the transferor, be recovered from the transferee as if he were the dealer liable to pay such tax or other amount.

Provided that the recovery from the transferee of the arrears of taxes due for the period prior to the date of the transfer shall be limited to the value of the assets he obtained by transfer.

**Section 27.A. Rounding off of turnover, tax etc:-** The amount of turnover, tax, fee, penalty, fine or any other sum payable and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

Explanation- If the total turnover of a dealer consists of several items of turnover liable to tax at different rates each such item of turnover shall be rounded off as provided in this section.-

**Section 28. Appointment of Commissioner of Commercial Taxes, Joint Commissioners of Commercial Taxes, Appellate Deputy Commissioners of Commercial Taxes, Deputy Commissioners of Commercial Taxes, Assistant**

**Commissioners of Commercial Taxes and Commercial Tax Officers:-** The Government may appoint a Commissioner of Commercial Taxes and as many Joint Commissioners of Commercial Taxes, Appellate Deputy Commissioners of Commercial Taxes, Deputy Commissioners of Commercial Taxes, Appellate Assistant Commissioners of Commercial Taxes, Territorial Assistant Commissioners of Commercial Taxes, Administrative Assistant Commissioners of Commercial Taxes, Assistant Commissioners of Commercial Taxes (Assessment), Assistant Commissioners of Commercial Taxes (Check posts), Assistant Commissioners of Commercial Taxes (Enforcement) and Commercial Tax Officers, as they think fit, for the purpose of performing the functions respectively conferred on them by or under this Act. The Commissioner of Commercial Taxes shall perform the functions conferred on him throughout the State, and the other officers shall perform their functions within such local limits as the Government or any authority or officer empowered in this behalf, may assign to them.

**Section 28-A. Power to issue clarification by Commissioner of Commercial taxes:-** (1) The Commissioner of Commercial Taxes on an application by a registered dealer, may clarify any point concerning the rate of tax under the Act. Such clarification shall be applicable to the goods specified in the application:

Provided that no such application shall be entertained unless it is accompanied by proof of payment of such fee, paid in such manner, as may be prescribed.

**Sec.28-A(2)** The Commissioner of Commercial Taxes may, if he considers it necessary or expedient so to do, for the purpose of uniformity in the work assessment and collection of tax, clarify any point concerning the rate of tax under this Act or the procedure relating to assessment and collection of tax as provided for under this Act.

**Sec.28-A(3)** All persons working under the control of Commissioner of Commercial Taxes shall observe and follow the clarification issued under sub-section(1) and sub-section(2).

**Section 29. Special Powers of <sup>1</sup>[Assistant Commissioners] under Revenue Recovery Act:-** (1) <sup>2</sup>[A territorial Assistant Commissioner or an Assistant Commissioner (Assessment) shall have the powers of a Collector under the <sup>3</sup>[Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864) <sup>4</sup>(...)for the purposes of recovery of any amount due under this Act.

**Section 29(2)** Subject to the provisions of sub-section (3) <sup>5</sup>[the Territorial Assistant Commissioner and the Assistant Commissioner (Assessment)] shall for the purposes of recovery of any amount due under this Act, have the powers of the Commissioners under the Madras Rent and Revenue Sales Act, 1839(Central Act VII of 1839), for the sale of property distrained for any amount due under this Act.

**Section 29(3)** Notwithstanding anything contained in the Madras Rent and Revenue Sales Act, 1839 (central Act VII of 1839), the <sup>6</sup>[Territorial Assistant Commissioner and the Assistant Commissioner (Assessment) in the exercise of the

powers conferred by sub-section(2) shall be subject to the control and superintendence of the Deputy Commissioner and the <sup>7</sup>[Commissioner of Commercial Taxes.

**Section 29(4)** The Territorial Assistant Commissioner and the Assistant Commissioner (Assessment), may subject to the control and superintendence of the Deputy Commissioner and the Commissioner of Commercial Taxes, delegate the powers vested in them under sub-sections(1) and (2), to any officer not below the rank of an Assistant Commercial Tax Officer placed under their authority and the provisions of sub-section(1) and sub-section(2) shall apply to such officer as they apply to the Territorial Assistant Commissioner and the Assistant Commissioner(Assessment).

**Section 30. Appellate Tribunal:-** (1) The Government shall appoint an Appellate Tribunal consisting of subject to the provisions of sub-section(1-A) a Chairman and two other members to exercise the functions conferred on the Appellate Tribunal by or under this Act. The Chairman shall be a Judicial Officer not below the rank of a District Judge and the other two members shall possess such qualifications as may be prescribed.

**Section 30(1-A)** Notwithstanding anything contained in sub-section(1), the Government may, from time to time, appoint such number of persons to be additional members of the Appellate Tribunal as the Government may deem necessary and for such period as may be specified in this behalf:

Provided that as nearly as may be one-half of such additional members shall be Judicial Officers not below the rank of a Subordinate Judge and the remaining additional members shall possess such qualifications as may be prescribed.

**Section 30(2)** Any vacancy in the membership of the Appellate Tribunal shall be filled by the Government.

**Section 30(3)(a)** The functions of the Appellate Tribunal may be exercised:-

- (i) by a Bench consisting of three members constituted by the Chairman, or
- (ii) by a Bench consisting of two members constituted by the Chairman, or
- (iii) [...]
- (iv) by a single member of the Appellate Tribunal nominated in this behalf by the Chairman, in cases where the total turnover as determined by the assessing authority does not exceed one lakh rupees.

Explanation-The single member referred to in sub-clause (iv) may be either 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 may, in his or its discretion, reserve such case for decision by a Bench of which the Chairman shall be a member.



**Section 30(3)(b)** Where an appeal or application is heard by a Bench consisting of three members and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

**Section 30(3)(c)** 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, the point shall be referred for decision to a Bench consisting of three members of whom one shall be the Chairman.

**Section 30(4)** The Appellate Tribunal shall, with the previous sanction of the Government, make by notification, regulations consistent with the provisions of this Act and the rules made thereunder for regulating the constitution and the procedure and the disposal of its business.

**Section 31. Appeal to the Appellate Assistant Commissioner:-** (1) Any person objecting to <sup>1</sup>[an order passed by the appropriate authority under section-4A, sub-section(3) of section- 10,[ section -12, <sup>2</sup>[section- 12-A,]section-14, section-15, sub-sections(1) and(2) of section-16,section-18,sub-section (2) of section-22, section-33 <sup>3</sup>[or section-27] <sup>4</sup>[other than an order passed by an Assistant Commissioner] <sup>5</sup>[(Assessment) may, within a period of thirty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Assistant Commissioner <sup>6</sup>[having jurisdiction]:

Provided that the Appellate Assistant Commissioner may, within a further period of thirty days, admit an appeal presented after the expiration of <sup>2</sup>[the first mentioned period] <sup>1</sup>[of thirty days] if he is satisfied that the appellant had sufficient cause for not presenting the appeal within <sup>2</sup>[the first mentioned period: ]

Provided further that in the case of an order sub-section (3) of section 10, section 12, section 12A, section 14, section 15 or sub-sections (1) and (2) of section 16, no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such installments thereof as might have become payable, as the case may be and [twenty five percent ]of the difference of the tax assessed by the assessing authority and the tax admitted by the appellant.

**Section 31(2)** The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by such fee not exceeding [one hundred rupees] as may be prescribed.

**Section 31(3)** In disposing of an appeal, the Appellate Assistant Commissioner may, after giving the appellant a reasonable opportunity of being heard,[and for sufficient reasons to be recorded in writing ]

(a ) in the case of an order of assessment-

(i) confirm, reduce, enhance or annual the assessment or the penalty or both;

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(iii) pass such other orders, as he may think fit; or

(b) in the case of any other order, confirm, cancel, or vary such order:

Provided that at the hearing of any appeal against an order of the assessing authority, the assessing authority shall have the right to be heard either in person or by a representative.

**Section 31(4)** [.....]

**Section 31(5)** Notwithstanding that an appeal has been preferred under sub-section(1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred.

Provided that the Appellate Assistant Commissioner may, in his discretion, give such directions as he thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction, in such form and in such manner as may be prescribed.

**Section 31-A. Appeal to the Appellate Deputy Commissioner:-**(1) Any person objecting to an order passed by the Assistant Commissioner(Assessment) under section 4-A, <sup>2</sup>[sub-section(3) of section 10, section12, <sup>1</sup>[section12-A, section 14,section 15, sub-sections (1) and (2) of section 16,section 18, sub-section(2) of section 22, section 23 or section 27 may, within a period of thirty days from the date of which the order was served on him in the manner prescribed, appeal against such order to the [Appellate Deputy Commissioner] [having jurisdiction:]

Provided that the [Appellate Deputy Commissioner] <sup>2</sup>[may, within a further period of <sup>4</sup>[thirty days], admit an appeal presented after the expiration of the first mentioned period <sup>3</sup>[of thirty days] if he is satisfied that the appellant had sufficient cause for not presenting the appeal within <sup>5</sup>[the first mentioned period: ]

Provided further that in the case of an order under sub-section (3) of section 10, section 12, section 12-A, section 14, section 15 or sub-sections(1)and(2) of section 16, no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such instalments thereof as might have become payable as the case may be and [twenty five percent ] of the difference of the tax assessed by the assessing authority and the tax admitted by the appellant.

**Section 31A (2)** [The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.]

**Section 31A (3)** In disposing of an appeal, the Appellate Deputy Commissioner may, after giving the appellant a reasonable opportunity of being heard.

(a) in the case of an order of assessment-

(i) Confirm, reduce, enhance or annul the assessment or the penalty or both:

(ii) Set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(iii) Pass such other orders as he may think fit; or

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal against an order of the assessing authority, the assessing authority shall have the right to be heard either in person or by a representative.

**Section 31 A (4)** Notwithstanding that an appeal has been preferred under sub-section(1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred:

Provided that the Appellate Deputy Commissioner may, in his discretion give such directions as he thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction, in such form and in such manner as may be prescribed.

**Section 32. Special Powers of the Deputy Commissioner:-**(1) The Deputy Commissioner may, of his own motion, call for and examine an order passed or proceeding recorded by the appropriate authority under section 4-A, <sup>2</sup>[under sub-section(3) of section -10, section - 12, section-12-A, section-14, section-15 or sub-sections (1) and(2) of section-16 and if such order of proceeding recorded is prejudicial to the interests of the revenue, may make such inquiry or cause such inquiry to be made, and, subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order or proceeding and may pass such order thereon as he thinks fit.

**Section 32(2)** <sup>1</sup>[The Deputy Commissioner shall not initiate proceedings against any such order or proceeding referred to in sub-section (1) , if-

(a) The time for appeal against the order has not expired:

(b) The order has been made the subject of an appeal to the Appellate Assistant Commissioner or the Appellate Deputy Commissioner or the Appellate Tribunal, or of a revision in the <sup>5</sup>[Special Tribunal] or

(c) more than <sup>2</sup>[five years have expired after the passing of the order:

<sup>3</sup>[Provided that if the order passed or proceeding recorded by the appropriate authority referred to in sub-section (1) involves an issue on which the <sup>4</sup>[Special Tribunal] has given its decision adverse to the revenue in any other proceedings, and an appeal to the Supreme Court against the order of the <sup>4</sup>[Special Tribunal] is pending, the period of time between the date of the above said order of the Special Tribunal and the date of the order of the Supreme Court shall be excluded in computing the period referred to in clause ( c)

**Section 32(3)** No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

**Section 32(4)** In computing the period referred to in clause © of sub-section(2), the time during which the proceedings before the Deputy Commissioner remained stayed under the orders of a Civil Court or other competent authority shall be excluded.

**Section 33. Powers of revision of Deputy Commissioner:-** (1) Any person objecting to an order passed or proceeding recorded under this Act for which an appeal has not been provided for in section 31 <sup>1</sup>[or section 31-A,] may within a period of thirty days from the date on which a copy of the order or proceeding was served on him in the manner prescribed, file an application for revision of such order or proceeding to the Deputy Commissioner.

Provided that the Deputy Commissioner may within a further period of <sup>4</sup>[thirty days, admit an application for revision presented after the expiration <sup>5</sup>[of the first mentioned period] of <sup>3</sup>[thirty days,] if he is satisfied that the applicant had sufficient cause for not presenting the application within <sup>5</sup>[the first-mentioned period.]

**Section 33(2)** An application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

**Section 33(3)** On admitting an application for revision, the Deputy Commissioner may call for and examine the record of the order or proceeding against which the application has been preferred and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, pass such order thereon as he thinks fit.

**Section 33(4)** Notwithstanding that an application has been preferred under sub-section (1), the tax, fee or other amount shall be paid in accordance with the order or proceeding against which the application has been preferred.

Provided that the Deputy Commissioner may in his discretion, give such directions as he thinks fit, in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

**Section 33(5)** No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

**Section 34. Special powers of joint Commissioner of Commercial Taxes:-** (1)

The Joint Commissioner of Commercial Taxes may, of his own motion, call for and examine an order passed or proceeding recorded by the appropriate authority under section-4A, section 12, section-12A, section-14, section-15 or sub-section(1) or (2) of section 16 or an order passed by the Deputy Commissioner under sub-section(1) of section 32 or sub-section(3) of section 33 and if such order or proceeding recorded is prejudicial to the interests of revenue, may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order or proceeding and may pass such order thereon as he thinks fit.

**Section 34(2)** The Joint Commissioner of Commercial Taxes shall not initiate proceedings against any such order or proceedings referred to in sub-section(1), if-

(a) The time for appeal against the order has not expired, or

(b) The order has been made the subject of an appeal to the Appellate Tribunal or of a revision in the Special Tribunal, or

(c) more than five years have expired after the passing of the order:

Provided that if the order passed or proceedings recorded by the appropriate authority, [...] Deputy Commissioner referred to in sub-section(1) involves an issue on which the Special Tribunal has given its decision adverse to the revenue in any other proceedings, and an appeal to the Supreme Court against the order of the Special Tribunal is pending, the period of time between the date of the above said order of the Special Tribunal and the date of the order of the Supreme Court shall be excluded in computing the period referred to in clause (c).

**Section 34(3)** No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

**Section 34(4)** In computing the period referred to in clause (c) of sub-section(2), the time during which the proceedings before the Joint Commissioner of Commercial Taxes remained stayed under the order of a Civil Court or other competent authority shall be excluded.

**Section 34-A: Power to transfer appeals:-** (1) <sup>1</sup>[The Chairman of the Appellate Tribunal] may, either suo motu or on application, for reasons to be recorded in writing, [transfer an appeal pending before an Appellate Deputy Commissioner to another Appellate Deputy Commissioner or an appeal pending] before on Appellate Assistant Commissioner to another Appellate Assistant Commissioner.

**Section 34-A(2)** The Chairman of the Appellate Tribunal may, when exercising the powers under sub-section(1), direct the stay of further proceedings [before an Appellate Deputy Commissioner or an Appellate Assistant Commissioner, as the case may be.]

**Section 34-A(3)** No order under this section adversely affecting a person shall be passed unless that person has had an opportunity of being heard.

**Section 35. Powers of revision by Joint Commissioner of Commercial taxes:-**

(1) Any person objecting to an order passed by the Deputy Commissioner under sub-section(3) of section-33, may within a period of 30 days from the date on which a copy of the order was served on him in the manner prescribed, file an application for revision of such order to the [ Joint Commissioner of Commercial Taxes: ]

Provided that the Joint Commissioner of Commercial Taxes may within a further period of <sup>1</sup>[thirty days,] admit an appeal presented after the [expiration] of <sup>2</sup>[the first mentioned] period of thirty days if [he] is satisfied that the applicant had sufficient cause for not presenting the application within <sup>2</sup>[the first-mentioned period. ]

**Section 35(2)** Such application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

**Section 35(3)** On admitting an application for revision, the Joint Commissioner of Commercial Taxes may call for and examine the record of the order against which the application has been preferred and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act, pass such order thereon as [he] thinks fit. Such an order shall be final and shall not be liable to be questioned in any Court of Law.

**Section 35(4)** Notwithstanding that an application has been preferred under sub-section(1), the tax, fee or other amount shall be paid in accordance with the order against which the application has been preferred:

Proviso [.....]

**Section 35(5)** No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

**Section 36. Appeal to the Appellate Tribunal:-** (1) Any officer empowered by the Government or any person objecting to an order passed by the Appellate Assistant Commissioner under Sub-section(3) of section-31, or by the Appellate Deputy Commissioner under sub-section(3) of section-31A, or by the Deputy Commissioner under sub-section (1) of Section-32 may,-

(i) Within a period of one hundred and twenty days, in the case of an officer so empowered by Government:

(ii) within a period of sixty days, in the case of any other person, from the date on which the order was served in the manner prescribed, appeal against such order to the Appellate Tribunal:

Provided that the Appellate tribunal may, within a further period of one hundred and twenty days, in the case of an officer empowered by Government and sixty days in the case of any other person, admit an appeal presented after the expiration of the first mentioned period of one hundred and twenty days or sixty days, as the case may be, if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the first mentioned period.

[Provided further that no appeal filed by any person objecting to an order passed-

- (a) under sub-section (3) of section 31 or under sub-section (3) of section 31-A shall be entertained unless it is accompanied by satisfactory proof of the payment of the tax as ordered by the Appellate Assistant Commissioner or by the Appellate Deputy Commissioner, as the case may be :
- (b) under sub-section (1) of section 32, unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such installments there of as might have become payable, as the case may be, and twenty-five percent of the difference of the tax ordered by the Deputy Commissioner under section 32 and the tax admitted by the appellant :

Provided also that no appeal shall be admitted against an order, passed by the Appellate Assistant Commissioner under section 31 or by the Appellate Deputy Commissioner under section 31-A, as the case may be, setting aside the assessment and directing the assessing authority to make a fresh assessment .

**Section 36 (1-A)** The officer empowered under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal has been preferred under sub-section (1) by the other party, may file within sixty days of the receipt of the notice, a memorandum of cross-objections and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).

[Provided that Appellate Tribunal may, within a further period of thirty days admit a memorandum of cross-objections filed after the expiration of the first mentioned period of sixty days, if it is satisfied that the officer empowered under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, had sufficient cause for not filling the memorandum within the first mentioned period.]

**Section 36 (2)** The appeal and the memorandum of cross-objections shall be in the prescribed form and shall be verified in the prescribed manner and the appeal shall be accompanied by such fee as may be prescribed:

Provided that no fee shall be payable by the officer empowered under sub-section (1).

**Section 36 (3)** In disposing of an appeal, the Appellate Tribunal may, after giving the appellant a reasonable opportunity of being heard and for sufficient reasons to be recorded in writing,

(a) in the case of an order of assessment-

(i) confirm, reduce, enhance, restore fully or partially as the case may be, or annual the assessment or penalty or both:

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(iii) pass such other orders as it may think fit; or

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal against an order of the Appellate Assistant Commissioner or the Appellate Deputy Commissioner or the Deputy Commissioner the Government shall have the right to be heard by a representative:

Provided further that, if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the Special Tribunal against such decision or an appeal in Supreme Court against the order of the Special Tribunal thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it, till such revision petition in the [Special Tribunal] or the appeal in the Supreme Court is disposed of.

**Section 36 (3-A)** Within a period of sixty days from the date of receipt of notice that an appeal against the order passed by the Appellate Assistant Commissioner under sub-section(3) of section 31 or an order passed [by the Appellate Deputy Commissioner under sub-section (3) of sub-section 31-A or by the Deputy Commissioner under sub-section(1) of sub-section 32] has been filed, any assessing authority or his representative appearing before the Appellate Tribunal may file an enhancement petition [or a petition for restoration of the assessment or penalty or both, fully or partially, as the case may be,] in the prescribed form and in the prescribed manner against the order of [the Appellate Assistant Commissioner or the Appellate Deputy Commissioner or the Deputy Commissioner,] as the case may be. The Appellate Tribunal may, after giving a reasonable opportunity to the appellant and the representative of the assessing authority of being heard pass such orders on the petition as it thinks fit:



Provided that the Appellate Tribunal may admit an enhancement petition [or a petition for restoration of the assessment or penalty or both, fully or partially, as the case may be], presented after the expiration of the said period, if it is satisfied that the assessing authority or his representative had sufficient cause for not filing such petition within the said period.

**Section 36 (4)** [.....]

**Section 36 (5)** Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred.

<sup>1</sup>[Provided that, in the case of an appeal against an order passed by the Deputy Commissioner under sub-section (1) of section 32, the Appellate Tribunal may, in its discretion, give such directions as it thinks fit, in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

**Section 36 (6)(a)** the appellant or the respondent may apply for review of any order passed by the Appellate Tribunal under sub-section(3) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made:

Provided that no such application shall be preferred more than once in respect of the same order.

**Section 36 (6)(b)** The application for review shall be preferred in the prescribed manner and within one year from the date of which a copy of the order to which the application relates was served on the applicant in the manner prescribed and where the application is preferred by any party other than a departmental authority, it shall be accompanied by such fee as may be prescribed.

**Section 36 (7)** Except as provided in the rules made under this Act the Appellate Tribunal shall not have power to award costs to either of the parties to the appeal or review.

**Section 36 (8)** Every order passed by the Appellate Tribunal under sub-section (3) or (6) shall be communicated in the manner prescribed to the appellant, the respondent, the authority from whose order the appeal was preferred, the Deputy Commissioner, if he is not such authority, and the Commissioner of Commercial Taxes.

**Section 36 (9)** Every order passed by the Appellate Tribunal under sub-section (3) shall, subject to the provisions of sub-section (6) and section 38, be final.

**Section 36-A. Tribunals under Article 323-B of the Constitution for sales tax matters:-** It is hereby declared that the assessing authority referred to in clause (c) of

section –2, the Appellate Assistant Commissioner referred to in section 31, the Deputy Commissioner referred to in sections 31-A, 32 and 33, the Joint Commissioner of Commercial Taxes referred to in sections 34 and 35, the Appellate Tribunal appointed under section 30, and the Special Tribunal referred to in clause (nn) of section 2 shall be the hierarchy of Tribunals for purposes of clause 3 (a) of Article 323-B of the Constitution, for adjudication of trial of any dispute or complaint with respect to levy, assessment, collection and enforcement of sales tax matters arising under this Act.

**Section 37. Appeal to the <sup>1</sup>[Special Tribunal]:-** (1) Any person objecting to an order passed by <sup>2</sup>[The Joint Commissioner of Commercial Taxes] under section 34 may, within a period of sixty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the <sup>3</sup>[Special Tribunal. ]

**Section 37 (2)** The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

**Section 37 (3)** In disposing of an appeal, the <sup>4</sup>[Special Tribunal] may, after giving the appellant a reasonable opportunity of being heard,-

(a) in the case of an order of assessment-

(i) Confirm, reduce, enhance, or annul the assessment or penalty or both;

(ii) Set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(iii) pass such orders as it may think fit; or

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that at the hearing of any appeal, the assessing authority shall have the right to be heard either in person or by a representative.

**Section 37 (4)** [...]

**Section 37 (5)** Every order passed in appeal under this section shall be final.

**Section 37(6)** Notwithstanding that an appeal has been preferred under sub-section(1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred.

Provided that the Special Tribunal may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

**Section 37 (7)(a)** The appellant or respondent may apply for review of any order passed by the Special Tribunal under sub-section (3) on the basis of the discovery of new

and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made.

**Section 37 (7)(b)** The application for review shall be preferred within such time and in such manner as may be prescribed, and shall where it is preferred by the assessee, be accompanied by such fee as may be prescribed.

**Section 38. Revision by [Special Tribunal]:** - (1) Within ninety days from the date on which a copy of the order under sub-section (3), (3-A) or (6) of section 36 is served in the manner prescribed, any person who objects to such order or the Deputy Commissioner may prefer a petition to the Special Tribunal on the ground that the Appellate Tribunal has either decided erroneously or failed to decide any question of law:

Provided that the Special Tribunal may, within a further period of ninety days, admit a petition preferred after the expiration of the first-mentioned period of [ninety] days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within <sup>2</sup>[the first mentioned period.]

**Section 38(2)** The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, where it is preferred by any party other than the Deputy Commissioner, be accompanied by [such fee may be prescribed].

**Section 38(3)** If the [Special Tribunal], on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard.

**Section 38(4)(a)** If the [Special Tribunal] does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal, with the opinion of the [Special Tribunal] on the question of law raised or pass such order in relation to the matter as the [Special Tribunal] thinks fit.

**Section 38(4)(b)** Where the [Special Tribunal] remits the matter under clause (a) with its opinion on the question of law raised, the Appellate Tribunal shall amend the order passed by it in conformity with such opinion.

**Section 38(5)** Before passing an order under sub-section (4), the [Special Tribunal] may, if it considers it necessary so to do, remit the petition to the Appellate Tribunal, and direct it to return the petition with its finding on any specific question or issue.

**Section 38(6)** Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the revision has been preferred:

**Section 38(7)** [omitted...]

**Section 38(8)(a)** The petitioner or the respondent may apply for review of any order passed by the [Special Tribunal] under clause (a) of sub-section (4) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made.

**Section 38(8)(b)** The application for review shall be preferred within such time, and in such manner as may be prescribed, and shall, where it preferred by any party other than the Deputy Commissioner, be accompanied by [such fee as may be prescribed].

**Section 38(9)** In respect of every petition or application preferred under sub-section (1), or clause (a) of sub-section (8), the costs shall be in the discretion of the [Special Tribunal].

**Section 38-A. Special powers of revision of Special Tribunal:- (1)** Notwithstanding anything contained in this Act, the Special Tribunal may, of its own motion or on application, call for and examine the record of the Appellate Assistant Commissioner, the Deputy Commissioner, the Joint Commissioner of Commercial Taxes or the Appellate Tribunal in respect of any proceeding under this act to satisfy itself as to the regularity of such proceedings or the correctness or legality or propriety of any decision passed or order made therein, and if, in any case, it appears to the Special Tribunal that any such decision or order should be modified, annulled, reversed, or remitted for consideration, it may pass orders accordingly:

Provided that every application to the Special Tribunal for the exercise of the powers under this section shall be preferred within such period as may be prescribed.

Provided further that Special Tribunal may admit an application after the expiration of the prescribed period if it is satisfied that the party concerned had sufficient cause for not presenting it within such period:

Provided also that this section shall not apply to any proceeding of the Joint Commissioner of Commercial Taxes under Section 34, or the Appellate Tribunal under section 36, in respect of which, appeal under section 37, or revision under section 38, respectively, lies to the Special Tribunal.

**(2)** No order prejudicial to any person shall be passed under sub-section (1), unless such person has been given an opportunity of making his representation.

**(3)** Notwithstanding that an application has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the application has been preferred.

Provided that the Special Tribunal may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the

application, if the applicant furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

**Section 39 Constitution of Sales Tax Settlement Commission** – (1) The Government, shall, by notification, constitute a Commission called “Sales Tax Settlement Commission” for the settlement of arrears of tax, additional sales tax, penalty or interest in respect of the following classes of dealers, namely:

(a) Dealers who stopped business prior to the 1<sup>st</sup> day of April 1995 and whose arrears are not covered by any appeal or revision as on the 28<sup>th</sup> day of February 2002.

(b) Dealers in lottery tickets with arrears relating to the assessment years prior to the 1<sup>st</sup> day of April 1996.

(c) Public Sector Undertakings including Oil Companies, Government Companies and Chennai Petroleum Corporation Limited.

(d) Dealers who have requested waiver of arrears of tax, surcharge, additional sales tax, penalty and interest for the assessment years prior to the 1<sup>st</sup> day of April 1999 but no appeal or revision is pending as on the 28<sup>th</sup> of February 2002 on that matter.

**Section 39(2)** The Commission shall consist of a Chairman and such number of members not exceeding two, appointed by the Government, as it may, from time to time, consider necessary for the proper discharge of the functions conferred on the Commission under this Act.

**Section 39(3)** No person shall be appointed as Chairman or member of the Commission unless he possesses such qualifications as may be prescribed and for such period as may be specified in this behalf.

**Section 39(4)** Subject to the previous sanction of the Government, the Commission shall for the purpose of regulating its procedure and disposal of its business make regulation not inconsistent with the provisions of this Act and rules.

**Section 39-A. Amendment of order of assessment etc:-** (1) Where as a result of any order passed in appeal or revision or review under this Act, any change becomes necessary, in the order of assessment, the appropriate appellate authority, or revising or reviewing authority may authorise the assessing authority to amend the order of assessment accordingly and on such amendment being made, any amount overpaid by the assessee shall be refunded to him without interest or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

**Section 39-A(2)** Pending the exercise of the powers of appeal, revision or review, the appropriate appellate authority, or revising or reviewing authority may, on application made by the assessing authority <sup>1</sup>[...] stay the refund to the assessee of

any amount overpaid <sup>2</sup>[...] in pursuance of the order which is the subject matter of appeal, revision or review.

**Section 39-A(3)** Pending the exercise of the powers of review, the appropriate reviewing authority may, on application made by the assessee, stay the collection of further amount of tax due from the assessee, in pursuance of the order which is the subject matter of review before the disposal of the review application, if the assessee furnishes sufficient security to its satisfaction, in such form and in such manner as may be prescribed.

**Section 39-B. Production of accounts:-** (1) Every dealer liable to pay tax under this Act, shall make available to the assessing authority any account, register, record or other document relating to the day-to-day transaction of his business.

**Section 39-B(2)** [The Appellate Assistant Commissioner or the Appellate Deputy Commissioner] shall not for the first time, receive in evidence on behalf of any dealer in any appeal, such account, register, record or document as is mentioned in sub-section(1), unless for reasons to be recorded in writing, he considers that such account, register, record or document is genuine and that the failure to produce the same before the assessing authority was for reasons beyond the control of the dealer.

**Section 39-B(3)** Except as provided in sub-section (2) no appellate authority or revising or reviewing authority shall, for the first time, receive in evidence on behalf of the dealer any such account, register, record or document as is mentioned in sub-section(1).

**Section 40. Maintenance of <sup>1</sup>[up-to-date] true and correct accounts and records by dealers:-** (1) Every person registered under this Act, every dealer liable to get himself registered under this Act, and every other dealer who is required so to do by the prescribed authority by notice served in the prescribed manner <sup>2</sup>[shall keep and maintain an up-to-date, true and correct account showing full and complete particulars of his business and such other records as may be prescribed in any of the languages specified in the Eighth Schedule] to the Constitution, or in English, showing such particulars as may be prescribed; and different particulars may be prescribed for different classes of dealers.

**Section 40(2)(a)** Every registered dealer shall keep at the place of business specified in the certificate of registration books of account for the current year. If more than one place of business in the State is specified in the certificate of registration, the books of account relating to each place of business for the current year shall be kept in the place of business concerned.

**Section 40(2)(b)** Every registered dealer shall also ordinarily keep the books of account for the previous five years at such place or places as he may notify to the registering authority. If the registered dealer decides to change the place or places so notified, he shall before effecting such change, notify the same to the registering authority.

**Section 40(3)** Every registered dealer or person who moves goods in pursuance of a sale or purchase or otherwise from one place to another shall send along with the goods moved a bill of sale or delivery note or such other documents as may be prescribed.

**Section 41. Powers to order production of accounts, and powers of entry, inspection etc.**- (1) Any officer empowered by the Government in this behalf may, for the purposes of this Act, require any dealer to produce before him the accounts, registers, records and other documents, and to furnish any other information relating to his business.

**Section 41(2)** All accounts, registers, records and other documents maintained by a dealer in the course of his business, the goods in his possession, and his office, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officer:

Provided that no residential accommodation (not being a place of business-cum-residence) shall be entered into and searched by such officer except on the authority of a search warrant issued by the magistrate having jurisdiction over the area, and all searches under this sub-section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (Central Act V of 1898).

**Section 41(3)** If any such officer has reason to suspect that any dealer is attempting to evade the payment of any tax, fee or other amount due from him under this Act, he may, for reasons to be recorded in writing seize such accounts, registers, records or other documents of the dealer as he may consider necessary, and shall give the dealer a receipt for the same. The accounts, registers, records and documents so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or processing under this Act:

**Section 41(4)** Any such officer shall, for the purpose of sub-section (2) or sub-section (3), also have power to enter and search any office, shop, godown, vessel, vehicle, building or place belonging to any other dealer or any other person, if such officer has reason to believe that a dealer keeps, or is keeping any of his goods, accounts, registers, records or other documents in such office, shop, godown, vessel, vehicle, building or place.

**Section 41-A. Power to inspect goods delivered to a carrier or Bailee-** Where goods are delivered to a carrier or bailee for transmission, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time when

the delivery is taken from such carrier or bailee . Where before delivery is taken from him, a carrier or bailee to whom goods are delivered for transmission, keeps the said goods in any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place, any officer empowered by the Government in this behalf shall have power to enter into and search such office, shop, godown, vessel, receptacle, vehicle or other place of business or building or place, and to examine the goods and inspect all records relating to such goods. The carrier or bailee or the person in charge of the goods and records shall give all facilities for such examination or inspection and shall if so required, produce the bill of sale or delivery note or such other documents as may be prescribed and give a declaration containing such particulars as may be prescribed regarding the goods and give his name and address and the name and address of the carrier or the bailee and the consignee.

**Section 42. Establishment of check post or barrier and inspection of goods while in transit:-** (1) If the Government consider that with a view to prevent or check evasion of tax under this Act in any place or places in the State, it is necessary so to do, they may, by notification, direct the setting up of a check post or the erection of a barrier or both, at such place or places as may be notified.

<sup>1</sup>**Section 42(2)** At every check post or barrier mentioned in sub-section (1), or at any other place when so required by any officer empowered by the Government in this behalf, the driver or any other person in charge of any goods vehicle or boat shall stop the goods vehicle or boat, at the case may be, and keep it stationery as long as may reasonably be necessary, and allow the officer in charge of the check post or barrier or the officer empowered as aforesaid, to examine the contents in the goods vehicle or boat and inspect all documents relating to the goods carried which are in the possession of such driver or other person in charge, for the purpose of ascertaining whether there has been any sale or purchase of the goods carried and in case there was sale or purchase of the goods carried, whether such sale or purchase is liable to tax under this Act, and if so -

- (a) whether such tax has been paid, or
- (b) whether the sale or purchase of the goods carried has, for the purpose of the payment of tax under this Act, been properly accounted for in the documents referred to in sub-section(5).

**Section 42(3).** If, on such examination and inspection it appears-

(a) (i) that the tax, if any, payable under this Act in respect of the sale or purchase of the goods carried, has been paid, or

(ii) that the sale or purchase of the goods carried has, for the purpose of payment of tax under this Act, been properly accounted for in the documents referred to in sub-section (5), the said officer shall release the goods vehicle or boat with the goods carried, or



(b)(i) that the tax if any, payable under this Act in respect of the sale or purchase of the goods carried, has not been paid, or

(ii) that the sale or purchase of the goods carried has, for the purpose of payment of tax under this Act, not been properly accounted for in the documents referred to in sub-section (5), and if the said officer is satisfied, after making such enquiry as he deems fit, that with a view to prevent the evasion of tax payable in respect of the sale or purchase of the goods carried, it is necessary to detain the goods [he shall detain the goods and direct the driver or any other person in charge of the goods vehicle or boat, or the consignor or the consignee].

(i) to pay such tax, or

(ii) to furnish adequate security in such form and in such manner and to such authority as may be prescribed, on behalf of the person liable to pay such tax

**Section 42(4)** If the tax is paid or the security is furnished, then, the goods so detained shall be released forthwith.

**Section 42(5)** The documents referred to in sub-section (2) and (3) are, bills of sale, or delivery notes, or such other documents as may be prescribed.

**Section 42(6)** The driver or any other person in charge of the goods vehicle or boat shall, if so required, give his name and address and the name address of the owner of the goods vehicle or boat as well as those of the consignor and the consignee of the goods.

**Section 42(7)** The driver of the goods vehicle or boat shall, on demand by the said officer, produce for inspection his driver's licence.

**Section 42(8)(a)** If the tax directed to be paid or the security directed to be furnished under sub-section (3) is not paid or furnished, or

**(b)** If it appears to the said officer that the driver or the person in charge of the goods vehicle or boat is not giving the correct name and address of the owner of the goods vehicle or of the boat or of the consignor or the consignee of the goods, and if the said officer is satisfied after making such enquiry as he deems fit, that with a view to prevent the evasion of tax payable in respect of the sale or purchase of the goods carried, it is necessary to detain the goods, he shall detain the goods either in the check post or elsewhere as long as may reasonably be necessary and shall ascertain the correct name and address of the owner of the goods vehicle or boat or of the consignor or of the consignee of the goods:

Provided that no such goods shall be detained by the said officer for more than twenty-four hours except with the permission of the next higher authority.

<sup>3</sup>**Section 42(8-A)** The said officer may, in his discretion, permit the driver or other person in charge of the goods vehicle or boat to take the goods detained under sub-section (8) subject to an undertaking given by the driver or other person.

(i) that the goods shall be kept in the office, godown or other place within the State, belonging to the owner of the goods vehicle or boat and in the custody of such owner, and

(ii) that the goods shall not be delivered to the consignor, consignee or any other person without the orders of the said officer, and for this purpose the driver or any other person in charge of the goods vehicle or boat shall furnish an authorisation from the owner of the goods vehicle or boat authorising him to give such undertaking on his behalf. ]

**Section 42 (9)** In case the goods are subject to speedy and natural decay, and in the case of other goods, where no claim is made within the prescribed period, the said officer shall, subject to such conditions as may be prescribed, sell such goods in open auction and remit the sale proceeds thereof in a Government Treasury:

Provided that if the said officer is an officer below the rank of a Deputy Commercial Tax officer, the sale under this sub-section shall be effected by the Deputy Commercial Tax officer having jurisdiction.

**Section 42 (10)** Any person entitled to such sale proceeds shall, on application to the prescribed authority and upon sufficient proof, be paid the sale proceeds mentioned in sub-section (9) after deducting the expenses of the sale and other incidental charges and the amount of sales tax due under this Act in respect of the sale or purchase of the goods in question.

<sup>4</sup>[Explanation – I For the purpose of this section, the expression ‘said officer’ shall mean the officer – in – charge of the checkpost or barrier or the officer empowered under sub-section (2).]

<sup>4</sup>[ Explanation – II For the purposes of this section and section 44 and 45 ‘goods vehicle’ included a motor vehicle, vessel, animal and any other form of conveyance]

**Section 43 Possession and submission of certain records by owners, etc of boats --** The owner or other person in charge of a boat shall carry with him—

(i) Bill of sale or delivery note <sup>1</sup>[or such other documents as may be prescribed, and ]

(ii) Log Book <sup>2</sup> (.....)

(iii) <sup>3</sup>(.....) relating to the goods, under transport and containing such particulars as may be prescribed and shall submit to [such officer as may be prescribed] the documents aforesaid or copies thereof within such time as may be prescribed.

**Section 44 possession and submission of certain records by owners, etc, of goods vehicle:-** The owner or other person in charge of a goods vehicle shall carry with him-

- (i) Bill of sale or delivery note <sup>1</sup>(or such other documents as may be prescribed and
- (ii) Goods Vehicle Record or Trip sheet, <sup>3</sup>(.....)
- (iii) <sup>2</sup>[...] relating to the goods under transport and containing such particulars as may be prescribed and shall submit to [such officer as may be prescribed] the documents aforesaid or copies thereof within such time as may be prescribed.

**Section 44-A. Issue of transit pass:-** (1)(a) when a goods vehicle carrying any goods mentioned in the Seventh Schedule coming from any place outside the State and bound for any other place outside the State, passes through the State, the owner or other person in charge of such goods vehicle shall obtain a transit pass in the prescribed form and in the prescribed manner from the Officer in charge of the first check post or barrier, after its entry into the State.

**Section 44-A(1)(b)** The owner or other person in charge of the goods vehicle shall deliver within the prescribed period, the transit pass to the officer in charge of the last check post before the exit of the goods vehicle from the State.

**Section 44-A(1)(c)** If the owner or other person in charge of the goods vehicle fails to comply with clause (b), it shall be deemed that the goods carried thereby have been sold within the State by the owner or person in charge of the goods vehicle, and such owner or person in charge of the goods vehicle, shall notwithstanding anything contained in sub-section (1) of section 3, be jointly and severally liable to pay tax in accordance with the provisions of this Act, irrespective of the quantum of turnover and also penalty which shall be one hundred and fifty per cent of such tax:

Provided that where the goods carried by such goods vehicle are, after their entry into the State, transported outside the State by any other vehicle or conveyance, the onus of proving that the goods have actually moved out of the State, shall be on the owner or person in charge of the goods vehicle who originally brought the goods into the State.

Explanation: in a case where a goods vehicle owned by a person is hired for transportation of goods by some other person, the hirer of the vehicle shall, for the purposes of this sub-section, be deemed to be the owner of the goods vehicle.

**Section 44-A(2)(a).** When any goods specified in the seventh Schedule are consigned or transferred by any goods vehicle to another State from any place within the State, the consignor or transferor of the goods shall obtain a transit pass in the prescribed form and in the prescribed manner, from the assessing authority having jurisdiction over the place from where the goods are consignor or transferred to other State.

**Section 44-A(2)(b).**The consignor or transferor of the goods shall deliver or cause to be delivered, within the prescribed period, the transit pass to the officer in charge of the last check post or barrier, before the exit of the goods vehicle from the State.

**Section 44-A(2)(c)** If the consignor or transferor of the goods fails to comply with clause (b), it shall be deemed that the goods carried thereby have been sold within the State by the consignor or transferor and such consignor or transferor shall, notwithstanding anything contained in sub-section (1) of section 3, be liable to pay tax in accordance with the provisions of this Act, irrespective of the quantum of turnover and also penalty which shall be one hundred and fifty per cent of such tax.

**Section 44-A(3)** save as otherwise provided in sub-sections (1) and (2), the provisions of this Act shall apply in relation to the tax payable under sub-section (1) and (2) as they apply in relation to the tax payable under this Act.

Explanation: For the purpose of this section, “goods vehicle” includes a motor vehicle, vessel, animal any other form of conveyance.

**Section 45 Offences and penalties:-** (1) Any person who-

**Section 45(1)(a)** being an assessee under this act, fails to submit a return as required by the provisions of this act, or the rules made thereunder, or

**Section 45(1)(b)** being a person obliged to register himself as a dealer under this Act, does not get himself registered, or

**Section 45(1) <sup>1</sup>(c)** being a person obliged to take out a permit under this Act, does not take out such permit, <sup>2</sup>[.....]

**Section 45(1)(d)** <sup>3</sup>[.....]

Shall on conviction by a Magistrate, not below the rank of a Second Class Magistrate, be liable to fine which may extend to two hundred rupees.

**Section 45(1-A)** Any person who collects any amount by way of tax or purporting to be by way of tax under this Act in contravention of the provisions of sub-section (1) of section 22 shall, on conviction by a Magistrate, not below the rank of a Second Class Magistrate, be liable to fine which may extend to five hundred rupees.

**Section 45(1-B)** Any permit holder, travelling salesman or representative, who contravenes any of the terms or conditions of the permit or the authorization, as the case may be or any of the provisions of this Act or the rules made thereunder, shall on conviction by a Magistrate not below the rank of a Second Class Magistrate, be liable to fine which may extend to five hundred rupees.

**Section 45(2)** Any person who-

**Section 45(2)(a)** willfully submits an untrue return, or not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act or the rules made thereunder , or

**Section 45(2)(b)** fraudulently evades the payment of any tax assessed on him or any fee or other amount due from him under this Act, or

**Section 45(2)(c)** dishonestly objects to a notice issued to him under sub-section (1) of section 26, or

**Section 45(2) <sup>1</sup>(cc)** being a person obliged to keep and maintain true and correct account and record under sub-section (1) of section 40 fails to keep and maintain such account or record , or keeps any books of account at any place in contravention of sub-section (1) of section 40 or <sup>2</sup>[moves the goods from one place to another in pursuance of a sale or purchase or otherwise in contravention of the provisions of sub-section (3) of section 40 without a bill of sale or delivery note or such other documents as may be prescribed , or]

**Section 45(2)(d)** willfully acts in contravention of any of the provisions of this Act, or

**Section 45(2)(e)** after purchasing any goods in respect of which he has made a declaration \*[under the second provision to sub-section (3) or sub-section (5) of section 3 ]fails without reasonable excuse to make use of the goods for the declared purpose, or

**Section 45(2)(f)** makes any statement or declaration in the application for registration , submitted to the registering authority , which he knows or has reason to believe to be false, or

**Section 45(2)(g)** willfully acts in contravention of the undertaking given under sub-section (8-A) of section 42. Shall on conviction by a Presidency Magistrate or a Magistrate of the First Class, be liable to a fine which may extend to one thousand rupees and in the event of second or subsequent conviction, to simple imprisonment which may extend to six months or a fine which may extend to two thousand rupees or both.

**Section 45(3)** Any person who prevents or obstructs an officer from exercising his powers or discharging his duties under section 41 or section 42, shall, on conviction, be liable to simple imprisonment which may extend to six months, or a fine which may extend to two thousand rupees or both.

**Section 45(4)(a)** Any owner or other person in charge of a boat or goods vehicle who fails to carry with him any of the records or documents specified in section 43 or section 44, as the case may be, shall on conviction, be liable to simple imprisonment which may extend to six months or a fine which may extend to two thousand rupees or both.

**Section 45(4)(b)** The owner of the boat or the goods vehicle, if he was not in-charge of the boat or the goods vehicle at the time of the commission of an offence under clause (a) , shall also be liable to be punished with the punishment provided for the offence under clause (a) unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

**Section 45(5)** If the driver or any other person in-charge of any goods vehicle or boat, refuses on demand by the officer in-charge of the check-post or barrier or the officer empowered under sub-section (2) of section 42 to give his name and address or the name and address of the owner of the vehicle or boat or of the consignor and consignee of the goods or gives any name and address which he knows or has reason to believe to be false, or if the driver refuses on demand by such officer, to produce for inspection his driver's licence, he shall on conviction, be liable to simple imprisonment which may extend to six months or a fine which may extend to two thousand rupees or both.

**Section 45(6)** Any person who makes any statement or declaration in any of the records or documents specified in section 43 or section 44 as the case may be which statement or declaration he knows or has reason to believe to be false, shall, on conviction, be liable to simple imprisonment which may extend to six months, or a fine which may extend to two thousand rupees or both.

**Section 45(7)** Any person who is in any way knowingly concerned in any fraudulent evasion or attempt at evasion or abetment of evasion of any tax, payable in respect of the sale or purchase of any goods under this Act, shall, on conviction, be liable to simple imprisonment which may extend to six months or a fine which may extend to two thousand rupees or both.

**Section 45(8)** Any person who knowingly issues a false bill, voucher, declaration, certificate or other document with a view to support any dealer to claim exemption or reduction in rate of tax on the sale or purchase of any goods under this Act, shall, on conviction, be liable to simple imprisonment which may extend to three months and in the event of a second or subsequent conviction to rigorous imprisonment for six months.

**Section 46.** Composition of offences:- (1) The prescribed authority, may, whether on application made to it in this behalf or otherwise, give any person who has committed or is reasonably suspected of having committed an offence under this act, option to pay within a specified period, by way of composition of such offence-

**Section 46(1)(a)** where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater and

**Section 46(1)(b)** in other cases, a sum of money not exceeding one thousand rupees.

**Section 46(2)** On payment of such sum of money and the tax, if any, recoverable under this Act, no prosecution for an offence under this Act shall be instituted in respect of the same facts on which a composition has been allowed under this section.

**Section 46(3)** Where the prescribed authority, on application made under subsection (1) passes an order refusing to allow composition under this section, it shall record in writing the reasons therefore and furnish to the applicant on request a brief statement of the same unless in any case the prescribed authority is of the opinion that it will not be in the public interest to furnish such statement.

**Section 47 Cognizance of offences:-** No prosecution for any offence under subsection (3) of section 45 shall be instituted except with the written consent of the Deputy Commissioner.

**Section 48 Assessment, etc., not to be questioned in prosecution:-** (1) The order of assessment made under this Act shall be conclusive evidence in any prosecution or other proceeding.

**Section 48(2)** the validity of the assessment of any tax, or of the levy of any fee or other amount made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any criminal court in any prosecution or other proceeding, whether under this Act or otherwise.

**Section 49 Bar of certain proceedings:-** (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

**Section 49(2)** No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of function imposed by or under this Act.

**Section 50 Limitation for certain suits and prosecutions:-** No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

**Section 51 Bar of suits and proceedings to set aside or modify assessment except as provided in this Act:-** (a) No suit or other proceedings shall, except as expressly provided under this Act be instituted in any court to set aside or modify any assessment made under this Act.

**Section 51(b)** No injunction shall be granted by any court in respect of any assessment made, or to be made, or in respect of any action taken, or to be taken, in pursuance of any of the provisions of this Act.

**Section 52 Appearance before any authority in proceedings:-** Any person who is entitled to appear before any authority other than the Special Tribunal in connection with any proceedings under this Act may, subject to such conditions as may be prescribed, be represented before such authority.

(a) by his relative or a person employed full time by him, if such relative or person is duly authorized by him in writing in this behalf; or

(b) by a legal practitioner; or

(c) <sup>2</sup>[.....] by an accountant or sales tax practitioner possessing the prescribed qualifications and duly authorized by him in writing in this behalf.

**Section 52-A. Publication of information respecting assessee.** – (1) If the Government are of opinion that it is necessary or expedient in the public interest to publish the names of any assessee and any other particulars relating to any proceedings under this Act in respect of such assessee. They may, subject to such conditions as may be prescribed, cause to be published, such names and particulars in such manner as they think fit.

**Section 52A(2)** No publication under this section shall be made in relation to any penalty imposed, or any conviction for any offence connected with any proceedings under this Act, until the time for presenting an appeal or a revision, as the case may be, has expired without an appeal or revision having been presented or the appeal or revision, if presented, 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, directors, managing agents, secretaries and treasurers, or managers of the company, for the members of the associations, as the case may be, may also be published if, in the opinion of the Government, the circumstances of the justify it.

**Section 53 Power to make rules:-** (1) The Government may make rules to carry out the purposes of this Act.

**Section 53(2)** In particular and without prejudice to the generality of the foregoing power, such rules may provided for-

**Section 53(2)(a)** all matters expressly required or allowed by this Act to be prescribed.

**Section 53(2)(b)** Determining the total turnover of a dealer for the purposes of this Act:



**Section 53(2)(bb)** the manner of determination of the amount payable to the dealer for the transfer of property in goods (as goods or in some other form) involved in the execution of a works contract;

**Section 53(2)(c)** the assessment to tax under this Act of business which is discontinued or the ownership of which has charged;

**Section 53(2)(cc)** the assessment to tax under this Act of any Hindu undivided family, firm or other association of persons, where such family, firm or association is partitioned or dissolved;

**Section 53(2)(d)** the assessment to tax under this Act of business owned by minors and other incapacitated persons or by persons residing outside the State;

**Section 53(2)(e)** the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator General, the official trustee, or any receiver or manager appointed by or under any order of a Court;

**Section 53(2)(f)** the administration of the check posts set up and barriers erected under this Act and the regulation of the work therein;

**Section 53(2)(g)** [.....]

**Section 53(2)(h)** compelling the submission of returns;

**Section 53(2)(I)** the form in which and the particulars to be contained in any declaration to be given under this Act, the authority from whom, the conditions subject to which and the fees subject to payment of which any form of declaration prescribed under <sup>1</sup>[sub-section (3) of section 3] may be obtained, the manner in which the form shall be kept in custody and records relating thereto maintain, the manner in which any such form may be used and any such declaration may be furnished;

**Section 53(2)(j)** the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

**Section 53(2)(k)** the term of office, and the conditions of service, of the members of the appellate Tribunal;

**Section 53(2)(l)** the circumstances in which and the extent to which fees paid in pursuance of section 36 may be refunded;

**Section 53(2)(m)** the issue of bills or cash memoranda, the class or classes of dealers who should maintain counterfoils for the same and the particulars to be shown in and the manner of maintenance of such counterfoils and the time for which they should be preserved;

**Section 53(2)(n)** the maintenance of purchase bills or accounts of purchases and sales by dealers and the time for which they should be preserved;

**Section 53(2)(o)** the issue of delivery notes in respect of goods delivered or transferred to retail dealers in pursuance of sales effected to them, the form and manner of their issue and the time for which they should be preserved;

**Section 53(2)(p)** generally regulating the procedure to be followed and the forms to be adopted in proceedings under this act.

**Section 53(3)(a)** In making a rule under sub-section (1) or sub-section (2) the Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to one thousand rupees and where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

**Section 53(3)(b)** No court inferior to that of a Presidency Magistrate or a Magistrate of the second Class shall inquire into or try any offence consisting of a breach of a rule.

**Section 53(4)(a)** All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

**Section 53(4)(b)** All notifications issued under this Act, shall unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

**Section 53(5)** Every rule made or notification issued under this Act, shall, as soon as possible, after it is made or issued, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

**Section 54 Power to summon witnesses and production of documents:-** (1) An assessing authority or an appellate or revising authority (including the Appellate Tribunal) or any officer of the Commercial Taxes Department not lower in rank than an assistant Commercial Tax Officer shall, for the purposes of this Act, have all the powers conferred on a court by the Code of Civil Procedure, 1908 (Central Act V of 1908) for the purpose of -

**Section 54(1)(a)** summoning and enforcing the attendance of any person and examining him on oath or affirmation; and

**Section 54(1)(b)** compelling the production of any document,

**Section 54(2)** without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued either to attend to give evidence, or produce accounts, registers, records, or other documents at a certain place and time intentionally omits or fails to attend or produce accounts, registers, records, or other documents at such place or time, the authority or officer mentioned in sub-section (1) may after giving the person concerned a reasonable opportunity of being heard impose upon him by way of penalty a sum not exceeding five hundred rupees as it or he thinks fit.

**Section 54(3)** Any Officer of the Commercial Taxes Department, not lower in rank than an assistant Commercial Tax Officer shall have powers to call for such information, particulars or records as he may require from any person for the purpose of assessment, levy and collection of tax under this Act.

**Section 54-A. Power to get information:-** (1) [Any assessing authority or appellate or revising authority under this Act or any officer of the Commercial Taxes Department not lower in rank than an Assistant commercial Tax Officer] may by writing, require any person or authority to furnish such information, particulars or records available with that person or authority as will be useful or relevant to any proceeding under this Act.

**Section 54-A(2)** The person or authority from whom such information, particulars or records is or are required under sub-section (1) shall furnish, within a reasonable time, the information, particulars or records if available.

**Section 55 Power to rectify any error apparent on the face of the record. –**  
(1) An assessing authority or an appellate or revising authority (including the Appellate Tribunal) may, at any time within [five years] from the date of any order passed by it, rectify any error apparent on the face of the record;

Provided that no such rectification which has the effect of enhancing an assessment or any penalty shall be made unless such authority has given notice to the dealer and has allowed him a reasonable opportunity of being heard.

**Section 55(2)** Where such rectification has the effect of reducing an assessment or penalty, the assessing authority shall make any refund which may be due to the dealer.

**Section 55(3)** Where any such rectification has the effect of enhancing an assessment or penalty, the assessing authority shall give the dealer a revised notice of assessment or penalty and thereupon the provisions of this Act and the rules made thereunder shall apply as if such notice had been given in the first instance.

**Section 55(3-A)** The powers under sub-section (1) may be exercised by the assessing authorities even though the original order of assessment, if any, passed in the matter has been the subject - matter of an appeal or revision.

**Section 55(4)** The provisions of this Act relating to appeal and revision shall apply to an order of rectification made under this section as they apply to the order in respect of which such order of rectification has been made.

**Section 56.** [.....]

**Section 57 Prohibition of disclosure of particulars produced before Sales Tax authorities:** (1) All particulars contained in any statement made, return furnished or [accounts, registers, records or documents] produced under the provisions of this Act or in any evidences given or affidavit or deposition made, in the course of any proceeding under this Act or in any record of any proceeding relating to the recovery of a demand, prepare for the purposes of this Act shall be treated as confidential and shall not be disclosed.

**Section 57(2)** Nothing contained in sub-section (1) shall apply to the disclosure of any such particulars-

(i) for the purpose of investigation of, or prosecution for, an offence under this Act or under the Indian Penal Code (Central Act XLV of 1860) or under any other law for the time being in force; or

(ii) to any person enforcing the provisions of this Act where it is necessary to disclose the same to him for the purposes of this act; or

(iii) occasioned by the lawful employment under this Act of any process for the recovery of any demand; or

(iv) to a civil court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under this Act; or

(v) occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (Central Act II of 1899), to impound an insufficiently stamped document; or

(vi) to an officer of -

(a) the Government of India; or

(b) the Government of any State or union Territory in India with which an arrangement for disclosure on a reciprocal basis has been entered into by the Government of the State; or

(vii) to an officer of any department other than the Commercial Taxes Department of the state Government after obtaining-

(a) the permission of the [Assistant Commissioner] of the district where such particulars are to be furnished by an officer subordinate to the [Assistant Commissioner], and

(b) the permission of the [Commissioner of Commercial Taxes] where such particulars are to be furnished by [an Assistant Commissioner] or an Appellate Assistant Commissioner or an Appellate Deputy Commissioner or a Deputy Commissioner;

Provided that such particulars shall be furnished under clause (vii) only in exceptional cases and that any officer obtaining such particulars shall keep them as confidential and use them only in the lawful exercise of powers conferred by or under any enactment;

(viii) Nothing herein contained shall prevent the publication of the final assessment of any party in the prescribed manner.

**Section 58 Sale or purchase deemed to have taken place inside the State in certain cases:** (1) Any sale or purchase which took place on or before the 6<sup>th</sup> day of September 1955, shall be deemed to have taken place inside the State if the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in the State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another state, and be subject to tax under this Act accordingly.

**Section 58(2)** The provisions of this section shall not be affect the liability to tax of any sale or purchase under any other provision of this Act.

**Section 59. Power to amend Schedules:-** (1) The government may, by notification, alter, add to or cancel any of the Schedules.

**Section 59(2)** Where a notification has been issued under sub-section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislature, as soon as may be, but in any case during the next session of the Legislature following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the alteration, addition, or cancellation, as the case may be, of the Schedules specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder;

Provided that if the notification under sub-section (1) is issued when the Legislature is in session, such a Bill shall be introduced in the Legislature during that session;

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislature, the notification shall cease to have effect on the expiration of the said period of six months.

**Section 59(3)** All references made in this Act to any of the Schedules shall be considered as relating to the Schedules as for the time being amended in exercise of the power conferred by this section.

**Section 60 Certain transactions deemed to be first sales of purchases :** (1) Notwithstanding anything contained in this Act, the sale or purchase of such of those goods-

(i) as were not liable to tax only at the point of first sale or purchase before the commencement of this Act; and

(ii) as are liable to tax only at the point of first sale or purchase under sub-section (2) of section 3 of this Act, effected within the State after the commencement of this Act shall be deemed to be the first sale or purchase for the purposes of this Act, although any sale or purchase of such goods has taken place within the State before such commencement.

**Section 60(2)** Notwithstanding anything contained in this Act, the sale or purchase of such of those goods-

(i) as were not liable to tax only at the point of first sale or purchase before the inclusion of such goods in the First Schedule; and

(ii) as are liable to tax only at the point of first sale or purchase under sub-section (2) of section 3 of this Act;

effected within the State after the inclusion of such goods in the First Schedule shall be deemed to be the first sale or purchase for the purposes of this Act, although any sale or purchase of such goods has taken place within the State before such inclusion;

Provided that in the case of goods which are held in stock on the date on which such goods are included in the First Schedule and which had already suffered tax prior to that date and which by virtue of this section have become taxable at the point of first sale or purchase on or after the said date, the rate of tax payable by any dealer in respect of those goods under this Act shall be reduced to the difference between the rate of tax payable on the sale or purchase of goods under sub-section (2) of section 3 of this Act and the rate of tax which the goods had already suffered prior to the said date:

Provided further that if the rate of tax payable under sub-section (2) of section 3 is less than the rate at which the goods have already suffered tax prior to the said date, no further tax shall become payable on such goods under this Act.

**Section 60-A Payment of tax in respect of goods shifted from single point to multi-point:-** Notwithstanding anything contained in this Act, the sale or purchase of those goods which were liable to tax only at the point of first sale or purchase under sub-section (2) of section 3 of this Act, and become liable to tax under sub-section (1) of section 3 of this Act by virtue of the omission of such goods from the First Schedule, no further tax shall be payable under sub-section (1) of section 3 of this Act on the goods which are held in stock on the date, on which such goods were omitted from the First Schedule provided the goods had already suffered single point tax prior to that date and the rate of tax payable under sub-section (2) of section 3 of this Act was equal to or more than the rate specified under sub-section (1) of section 3 of this Act:

Provided that if the rate of tax payable under sub-section (2) of section 3 of this Act was less than the rate prescribed under sub-section (1) of section 3 of this Act, the dealer shall be liable to pay the difference of tax between the rate of tax at which the goods had suffered tax prior to such date and the rate prescribed under sub-section (1) of section 3 under this Act.

**Section 60-B Payment of tax in respect of goods shifted from multi-point to single-point:-** Notwithstanding anything contained in this Act, the sale of such of those goods as were liable to tax under sub-section (1) of section 3 as it stood prior to the 1<sup>st</sup> day of April 1990, effected within the State on or after the said date, shall be deemed to be first sale for the purposes of this Act, although such goods had suffered tax prior to the said date:

Provided that in the case of goods held in stock on the 1<sup>st</sup> day of April 1990 which are liable to tax under sub-section (1) of section 3 and which had already suffered tax under this Act prior to the said date, and which goods by virtue of this section have become taxable at the point of first sale on or after the said date, the rate of tax payable by any dealer in respect of those goods under this Act shall reduced to the difference between the rate of tax payable on the sale of goods under sub-section (1) of section 3 and the rate of tax which the goods had already suffered prior to the said date:

Provided further that if the rate of tax payable under sub-section (1) of section 3 is less than the rate of tax at which the goods have already suffered tax prior to the said date, no refund of tax shall be made.

**Section 61 Repeal:-** (1) The Madras General Sales Tax Act, 1939 (Madras Act IX of 1939) (hereinafter in this section referred to as the said Act) is hereby repealed.

(ii) The repeal of the said Act by clause (i) shall not affect-

(a) anything done or any offence committed, or any fine or penalty incurred or any proceedings begun before the commencement of this Act: or

(b) the previous operation of the said Act or anything duly done or suffered thereunder; or

(c) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or

(d) any fine, penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or

(e) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, fine, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such fine, penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

(iii) Subject to the provisions of clause (ii) , anything done or any action taken including any appointment made, notification, notice, or order issued, rule, form or regulation framed, certificate, license or permit granted, under the said Act shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue in force accordingly, unless and until, superseded by anything done or any action taken under this Act.

**Section 61(2)** Notwithstanding anything contained in sub-section (1), any application, appeal, revision or other proceeding made or preferred to any officer or authority under the said Act and pending at the commencement of this Act, shall after such commencement be transferred to and disposed of by the officer or authority who would have had jurisdiction to entertain such application, appeal, revision or other proceeding under this Act if it had been in force on the date on which such application, appeal, revision or other proceeding was made or preferred.