The Gujarat Value Added Tax Act, 2003

Act 1 of 2005

Keyword(s):
Business, Capital Goods, Central Act, Commission Agent, Commissioner, To Cultivate, To Cultivate Personally, Dealer, Declared Goods, Goods, Manufacture, Place of Business, Purchase, Contractor or Sub-Contractor, Specified Sale, Specified Sale Price, Specified Works Contract

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EXTRAORDINARY

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Acts of the Gujarat Legislature and Ordinances promulgated ańd Regulnthnis made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by thePresidentonthe 17th January, 2005 is hereby published for general infoimaõon.

S. S. PARM,AR,
Secretary to the Government of Gujarat,
Legislative andParliamentaryAffairs Department.

GUJARATACT NO. 1 OF 200J.

(First published, after having received the assent of the President in the *"Gujarat Goverritnent Gazette", on* the 25th January, 2005).

AN ACT

toconsolidate and amend the laws relating to the levy and collection of tax on value added basis in respect of sale or purchases of goods in the State of Gujarat.

It is hereby enacted in the Fifty-fourth **Year of the Republic** of India" **as** follows:-

CHAPTER I

PREMMINARY

1. (1) Thls Actmaybecalledthe Gujarat Value Added TaxAct,2003. «to,

(2) ft eXtande to the whole of the State of Gujarat. **and commencement.**

(3) This **section shaI| œme** irito foroe **at once and the remaining provÏsiOD6 Of this Act shall œme into** foisé **on suoh date as** the **Støte Govemmemmay,bynotifica'æninths D/ïïdafGaz•ttø,appoint,anddiffeæntdateømay be appointed for diffeænt provisions.**

D ft&!'• - 2. In this Act, unless the context otherwise requires,-

(1) "agriculture"withallitsgrammaticalvariations andcognateexpressions includes floñculture, horticulture, the raising of crops, grass or garden produce, aml grazing; but does not indude dairy farming, poultry farming, stockbreadingorthemeracuttingotwoodorgrassorgathering of **limits,**

(2) "agriculturisf' means a person who cultivates land personally for the purpose of agriculture;

(3) "appointed day" means the 1^ day of April, 2005;

(4) "business" includes -

(i) any trade, commerce of manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, oommerce, manufacture, adventure or **concern** i4 carried on with a mptiva to mahe profit or gain and whether or not any profit or gain accrues from such trade, commence, manufacture, adventure or concern; and

(ii) any transaction of buying, selling of supplying plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste products, or such other goods, or waste or scrap of any of them which .s ancillary or incidental to or resulting from such trade, commerce, manufacture, adven ture or concern;

{5) "capital goods" means plant and machihery meant lot use in manufacture and such other goods, as may be notified by the State Government from time to time in the *Official* Gazelle;

(6) "Central Acf' means the Central Sales Tax Act, 1956; LXXIV of **1958.**

(7) "commission agenf'means a dealer who *donaf/de* buys or sells, for an agreed commission, any goods on behalf of principals;

(8) "Commissioner" means the person appointed to be tho Commissioner of *Commercial* Tax for the purposes of this Act.

(9) (a) to cultivate" msans to carry on any agricultural operation; and

(b) 'to cultivate personally" means to cultivate on one's own account -

(i) by one's own labour, or

(ii) by the labour of"one's own family, or

pii] by servants on wages payable in cash or find (but not in crop share), or by hired labour under one's personal supervision or the personal supervision of any member of one'e family.

Explanation I.— A widow ora minor or a person who is subject to any physical or mental disability, shall be deemed to cultivate land personally if it is cultivated by her or his 6en/ants or by hired labour.

ExplanationII.— InthecaseofaHinduUridivided Family, land shall be deemed tobecultivatedpersonallyifitisculWatedbyanymemberofsuohfamily;

(10) "dealer"means any person who, for the purpose of or consequential to his engagement in or, in connection with or incidental to or in the course of hi6 business buys, sells, manufactures, makes supplies or distrib-utes goods, directly orotherwise, whetherforcash or deferred payment, or for commission, remuneration or otherwise and includes,-

(a) the Central Government or a State Government or any local authority such as municipality or municipal corporation 'or panchayat, a statutory authority, a company, a partnership firm, a Hindu Undivided Family or any society, club, association or body, incdrporatedurnot, of persons which carries on business;

(b) acasuaIdealér,thatistosay, apetsonwhowhetherasprincipal, agent or in any other capacity. undortakes occasional transac tionofabusines6natureinanyexhibitiori-cum-saleorauction or otherwise in the State, whether for cash, deferred payment, commission. remuneration or ether va!iiab!e ins:derat'on;

(c) an auctioneer, who sells or auctions goods belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominae of principal;

(d) a factor, broker, commission agent, *del credere* agent or an auctioneer or any mercantile agent, by whatever name called, who carries on business on behalf of any princi;sal whether disclosed or not;

(e) any person who transfers, otherwise than in pursuance of a contract, property in any goods for cash, deferred payment or other valuable consideration;

(I) any person who transfers properly in goods(whether as goods or in some other form) involved in the execution of a works contract;

{g) any person who delivers goods on hire purchase or any system of payment by installments;

{h) any person who transfers the right to use any goods for any purpose(whetherornotforaspecifiedpertod)forcash,deferred payment or other valuable consideration; and

(i) any person who supplies, byway of or as part of any service or in any other mannerwhatsoever, 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.

Eñptariatiori.—(i)Asociety(includingaco-opera'avesociety),cluborfirmoran association, which,whetherornotinthe¢ourseofbusJnees,buye,selta, supplies or diatñbutes gooda, dire‹ztly or otherwise, from or to its merrbei8 or other persons for cash, deferred payment. commission, remuneration or other valuable consideration, shall be deerried"to be dealer for the purposes of this Act.

(ii) The Central Govemmentor a State Govsmmentor a local authority or railway administæaon or port trusts or a atatutory body, which, whethar or not in the œuræ of businsee, .buyo, selle, supplie or distributes goods, diæctly or otherwise, for cash, deferred payment, œmmlssion, remuneraëon or other valuable œnsideration, shall be deemed to be dealer for the purposes of this Act.

(iii) Any person or body, which disposes of any goods including un-claimed, confiscated, unserviceable, scrap, surplus, old, obsolete, discarded, waste or surplus product or goods, whether by auction or otherwise, directly or through an agent, for cash deferred payment, commission,"remuneration or other valuable Consideration, shall be deemed to be dealer for the purposes of this Act.

Exceptions.— The following shall not be deemed to be a dealer within the meaning of this clause, namely:

(i) an agñcuiturist who sells exclusively agricultural produce grown on land cultivated by him personally;

(ii) an individualwhosellsexclusivelyanyfishoranysea-foodcaughtby him personally or by anymemberofhisfamily on account of or on behalf of such individual; and

(iii) a charitable, religious or educational instiMion, carrying on the activity of manufacturing, buying, selling or supplying goods, in perfor-mance of its functions, for achieving its av?wed objects, which are not in the nature of business.

[11) "declared goods" means goods declared to be of special importance in inter-State trade or commerce under section 14 of the Central Aot, LXXIV of 1956.

(12) "earlier law" means the Gujarat Sales Tax Act, 1969 and the Gujarat Purchase Tax on Sugarcane Act, 1989 as amended from time to time and enactments which have validated anything done or om' ted to be done under the aforesaid Acts; Gu|. 1 of 1970. *Oa\.) dl* 1989.

(13) "goods"means all kinds of movable propdrty (omer than newspapers, actionable claims, **electricity,** stocks and shares and securities) and included **llve stocks, all** materials, **argcles and commodities and every kindofproparty(whetherasgoodsorinsomeotherform)involvsdinthe** execution **of** works **contract, all inanglble commodities** and growing **cropa, grass,standingtimberorthIngaattachedtoorformingpartofthe land, which are agreed to be severed before sale or under the consact of sale;**

(14) °manufacture"with its grammatical variations and cognate expressions means includes producing, making, extracting, collecting, altering, ornamenting, finishing, assembling orotherwiseprocessing,treating or adapting any goods; but does not include such manufactures or manufacturing processes as may be prescflbed;

(15) "person"includesanindividuaI,ajointfamilyorHindu Undivided Family, a company, a firm, an association of persons or body of individuals, whether incorporated or not, a ecciety, club or other institution, a local authoWty, the Central Gov••mme”nt or a State Government and every al1ificial jui1dical person not falling within any of the preceding descriptions;

(16) place of business" means any place where a dealer carries on Duinessandindudes,—

{a) a warehouse, godown or other place where a dealer stores or processes his goods;

(b) anyplace whefe a dealer produces or manufactures goods;

{c) any place where a dealer keeps his books of accounts;

(d) any vehicle or vessel oranv other carrier wherein the goods are stored or used for transporting the goods;

(e) any place of business of an agent by whatever nanas called through whom a daaler carries on business;

(17) "prescribed " means prescribed by rules;

(18) ’purchase price“ means the amount of valuable consideration paid or payable by a person for any purchase made including 1he amount of duties levied o‹leviable under the Centia\ Excise Tafiil Ar‘., 1985 or the Customs Act, 1962 and any sum chargedforanything do .e by the seller in respectofthe goods at the time oforbeforedaliverytñofeof, otherthan the cost of insurance for transit or of installation, when such cost is separately charged and includes, -

5 of 1986,
52 of 1962.

(a) in relation to -

(i) the transfer, otherwise than in pursuance of a contr8ot elm property in any goods,

(ii) the supply of goods by any unincorporatedassociation of bo@' '° of persons to a mefnber thereof,

(iii) the supply by way of or as part of any service or in any”other mannerwhatsoever,of goods, beingfoodorany other article for human consumption or any drink (whether or not intoxicating),

the amount of cash, deferred payment or other valuable consideration paid or payable therefor,

(b) In relation to.the trensfer of property In goods (whether as goods or in soñæ other form) Invoïved in the execution of a works œntract, such amount as is arrived at by deductlng from the" amount of valuable consideration paid or payable by a **peæor** for the execution of such works œntract, the amount representing lœm»r charges for such

(c) in relation to the delivery of goods on hire pUrchase Or anv 9ystern oF paymentbyinstallments;theamountofvaktableconslderationpayable

(19) °raw materials" means goods used as ingredient in the manufacture of other goods and includes processing materials, consumablestoresand material *used* in the packing of the goods so manufactured but doas not include fuels for the purpose of generation of electricity;

{20) "registered dealer" means a dealer registereg under the provisions of this Act, whoholdsacertificateofregistrationgrantedor deemedtohave been granted under this Act;

(21) "resale" means a sale of purchased goods,-

(i) in the same form in which they were purchased; or

(ii) without using them In the manufacture of any goods or without doing anything to them which amounts to or results in, a manufacture;

and the word "resell" shall be construed accordingly;

(22) "rules" means the rules made under this Act;

(23) *'sale"means a sale* of goods made within tha State for cash or deferred payment or other valuable consideration and includes,-

{a) transfer, otherwise than in pursuance oT a contract, of property in gooüs for cash, deferred payment ôr othervaluable consider-ation,

(b) transfer of property ingoods(whether as goods or in some other form) involved in execution ofa works contract,

(c) "delivery of goods on hire purchase or any system of payment by installments,.

(d) transfer of the right to use any goods for any purpose(whether ornotforaspecifiedperiod) for cash, deferred paymentorother valuableconsideration,

{e) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration,

(f) supply of goods by a society or dub or an association to its members onpayment ofapriceoroffees or subgcription or any consideration,

(9) supply ofgoodsbyway oforaspartofany service orin any other manner whatsoever, of

(h) supply of goods being food or any other article for human consumption or any"drink (whether or not intoxicating) where such supp\y ot service is for case, deferredpayment or other valuableconsideration,

(i) supply by way of barter of goods,

b) disposal of goods by a person in the manner prescribed in Explanation (iii) to clause 10

but does not include a mortgage, hypothecation, charge or pledge; and the words "seil", "but and "purchase" with all their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.-(i) - For the purposesofthisclause,"safewithin the State" :•*cluc!es* s•l•dete*rn• =dto be ins•d•°t o Stato'n ascordancavrrth fi1e principles formulated in sub"-section (2) of section 4 of the Central Act.

(ii) for the purpose of sub-clause (b) of the expression 'Works contract" means a contract for execution of works and includes such works contract as the State Government may, by notification in the *Of//cia/ Gazette,* specify;

(iii) every transfer of property in goods by the Central Government, any StateGovernment,astatutorybodyoralocalauthorityforcpsh,deferred paymentorothervaluableconsideration, whetherornot inWe course of business, shall be deamed to be a sale tar the purpoaea of this Act;

(24) "saleprice"meansthsamountofvaluableconsideration paidorpayabie to a dealer or received or receivable by a dealer for any sale of goods made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Gustavs Act, 1962 and any sum charged 'for anything done by the dealer in respect of the goods at the time of or before delivery thereof, and includes, -

5 of 1986.
52 *ol I flew.*

(a) in relation to -

(i) the transfer, otherwise than in pursuance of a ' **of** property in any Bood*.

(ii) the transfer of the right to uae any goods for any purpose, whether or not tar a specified period,

(iii) the supply of goods by any unincorporatedassociation or body of persons to a member thereof,

(iv) ths supply by Way Ot or as part of any sen/ice or in any other mannerwhatcoever,of goods, be/ngfoodoranyothera/tidsfor human consumption or any drink (whether or not intoxicating),

the amount ot cash, deferred payment or other valuable consideration paid or payable therefor,

(b) inrelation tothetransferof property in goods(whether as goods or in some other form) Involved in the execution of a works contract, such amount as is errived at by deducting from the amount of valuabteconaideration paid or payabletoaperson for the execution of such works contract, the amount representing lBbOUr Charges for such execution;

(c) in relationtothedeliveryofgoodsonhirepurchaseofany system of payment by installments, the amount of valuable consideration payable to a person for such delivery;

(25) "Schedule" means a Schedule appended to this Act;

(26) "the State'" mesns the State of Gujarat;

T.27) '1ax" means a tax Ie 'iable and payable undur this Act on sales or pumhase of goods and includes lumpsum tax leviable or payable under section 14:

(28) 'tax period"means a calendar month ora quarter»s may be prescribed by the State Government;

(29) laxabfegoods"meansgoodsothetthanthoseontfie sales or purchase of which no tax is payable under section 5;

(30) 'taxable turnover" means the turnover ot all sales or purchases of a dealer during the prescribed period in any year, which remains after deducting therefrom,-

(a) the turnover of sales not subject to tax under this Act;

(b) the turnover of goods declared exempt under sUb-section (1) of section 5 or under a notification under sub-section (2j •f section ñ, and

(c) in case of turnover of sales in relation to o'orks *contract, t'fie* charges towards labour, service and other like c.'barges, and subject to such conditions as may be prescribed:

Providedthatinthecases wheretheamountofchargestowards labour, service and other like charges in such contract are not a0certainablefromtheterms and cond"itions of the contract, the amount ol such charges shall be calculated in such manner as may be prescribed;

(31) tribunal" means the tribunal constituted under section19;

(32) 'turnover of purchases" means the a99regate Of the amounts of purchase pńce paid or payable by a dealer in respect of any purchase of goods made by him during a given parK›dafterdeductingthe amount of purchase prioe, if any, refunded to the dealer by the seller in respect of any goods ğufchased from the *seller* and returned to him within the pæscńbed peńod;

(33) Amóver of salss" means the agg"règate of the amount of sale price received ör receivable by a ğœler in rd6pect of any sale oł goods made duńng a given period after deducting the amount of sale price, if any, refuńded by tfie deeler tó a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period;

(34) Total turtiovef' means aggregate of the following tran.factions effected by -a deaisr:

(a) turnover of sales or pu hases of goals v/itliin the Stat+ whether such saTus or purchases of goods are taxable ct exempt unaer thi»Act;

(b) turnover of sales at goods in the course of inter-State trade sr commerce;

(c) turnover of sales of goods in the course of export of goods out of the territory of India;

(d) " turnover of sales by a dealer on his own account and also on behalf of his pńncipal.

(35) "value of gpods" means the vulue as ascœrtained from the purchase invoices or bills and includes insurance charges, exrise duties, «cuntervailing duties, value added tax, sales tax, transport chafgss, freight charges anùall other charges incidental to the transaction of the g*>›tJs:

Pfovidstl that where ‹the purchase invoices ur t›ilt* are not proúucedor wnenthegcods are acquired or obtained otherwise thanby wayofpwchase,thevslueołgoodsshallbethevalueatwhichthegoods oflikskindorqualityaresoldorarecapableofbeingsotdìnopenmarket;

(36) "year° means -

(i) in relation to any dealer who maintains regular books of accounts, the year by reference to which the accounts are maintained by him; and

tii) in relation to any oiher dealer, a financial year:

Providedthataæglsteæddeatershallnotbøentitledtovary the yearby reference to whićh he malnafns hisbooks of accóunts, except whhfhe œnsønt of the Commiśsioner and upon euch oonditions as the Commissioner may determine.

CHAOER II

!NCIDENCE AND LEVY OF TAX

jncld‹xue»f 3. (1) "Subject to the provisions of this Act, every dealer,-

(i) whose total tumover during the. year imrned!ately pfecedlng the ap-póinted day exceeded rupaes fívs lakhs and whose taxable tumover exceeded rupóestenthoueandinayear(theaforesaidamóuntsoftotaI tumover aúd taxabletumovsr are hereinafter referred toas Aresholds of tumoveÇ, or

(ii) whowas registeredunder the earlier lawor underthe Central Actas on the appointed day, or

(iii) whose total turnover and taxable turnover in any year first exceed the thresholds of turnover, or

{iv) who is"registered or liable to be registered as a dealer under this Act or under the Central Act at any time after the appointed day

shall be liable to pay tax in accordance with the provisions of th! Act.

."(2) Notwithstandinganythingcontainedinthissection,aoasualdealeroran auctioneer shall beliabie tuhe registeredifhistaxableturnoverofsalesexceeds ten thousand rupees end he shsll be liable to pay tax in accordance with the provisions of this Act.

(3) The dsaler shall be liable to pay tax,—

(a) in case of clauses (i) and (ii) of sub-section t1), with effect from the appointedday;

(b) in case of clause(iii) of sub-section (1), with immediate effect when his turnover calculated from the commencement of the year first exceeds the thresholds of turnover; "

(c) in case of clause(iv) of sub-section(1), with immadiate effect when hc becomes so liable or the date of registation under this Act, whichever is earlier:

Provided thnt the dealer shall not be liubi to pay tax in respect of thresholds of!urnoverastakes place during the period prior to the relevant date of effect undar this° sub-section.

(4) Every dealer who has become"liable to pay tax und•r \i is Act shall continuetobesoliableuntiltheexpiryofoneyearduringwhlchhistotaltumover andtaxabletumoverhaveremainedbelow the thresholds of turnover and such further period after the hate of such expiry as may be pre•c ib•‹i; and on the expiry of such further period his **liabil'ity** to **paytax** shall **cease:**

Providedthatany dealerwhoseliabilit}topaytax urderthis Actceases orhis total turnover and taxable turnover during the year remains below the threaholds of turnover, may apply for tbe .cancellation of bts cenificate of

ægîstratlon;andonsucticœnoeliation, hi llabilitytopaytaxshaJtoeaseand9uch dealaiehall remain łiabletopaytaxtillhiscei1iflcateotregistrationiscancełled.

(5) Every dealerwhose liability to paytax unóerthís Act has ceased under sub-section t4) or whose cerãłîcate ot registration has been cancelled, shall, If his total turnover and taxable Nmover calculated ffom theoommericement of any year(includingtheyeatln which thereglatfàtionhasbeen œnceiled) again exoaed the threshddsof turnover, onany day within such year, beliable to pay tax with effect from the date immediately lot\owing the day on which his such turnover ağai? excaedthreahołdsof turnover of sales eNected by himafter that date.

(6) Where by an order passed under this Act, it is found that any person registersdasadealerougł\tnottohavebssnærsglstered,then, notwithstanding anything confined in this Act, such person shall be liable to pay tax for the peùodœmmeoci•8'^ thlhe date of his registration and ending with the date of such order, as íł he were a dealer.

4. Nothing GOr tained in this Act or the rules made thereunder shall be deemed to impose or authorise theimposition ołtax on any sale or purchase of any gcòõswhers such sale or pumhase takes place- **Certain sal and pur-** ckases æt liable to tax.

(a) in the course of inter-State trade or œmmerca; or

(b) outside the State; or

tc) in the œurse ot the import of goods into or expart of goods out of the territory of India,

andtheprovisionsofthisActandtherulesthersundersha!lbeconstruad accordingly.

Explanation.- Section 3, 4and5 oftheCentralActshallapply for determining whether or not a particular sale or purchase has taken place in the manner 'ndicated In dause (a), (b) or (c).

5. (1) The goods specified in the Schedule I shall be exe npt from tsx subject to the conditions and exceptions set out therein. **Exemptions.**

(2) Subject to suchœnditions, as it may impose, the StateGovemmentm8y, Œ'ż considarsnscessary sotodoiP thapublicinterest,by notification in the offïcia/gazełte,—

(a) exempt any class of sales"or pumhases from payment of the whole of the tax payable under the provisìõne of this Act.

(b) g/antexemption frompaymentot whole ottax in respect of any class of sales or purctia6esforthepurpase ofpromotìng thesćhemeof Special Economic Zoœs a promoëng expoxs.

(3) Every notifies'æo iœued under suł>scettan (2) shall De laid for notJnss than thirty days óeforeãæsłate Legiałażure as soon aspoesiBe aftør 'itla ar›dsl›atlbesuğ)œttoraaclæionby the State Legislatureortosuch modìficatîona as the State Legislaturemay make, duńng tha sesei¢in in which

& Subjecttotheołherprodsionsotthlsact.everydealer,whoisliableto paytaxundørthisAct,shallpaythetaxleviableinacœrdaocéwîththep/ovisions of this AcL **Taxes payable by a dealer.**

Levy of tax on turnover of rates of tax.

7. "(I) SubjecttotheprovfsionaofthisAct,thereshallbhIsvledataxon the tumoverofsalesofgoode specified in Schedule IIattheratesatoutagainst each of theni in the said Schedule.

(2) Subject to suchconditionsaa itmayimpoae,theStateGovernmentmay,ifItconsidersneceesag/sotodointhepuslicintorest,by notification in the ¢X//cia/ Gazelle, add to or omit from, or otherwise amend or modify the Schedule, prospectivetyorrexospectively,ortransposeanyentryorpartofany entryfromoneSchedufetotheother?icheduleorreducetherateoftaxpayable in respect of any gooda and thereupon the Schedule shall be deemed to have been amended accordingly.

(3) Every notification issued under sub-Section (2) shall be laid for not less than thirty days before the State Legisla‹urs as soon as possiti/e aAo it is issueo and shall be subject to rescission bytiiu Steve I-sgislaturecrtu suc›i modifications as the State Legislature may make, during the session in.which 'It is so laid or session immediately following. Any rescission or modification so madeby the StateLegislatureshallbepublishedinthe Uf/icia/ azefts,andshaii thereupon take offect.

Adjustraents in tax.

8. f1) The previsions ofsub-section (2) shall apply where, in relationto ine sm!es ‹ *üxsble oonrl°• bv any ••¿ist4rsd dea!er-

(a) t:°.at sale nns been canceited; or

(b) the consideration previously agreed upr.›. !or that sale has been altered h agreement with the recipient, wheti' oue to the offer ot a discount sr for any other reason; or

(c) the goods or part of the goods scld have been returnr'.d to the ssffer,

and as a result of the occ,urrence of any one or more of thu aòuvementioned events of súch sales, the seller has-

tip Provided a tax invoice in relation to that sale and the amount shown herein as tax charged on that saia is *incoaect* in retatlon to the •mount nroperly chargeable on that sale, or

(ii) furnished a return in relationtothe psriod in respect of which tax on that sale is attributable, and has accountea for an incorrect amount of tax on that sale in relation to the amount property chargeable on that

(2) Whereasellerhasaocountedforeitherinthetaxinvu. • orIn the retumanincorrectamountoftaxascontemplatedineub-section(1), such seller shall mate an adjustment in calculating the taxpayableby him tn the return for thetaxperiod"durlngwhichithasbecomeapparentthatthetaxisincorrect. Such adjustment shall be made in the following manner,"namely:-

(a) it the amount If tax chargeablein relation to that sale exceeds the amount of tax awuatlY accounted for by the seller, the amount of that excess shall be deemed to be tax charged by such seller in relation"to a taxable sale attributable to the tax period in which the adjustment is to be made, and shall not be attributable to any prior tax period; or

(b) the amount of tax actually accounted for exceeds the amount of tax proper\y chargeable in relation to that sale, suoh seller shall reduce the emount of tax attributable to the said tax period interms of section Y by that excess amount of tax:

Providedthatthereductionintheamountoftaxunderclause(b) shall not be made-

(a) wherethe excesstaxhasbeenborneby thepurchaærof goods,

(b) ittherelevanteventasdescribedineub-section(1)hasor<urred subsequent to the period of sixmo'nths of the sales made by the

Levy of purchase tax.

9. (1) Where a dealer who is liable to pay tax under this Act purchases any taxable goods from a person who is not a registered deeler, then lhere shall be levied on such dealer a purchase tax on the turnover of such purchases at the rate set out against egch of such goods in Schedule II of this Act.

(2) Where a registered dealer purchases sugarcane from a person who is not a registered desler, for the purpose of use thereof in the manufacture cf sugar or *khandsari,* there shall be levied a prtrsha_•e tax or the pu•• ase o! such sugarcane at the rata set out therefor in Schedule II of this Act.

(3) Where any pefson or dealer has purchased any taxable goods under a certilicale or declaration given ôÿ him under any provision of this Act or earlier law, rule or notification, and the conditions, ‹ecitats or undertakings of such certificate ordeclaration arenotcompliedwith, then suchperson or dealer shall be liableto pay purchasetax on the tumoverot such purchases at the rate set outagainst each ofsuch goods in Schedule Il ofthis Act or atthe applicable rate of tax under the earlier law, whichever is highsr.

Rate of tax aa paclôag æaterîals.

10. Notwithstanding anything *contained* in this Act and contract of sale, where goods packed in any materials are sold, the materials in which the goods are so packed shall be deemed to have been sold or purchased alongwith the goods and the tax ehall be leviabls on such sales or purchases of the matefi5tlS at the rate of tax, if any, as applicable to the sales or as the Oase may be, purchase of the goods themselves.

Tax credit.

11. {1)(a) A registered dealer who has purchased the taxabie goods (hereinatter referred to as the Qurchasing dealer") shall be entitled toclaim tax credit equal to the amount of,-

(i) taxcolIsctedfromhim,byaregistereddealerwhohassoldsuch goods to him or the tax payable by him to a registered dealer who has sold such goods to him during the tax period, or

(ii) tax paid by him during the tax pe”riod under sub-section (1) or (2) of saction 9.

(b)Thetaxcredittobesodaimeâunderthissub-section shp6 besubject totha provisionsofsub-seotions{2)tot12);andthetaxcreditshall@c8l0uIated in such manner as may be prescribed. ”” ”

(2) Ths registered dealer who intends to claim the tax credit shall msifitaln the register and the books of accounts in such manner as may be **prescribed.**

(3)(a) Subject to the provisions of this section, tax credit to be claimed under sub-section(1) shall be aimed to a purchasing dbaIsr on his purchase of taxable goods which are intended for the purpose of-

(i) sale or re-sale by him in the State;

(ii) sale in the course of inter-State trade and commeme;

(ii) branch transfer or consignment of taxable goods to other States (subject to the provision óf éub-clause (b) below);

(iv) sales in the course of export out of the territory of India:

(v) ales to export oriented units or the units in Special Economic Zones for sale in the course of export out of the territory of India;

(vi) use as raw material in the manufacture of taxable goods intended for (i) to tv) aböve or in the packing of the goods so manufactured:

Pro•zided that if purchases are used par'ally for the purposes specified in this*‹ab-section the tax credit shall be allowed proportionate to the extent they are used for the purposes specified in this sub-section.'.

(b) Nohvithstanding anything contained in this s«ction, the amount of tax credit in respect of a dealer shall be reduced by the›« ountsftaxcalculsted at the rate of four per cent. on the turnover of purcha› -:

(i) of taxable goods consigned or dispatched fo› branch transfer or to his agent outside the State, or

(ii) of taxable goods whÏGh are used as raw materials in the manufacture, or in the packing of goode which ara dispatched outside the State in the course of branch transfer or consignment orto his agent outside the State.

(4) The tax credit shall not be claimedbythe purchasing dealer until the tax period in which he receives from a registered dealer from whom he has purchased taxable goods, a tax invoice (in original) oontaining particulars as may be piasctibed undsi"sub-section (1) of section 60 evidencing the amount of tax.

(5) NotwithstandinganrthingcontainediriñisAct,taxcreditshaIlnotbe allowed for purchases-

(a) wade from any person other than aregisterbd deaier under this Act;

(b) made from a dealer who is not liable to pay tax under this Aot;

(c) madefromaregistsred dealerwhohaebeenpermitted under section 14 to pay lump sum amount of tax in IIeu of tax.;

(dj madepriortotherelevantdateofIlabil'cytopaytaxasprovidedinsub-section (3) of section 3;

(e) made in the course of inter-Gtate bade and oommeme;

(f) ófthe goods which are dispoeedof othe iee than.in sale, resale or manufacture;

(g) ofthegoods specffiedintheSchedule I orthegoodsexamptfromv‹hate of tax by anotiflca'san under sub-section (2) of section 5;

(h) of the goods which are used in manufacture of goods specified in Schedule I or in the pacl‹ing of goods so manufactured;

(i) ofthsgoodswhichareinthenatureofcapital$oodsasdefinedinclause (S) of sectlon 2 and which ara meant1or use as čapifal goods in the manufacture;

{j) of vehicles of any type and its equipment, acce6soñes or spate-parts (excapt when purchasing dealer is engaged in the business of sales ol such goods)

(k) property or goods not connected with the business cf ihe dealer;

(l) of the goods which ars used as fusl in generation of electrical ene‹gy meant for captive use or otherwi6e;

(m) of the goods which"are used as tuel in motpr vehicles,

(n) of the goods which remain as unsold stock at the tima of closure of business;

{o) where original invoice does not contain the details of tax charged separate\y by the selling dealer from whom purchasing dealer has purchased the goods;

(p) where original tax invoice is not availabte with purchasing deBler or there is evidence that the sama has not been issued by the selling dealer from whom the goods are purported to have been purchased;

hcfwithstanding anything contained in clause (a) or (b) in this s«h-section and subject to conditions asmay be prescfibed, a fsgislereddealer shattbeallowed to claim tax credit in respect of purchase tax paid by him under sub-section (1) a {2) of section 9.

(6) The State Government may, by notification in the Of//cia/ Gs-za/te,specifyanygoodsortheclassofdsalersthatshatI notbee"ntitladtowhole or partial tax credit.

(7) Where a registe.reddealarwitñoutenteringintoatransaction of sale, issues to another registered dealer tax invoice, retail invoice, bill or cash memorandumwiththeinterJionlodelraudtheGovemrnentrevenue or with the intention that the Government may be defrauded of its revenue, the Commit sioner may, after rñaking such inquiry as he thinks fit and giving a reasonable opportunity of being heard, deny the benefit of tax cied'¢, in respect of such transaction, to such registered dealers iasulng or accepting such tax invoice, retail irivbice, bill or cash memorandum either prospectively or retrospectively from such date as the Commissioner may, having re$ardto thecircurnstanses of the case, fix.

(8) lfthegoodspurchasedwereIntendedforthapur pocesspecified under sub-se‹ñion (3) and are subaeguentty used fully or partly for purposes

oth8rthan thoce specified under the saidsubsection or are ueedfully or partly in the cimumstanres described in sub-section (¿i), the tax credit, if avaJsd of, shall be reduced on account of such use, from the tax wedit belng"dalrred for the taxperiod during which such use has taken place; ar›dsuch reduction shall be done in the menner as may be prescribed.

(9) The registered dealer may daim the amount of net tax credit, whioh shall be determined in the manner as may be prescribed.

(10) Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of section 61 or if he returns or rejects goods pumhased, as a *consequence* of which tha tax credit availed by him in any period in respect of which the purchase of goods relates, becomes sithef short or exoess, he shall compensate such short or excess by adjusting ths amount of tax credit allowed to him In respect of the tax period in which the credit note or debit note has been issued or goods are returned, subject to such conditions ae may be prescribed.

(11) A registered dealer shall apply fair and reasonable method to determine,forthepufposeofthissection, theexteniiowhichthegoods aresc^ld, used, oonsumed or supplied, or intended to be sold, used. consumed or supplied. TheCommissionarmay, aftergivingthedealeran opportunityofbeing heard and for the reasons to be recorded in writing, reject the method adopted by the dealer and caic! late the amount of tax credit as he deems fit.

(12) Subject to theexceptionsasmay be prescribed by the rules, any *dealer* including fhe Commission *agent* shall not be o: - fitted try transfer his tax credit to any other dealer or as the case may be, th. , line.pal.

/2xplanation.. For the purpose of this section, the amount ottax credit on a zy purchase of goods shall not exceed the amount of tax actually paid or payable undaf this Act in respect of the same poods.

Tancredit Sor stock on3lst ^*'"* 12. (1) Within the period as msy be prescribed, all the dealers who are deemed tohave been registered undersecTion23shall furnish in such form and to such authori asmay be prescribed, a statement of taxable goods under this **Act held in stock on the 31^ March, 2003 for which the dealer intends to claim tax credit under this Act.**

Explanation.— For the purpose of this section, "Bxable goods held in *stock"* includes taxable goods in the process of use in fne manufacture as on the 31st March, 2063.

(2) A registered dealer who has submitted the statement of taxable goods under sub-section (1) shall not be permitted to rriake"anychanges in the details of such statement if such changes result in increase in the tax credit daimed in tha statement of taxable goods.

(3) If the goods shawl in the statementrelerred to in sub-section (1)-

(a) were liable to tax under the earlier law, and the purchasing registered dealer had paid the amount of tax to the selling registered dealer under the earlier law or had pald purchase tax under the earlier law, and

(0} are intended to be used for the purposes specified in sub-section (3) of section II -

then the amount of tax so paid by the p:zrchasing dealer or such gouds, determined in such manner and subject to the provisions of section 11 as far as they may apply and further subject to suoh conditions and reslrict/ons and to suchextentasmaybepresciibed, shaltbeallowedasthetax credittotho dealor referred to *in* sub-section(1).Suchtaxcredhshall be availableastheoutstanding credit brought forward for being claimed in such manner as may be prescribed.

(4) Notwithstanding anything contained in this section, no iax credit under"this section shall be allowed in respect of those goods,-

(a) which are not taxable under this Act or the earlier law;

tb) which are not included in the statement of taxable goods referred to in sub-section (1);

(c) for which the dealer dces not Lia've inhis possession sales vouchers issued by a dealar registered under the earlier law, against the purchasesofthesaid goods or for which purchasstaxpayableurtderearlier law has not been paid b the 31•' March, 2003;

(d) which are not recorded in the books of accounts of the dualer claiming tax credit under thls soction; oi

(e) which are declared as "prohibited goods" under clause (21) of section 2 of the Gujarat Sales Tax Act, 1969,

tiuj. 1 OF 1970.

(5) Whare the amount of tax on the goods purchased is not indicated separately on the sale vouchers, the tax credit under this sec*on shall be calculated in tt›e manner as may be prescribed.

(6) The provisions of section 11 shall apply mutatis-m *itandis* to the tax credit to be availed of under this section.

(7) If the Commissioner is satisfied that a deslsr -

(a) has claimed tax credit for suoh stock for which he is not entitled for claiming tax credit as pef the provisions of section 11 and sub-sections {3) and (4) of section 12, or

(b) has claimed axcess tax credit than what he is entitled to under sectioi 11 or under this section

the Commissioner may, after givinp the dealer an opportunity of being heard direct h\m to pay a penahy equal to twice the amount of tax credit so claimed..

13. Ths net amount of Vatue Added Tax for a tax period payable shall be determined after the adjustment of tax credit in the manner as may bb prescribed.

Net amount of Value Added Tax.

Option for payment of lumpsum tax in lieu of tax on sales.

14. {1) (a} Notnñthatanding anything contained in this Act, the Commissioner may, In etch ñircurnatances and subject to such conditions aa may be prescribed, permitanydeder,whoisnotengagedintheactivity of manufacture and whose total taxable tumoverhae notexceedacl rupaestwenty-fivelakhs in thepreviousyear,topaylumpsumtaxinlleuoftheamountoftaXpayableunder section 7 of this Act.

(b) Thepermisslongrantedundersub-section(1)ehallremainvalldsolong as the total taxable turnover of the registered dealer does not exceed rupeas twenty-five lakhs. In case where total taxable turnover of a registerecl dealer exceedsrupeesMenty-fivelakhsduringthacourseoftheysar, heshallbaliab)e to pay tdx under the provisions of this Act from the tax period as may be prescribed for this purpose.

Explanation.—'. For the purpose of permission under clause ta) for the year 2003-04, total taxable turnover shall becatculatfi›dwifhreference*to he* Gujarat Sales Tax Act, 1969. Guj. 1 of 1970.

t2) The State Government may, fix the rate of lump sum tax by notification in the Official Gazelle.

(3) A dealer who is permitted under sub-section (1) to pay lump sum tax shall not,-

(a) be entitled to claim tax credit in respect of tax paid by him on his purchases,

(b) charge any tax under this Act in his sales bill or sales invoice in respect of the sales on which lump sum tax is payable; and

(c) issue tax invoice to any dealer who has purchased the goods from him.

(4) A dealer who is permitted under sub-section (1) tu pay lump sum tax shall be liable to pay, in addition to the lump sum tax under this section,—

(a) purchase tax leviable under sub- sections (1) and (3) of section 9;

(b) tax at the rate specified under section 7 in respect of sales of ,qoods within the State,-

(i) which ars purchased or brought from other State in any manner, or

(ii) which are purchased in the course of Import from outside the ter'stories of India, and

Explanation.— For the removal ot doubt, it ig clarified that the dealer who has been permitted to opt for cornpositi'on under this section shall be liable to pay *cenfial sales tax as per* tha provisions of Central Act in respect of aaleB made by him in the course of Inter-State trade and commerce.

Burden of proof.

15. The burden of proof shall lie on a dealer who daims that he is not liable to pay tax under this Act in respect of any sale effected by him or is eligible for a taxcredhundarsection 11 andsestion 12.

CHAPTER III

ODHMERCIAk TAX AUTHORITIES AND TRIBUNAL.

1s. {1) ForcarryingoutthepdrposesofthisAct, the State Govemmentahall appoint an officer to be called the Commissioner of Commercial Tax. -• < tax authori-ties and J •

(2) TOass‹st the CommisE/onar in the execution of his functons *u*nder thi6Act,theStateGovemmentmayappointSpecialCommissioners,Additional Commissioners and such number of —

(a) Joint Commissiondrs,

(b) Deputy Commissioners,

(c) Assistant Commissioners,

(d) Commercial Tax Officers, and

(e) other officers and persons, and give them such designations, as the State Government thinks necessary.

(3) TheCommissionershallhavejurisdictionoverthewhole of the State, the SpecialCommissioner andan Additional Commissioner shall havejurisdiction over the whole of the State or where the State Government so directs, over any local area thereof. All other officers shall have jurisdiction over the whole of the State or over such local areas as the State Government may specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on him by or under this Act. The Special Commissioner and an Additional Commissioner shall, save as otherwise directed by the State Government, have andexeaise within his jurisdiction all the" powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act.

(5) A Joint Commissioner shall have and exercise, in the area within his jurisdiction all the powers and shall perform all the duties conferred or imposed on ths Commissioner by or under this Act, The Commissioner may, by order publishedinthe 0//fcia/Gazette,directthatanyorall Joint Commissioners ehall not exercise such powers or perform such duties as are specified in the order, and there-upon such Joint Commissioner or, ae the case may be, all Joint Commissioners, shall cease to exemise those powers and perform those duties. The Commissioner may in like manner revoke any such direction and thereupon the powers or duties exercisable or performable by such Joint Commissioner, or as the case may be, all Jolnt Commissioners before such direction was issued, shall be restored to him or them.

(6) The Deputy Commissioners, Assistant Commissioners, Commercial Tax Officers and other oflJcers shall within their jurisdiction exercise such of the powers and perform 6uch of the duties of the Commissioner under this Act, as the Commlaaloner may, subject to such condldons and restrictions as 'the State Government may by general or epeclal order Impose, by order in wri¿ngdelegatetcmeme‘8hergeneralIyorasrespects any particular matter or clasa of ma«era.

(7) The State Govemment may, aubject to such restrictions and conditionsasitmayimposebynotificatlörilnthe Dff/cia/Gaze/te, delegatetothe CommiasiŒlBr-the power (not being powers rolating to the appointment of Special qommissioner, Additional Commiseioner or Joint Commlssioners), œnfsrred on the State Govemment by sub-sections (2) and {3).

(8) All officers and parsons appointed under sub-section (2) shall be subordinate to the Commissioner; and the subordination ol officers{other than 'the Commissioner), arid of persons amongst themselves shall be such as may be prescribed.

Power to trancher **proceedings.**

17. (1) The Commissioner may, after due notice to the concerned parties and by order in writing, transfer any proceedings or ctass of proceedings unde' any provision of this Act from himself to any other officer and he may likewise transfer any such proceedings (including a proceading already transferred under this section) from one such officer to another or to himsBlf.

(2) The officer to whom any proceeding is transferred under sub-section (1) shall proceed to dispose it of as if it had been initiated by himself.

(3) The transfer of proceerlingsshall not render r:ecessary the re-issue of any notice already issued befu•e such transfer and the officer to whom the proceeding is try !sferred may continue it from the stage at which it y as left bj' the officer from •aho ii ii wus transferred.

Explanation.— For the purposes of this section,"proceedings"inrelation to any perspn whose name is specified in any order issued t!• oreundor, means all proceedings under this Act in ‹espect of any year which .«•!ay l›e pending on thn date of such order or which may have been completed cr: or !aefoie such date, and includes also such proceedings which may be commenced after the date of such order in respect of any year.

Disputes **regarding jurisdiction** of tax **authority.**

18. (1) No person shall be entitled to call in question the jurisdiction of any tax authority appointed under section 16, aher the expiry of thirty days from the date of receipt by that person of any notice issued by such tax authority undsr this Act.

(2) An objeciion as to the jurisdiction of any such tax authotity may ba raised within the periods aforesaid by submi!iing a memorandum to that tax authority who shall refer the question to the Commissioner and the Commissioner shall after giving the person raising the objection, a reasonable oppôrtunity of bsing heard, make an order determining the quel..' n of jurisdiction and his decision in this behalf shall be final.

Tribunal.

19. '(1) The State Government shall constitute a Tribunal cn»:!›."ng of as many as members as :'t thinks fit to discharge the functions confers. ‹:. on the Tribunal by or thider this Act,

(2) The üta« Govemment shall appoint one of the membsrs of the Tribunal to be President thereof:

(3) The qualifications of the members constituting the Tribunal shall be such as may be prescribed and a member shall hold office for such periodias the State Government may fix.

(4) The State Government may terminate the appointment of any member of the Tribunal before the expiry of term of his office, if such msinber, —

(a) is adjudged an insolvent, or

n) eiiqages during his term si of1ico in «riy"paiü employment outside the cuties of his office, or

'c) is or be omes in any way conceinedór interested in any contraut or agreementrriade byor cn behalf ofthe Staie"Governnientnrnartic!pates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member, or

(d) is in the opinicn of the State Government, unfit to continrie in oTlice by reason cï infirmtty oi mina nr tnnciy, al

(e) is r:onvicted of an offence inv‹›lving moral turpitude.

(5) AnV va‹z8.ncy cÏ a mernber ot the J"ribu al shali ibe Til!ed up by ihc State Goveir iz ert «s soon as practicable.

(6) The functions of the Tribunal may be discharged by one or more benches thereof constituted in accordance with the regulations made under sub-section (9).

(7) If the members of the Tribunal or a Bench thereof are divided, the decision shall be the decision of the majority, if there be a majority, but if the members are equally divided they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points to one or more of the other members of the Tribunal, and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case including those who first heard it

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

tJj subject tulhe previcris sanction of the Stat° ove nmeizi, the"I-I iDUn I ci.cii. *or the purtwose ‹ t legu!atinq its procedure (inclucin¿ ihe place cr places a: 'which the Tribunal or the Bunches thereof shall sit) and the ciisposal of its br›siness. make regulations consistent with the pm •isic!s ef this Act and the iules.

(10) The regulniicns macle undersub-sectiori {9) shall be ›ublished in the *"ci"al G zette..*

2£l. (1) In rJischa.rging their functions Under this Act, the 'Irinunal and the Commissioner shall h°uve all the powers ‹›t s r,ivil Corirt f‹Jt the purpose uf,- **Powers of Tribunal and Commissioner.**

(a) receiving of proof of facts on affidavit;

(b) summoning and enfércingtheattendanceof any person, and examining **him on oath or affirmation;**

fr) compelling the production of documents; and

td) issuing œmmissiona for the examinaèon of wîtnesces.

(2) In the case of any affidavit to be made for the purpoaes of ihis Act, any officerappointedby tkeTribunal or the Commissioner may administer the oath to the deponent.

CHAPTER IV

REGtSTRATION

Registration.

21. (1) No dealer shall, while being liable to pay tax under this Act, carry on bus1ness as a dealer unless he possesses a valid certificate of registration as provided by this ACt:

Providedthattheprovisionsofthissub-sectionshallnotbedeemedtohavs been contravened ifths dealer having applied forsuch registiation, as provided in this sectiön, within the prescribed time carries on such business.

(2) A dealerdealing exclusively in goods specified in Schedule I shall not be IiabIp for registration.

(3) Every dealer, fequired by sub-section {1) to possess a certificate of registration, shall apply in such form, te such authority and in such manner as may be prescrib•d.

(4} If the prescribed authority is satisfied that an application for registration is in order, it shall registertheappiicantand issue him a certificate of registration in the prescribed form.

(5) The proscribed authority may, nfter considering any information fur nished under any provisions of this Act or otherwise received, amend from time to time, any certificate of registration.

(6) Whena dealer hasbeensubjectedorisliabletobesubjectedtoapenalty or is convicted in respect of contravention of the provisions of sub-section (1), the prescribed author'ity shall register such dealer, if such dealer is not a registered dealer, and issue him a certificate of registration. Such registration shall take effect from the date of the issue of the certificate in every respect as if it had been issued under sub-section (3) on an application of the dealer.

(7) Where -

ta) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued or, transferred, or

(b) tOtal *tu" p•f* (and taxable turnover of a dealer gluing the preceding year has not exceeded the threshc'dsof*urnoverspecifted in sub-section (1) of section 3,-

and the deater applies in the prescribed manner for cancellation of his registration, the prescribed authority shall cancel the registiatlon with effect from such date as 'rl may fix in accordance with the rules.

te) Where the Commicsiorer is satisfied thst any business in respect of which a cer ficate of registration has been issued under this section, has beendiscontinuedandthedealerhastailedtoapplyasaforssaldfqrcancellation of registr8ton, the Commissioner may. after giving the dealer a reasonable opportun"ityof being heard, cancel thereqistiation with effect from such date as he may tix to be the date from which the business has been discontinued.

(9) ThecanceIlationofacertificateofregistrationonanapplicationofthe deaJerorotherwise,shaIlnotaffecttheliabilityofthedeaiertopaythatax,penalty or interestdueforany period priortothedataofcancellaäon whethersuchtax, penalty or interest is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

Voluntary registration.

22. (1) A dealer having a fixed or regular place of business in the State and who is not required to be registered under section 21, may app\y in the prescribed manner for the'certificate of registration to the authority prescribed for the purpose under section 21.

(2) If the prescribed authority is satisfied that the application made by the dea\er under sub-section (1) is in order, it may grant him a certificate of registration in the prescribed form:

Provided that no certificate of registration under this section shall be granted to the dealer unless he deposes an amount of rupees twenty-five thousand in the Government treasury. The dealer may, in his return to be furnished in accordance with section 29, adjust the amount so deposited against his liability to pay tax, penalty or interest payable undar this Act.

(3) The provisions at sub-section (4) and clause (a) of sub-section (7) and sub-section (8) of section 21 shall apply in respect of the amendment or cancellation of certificate of registration granted under this section.

(4) Notwith9tandinganythingcontainedinthlsAct, everydealerwhohas bean reqisteredundersub-secéon(2)shaII,sofongashisreqistrationremains in force, be"liable to pay the tax under this Act.

Detoied reglstrAtîoa.

23. Everydealer reglateredasontheappointeddayunderanyoftheearlier lawsorundertheCentralActshallbedeemedtoberegicteredundersectlonz1.

Non-transferabil-

24. Save as other«lse provided in section 25, s certificate of registration shallbepereonaltothedealertowhomitisgrantedandshall notbetransferable.

Continuation of certificate of registration of firm.

25. Where, -

(8) 8r0g›8tered ÖeBler iS 8 fiizi1ar›d 0r\ the d88th Of anyp8rtrler 0f 8UCh firm, *'île fir*mstands diseofœd, and

(b) thepersonwhoimmediatatybeforesuchdissotutionwasapartnerefthe firm carries on business of the dissolved firm, as proprietor, then-

(i) until the certificate of registration granted to the firm prior to its ^i•sol *Jtir›n* is e .enñnJ inci r *r'h-rl'"tse (i!), th cs ;‹ft .ie I ‹egistratiun granted to the firi-n prior tc its dissolution shall, subjeui to section 27, continue to be valid for a period of six months;

(ii) onanapplicationmadebv withperson within a period of sixmonths from the "date of dissolution o1 the firm for amendment of the certificate of registration and on information being furnished in ttie mannerrequiredbysection26,thecertificateoiregistrationgranted to the"firm prior to its dissolution shall be amended accordingly.

Amendoienf of *certihczte* of regisira-**tion.**

26. (1) Where a registered dealed -

(a) transfers his business, in whole or in part, or transfers his place of business, by sale, leaue, leave or licence, hire or in any other mannei' whatsoever, or otherwise disposes of his l3USiness or any par hereof or effects or comes to kncw of any other change in the ownership sf the bu°iness;

(b) discontinues his business or changes the place of business thereof or opens a new place of business, or temporarily closes the business for a period more than thirty days;

(c) changes the name, style, constitution or nature of his business; or

(d) enters into partnership or other association in regard to his business or effects any changes in the ownership of the business,

he shall, within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall inform of such death or where any such dealer is a firm and there is any change in the constitution of the firm or the firm is dissolved, every person who was a partner thereof, shall in like manner, inform the said authority of the change in the constitution or as the case may be, dissolution of the firm.

(2) The Commissioner may, after considering any information furnished under this Act or otherwise received and after making such inquiry as he may deem fit, amend from time to time, any certificate of registration:

Provided that the Commissioner shall, before amending on his own motion a certificate of registration, give the dealer affected by such amendment an opportunity of being heard.

(3) An amendment of the certificate of registration made under sub-section (1) or (2) shall take effect from the date of contingency, which necessitates the amendment, whether or not information in that behalf is furnished within the time prescribed under sub-section (1).

(4) Any amendment of a certificate of registration under this section shall *be without projudice to any liabullty for tax, interest or penally or for any* prosecution for an offence under this Act.

(5) If a dealer fails without sufficient cause to comply with the provisions

opportunity of being heard, direct him to pay, by way of penalty a sum of rupees one hundred per day of defa"ult subjec! to a maximum of rupees five thousand.

(6) For the rerrioval of doubts, i\ is nereby declared that where a registered dealer-

ta) effects a change in the name of his business;

(b) is a firm and there is a change in the constitution of the firm without dissolution thereof;

(c) is a trustse of a lrust and there is a change in the trustees thereof;

(d) isaHinclu Undivided Familyandtheb‹ sinessofsuchfamily is converted into a partnershipbusiness with all or any of the oo-parceners aspartners thoreof; or

(e) is a firm or a company or a trust or any other set up and change in the management takes place including the change of the director or the Managing Director of the company ;

ihen ›,.- rely by reason of the circumatanoes as aforesaid, it shall not be nece- ary for the dealer to apply for a fresh certificate of registration and on in1oimationbeingfumishedinthe mannerreo,i ired bythissectinn,t|jecs 'fica!e of registration sha.II be amended.

J'J, (1) Where t aorellatit›ii of registra• 'io"

ta) any business, u respect of which a certificate of registration has been issued to a dealet under this Act is discontinued;

(b) in the case of transfer of whole business by a dealer, the than. Teree already holds a certificate of registration under this Act:

(c) an incotpo‹ated body has been wound up or it other..se ceases to exist;

(d) the owner of a proprietorship business dies leax‹ing no successor to carry on the business;

(e) in case of a firm or association of persons, it is dissolved; or

(f) a dealer has ceased to be liable to pay tax under this Act,-

the Commissioner may cancelthecer\ificateo1registration otsuch dealerorthe transferor, as the case may be, from such date, as may be specified by him.

(2) A registered dealer, whose certificate oT regiatration is liable to be cancelledundersub-section(1), may applyforcancellation of his registration to the prescribed authority, in the mannsr and within the time prescribed.

{3) On receipt of such application from the dealer, if the registering authority is satisfledthatthedealer fulfilstheconditions apecifiedinsub-section (1), he shall cancelthe registration of such dealer.

(4) Tłie cœrtificœte of ægisbation śhallbe deemed to be inoperative-

(a) in caae of clause (a) or (b) of sub-scęțion (1), with effect from the date of discontínuaricó or, as the oase ṁay be, transfer of 1e busineăs;

(b) in case of clause(c),(d),(e), or(f}ołsub-sacôon (1), from the date on which the dealers liability to paytax has ceaceö,

notwithstandlngthsfactthattheorderof cancellation ispascedornotorthatthe pañicularsofthedealer regardingcancøllationarepublished as required under sub-sectiori (11), or not.

(5) If a dealer -

{a) has failed to file three œnsecutive returns within the time prescribed under this Act;

(b) knowingly furnishes incomplete or incorrect particulars in his returns,

(c) has failed to pay tax due from him under the provisions of this Act;

{d) having issued tax invoice or retail invoices, has fajled to account for the caid invoices in his books of acccuriì,

‹eț holds or accepts or fumishes or causes to be furnished a declaration, which he knows or has reason to believe to be false;

( ) who has been required to furnish security under section:28, but has failed to furnish such security;

(g) has been convicted of an offence under this Act, or under the earlier law;

(h) disoontinues his business and has failed to furnish information regard ing such discontinuation, or

’(i) without enteńng into a transaction of sale issues to another dealer tax invoìce, retail invoice, bill or cash memorandum with the intention to defraud the Government revenue,

the Commissioner may at any time, for reasons to be recorded in writing and after givlng the dealer an opportunity of being heard, œnceİ his cerãficate of registration from such date as may be specified by him.

(6) Every person whose registration is cancelled under sub-Section (5) shall pay in respect of every taxable goods held as stock on the date of cancellation an amount equal t9the tax that would be payable iri resğect of the goodsifthegoodsweæsoldatfairmarkstpńoøônthatdateorthetotaltaxcredit prevóusly daimed ìn respect of such goods, whlchever is”highęr.

(7) Ïf an órdef of câncełlatlon păs6eó under this section is set aside as a r6suit of añ appeal or óther proceedings urdef thi6 A0t,.the œrtificate of rsg'istratíori ofthedealeraha!lbe reatoæd andhe shall deemedtobe treated as if hlG registration wa6 not canoetled.

'(8) Every dealer who app\ies Jar cancellation at registration ahatl surrender with his apptloaaon the certificate of red:4ratIbn granted to him and every dealer whose regtatr8tloñ Is cannot\edotherwieethanon theba6\s of his application shall surrenderthecertificateofrepisttationwitbin seven dsysfrom !he date of communication to him of the o‹derof canoet\atton:

Providedthatifadealerisunabletosurranderthecergficateof.reglsbation on account of loss, destructlon or defacement of such certificate, auch dealer shall intimate the registering authority acóqfdlngly within seven days from the date of commynicatlori of orderof cancellation of registration.

(8) If a dealer -

ta)fai1swithoustuff)cienteausetocomplJ with the provisions of sub-section(2);or

(b) faithto suirender his ceriificate of registration as p1'ovided in **sub-section (8),**

the Commissioner may, by an order in writing and alter giving the déaler an opportunity of being heard, direct that the dealer shall pay, byway of penalty, a SUrn 0 tL\ ' tc rupees one hundred for every day ol default.

(10) Cancellationofacertificateof registiationshallnotaflecttheliability of anydealertopaytax, penaltyorinterestdueforanyperiodtillthe date of such cancellation and which has remâinsd unpaid or is assessed thereafter.

(11) The Commissioner shall publish in the manner as m&y be pre-scribed the pañiculars of dealers whose certificate of regi6tfation has been cancelled under the provisions of this Act.

Security from certain class of dealers.

28. (1) Where it appears necessary to the authority to which an application i6 made under section 21 or 22 for issue of certificate of registration, so to do for the proper realization of the tax, penalty and interest payable un !=r this Act, it may by an order in writing and for the reasons to be recorded therein, impose as a condition for the issue of certificate of registration a requirement that the dea\er shall furnish irt the presGribed manner and within euch tlme as may be specified in the order, such security as may be specified in the order for the aloresaid purpose.

(2) Where itappears necessary totheauthofityrefer edtoin section 21, or the Commissioner so to do for the proper realization of the tax, interest and penaEy payable or which has beoome duefor payment, for any pariod of any year, he may, at any time, by an order in wñting and for reason to be recorded therein, require a registerqd dealer to fumi6h in the presoribed manner and withinsuchtimeas maybespecifled in theorder, such security or if such dealer hasalreadyfurnished any security, suchadditionalsgcu'nty as may bespe‹2ied intheorder., "

{3) Nodealershallberequiredtofumishany security undersub-section (1) or any security or additional securlty under suD-section (2) unless he has bean given an oppoñunity ot being heard.

(4) The amount at sâcunty, whIch a deafer may be required to fumieh undersosection (1)orsub-section(2), orthsaggregateoftheamountof6uch

security, and the amount of additional security which he may be required to furnish under sub•section(2) by the authority referredtothereinortheCommissioner, shalInotexceedtheamountoftax,interestandpenalty payableorwhich has become due for payment for a period of any yeaf according to the estimate of the authority referred to in sub-section (1) or the Commissionsr, on the turnover of sales or turnover of purchase of goods of such dealer for any period of any year.

(5) Where the security furnished by a dealer under sub-section (1) or sub-section(2)is in theformofasuretybond andthe surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority referred to in sub-section (1) or sub-section (2) or, as the case may be, the Commissioner and shall within ninety days of such occurrence, furnish afresh security for the same amount as that of the bond in the form of a Dond or in any other prescribed manner.

(6) The authority referred to in sub-section (1) or sub-section (2) ct, as the case may be, the Commissioner may, by order and for good and sufficient cause, forfeit the whols of any part of the security furnished by a dealer for realizing and' amount of the tax, interest or penalty payable by the dealer:

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

?") Vynere by reason oï an oròer unóer sub-seciion (oj, the security lurnished by any dealer is rendered insufflcisnt, he shall make up the deficiency in such mani-.Jr and within such time as may be prescribed.

(8) The authority re!e‹red to in sub section (1) or sub-section (2) or, as the case may be, the Commissioner may, on an application made by a dealer in that behalf, make an order of refund of any amount or part thereof deposited by the dealer by way of security or for the release of bond under this section, if it is not required for the purpose of realization of tax, interest or penalty.

(9)Whereadealerfailstofumishsecurityasrequiredundersub-section (1), (2), (5) or (7), the authority referred to in section 21 shall refuse to issue or, as the case may be, shsll cancel the certificate of registration:

Provided that the refusal or cancellation oJ a certificate of fegistiatic*n under this sub-section shall, notwithstanding anything contained in sub-section (3) of section 3, not affect the liability of the dealer to pay the'tax, penalty and interest dueforanyperiodbafore or afterthedateof such refusal or cancellation of the certificate of registration; and accordingly the provisions of this Act shall continue to app\y.

CHAPTER V.

RE1URNS, PAYMENT OF 1AX, ASSESSMENT, RECO'\/ERY OF TAX AND REFUND.

Returns. 39 (1) Every Registered dealer shall furnish correct and complete returns In such form, for such period, by such dates and to such authority, as may be prascfibed.

(2) The Commissioner may, subject to such terms and conditions as may be prescribed, exempt any dealer from fumiehin§ returns or permit any dealer, -

(a) to fumish for such different peñods, or

(b) tofumishseparatereturns relating to variousplacesofbusinessof a dealer in the State forthasaidperiod,or for suoh different period, to such authority, as he may direct.

(3) If the Commissioner has,reasonto believe that the totai turnover of any dealer is likely to exceedthethresholdsofturnoverspecifiedin sub-section (1) otseotion3, hemay,bynoticeservedinthepreScribedmanner, require such dealer to furnish returns as if he were a registered dealer, but no tax shall be payable by such dealer, unless he become liable to pay tax under subsection (1) of section 3.

{4) If•nny dealer having tumish@ returns under sub-section (1) or (3) discovers any mistal‹e, error, omiss'ion or incorrect statement therein, he may furnish a revised raturn before the expiry of three months next following the last date presor f›od for furnishing the original ret'urn.

Tñ} \1 a registered dealer or any other dealer rerjuired to furnish return under this section fails to furnish any return by the prescribed date as required unrler sub-section (1) or fails to comply with the requir.ment of notice issued un‹i›r sub-section (3), iize Commissioner shall direct him to pay, in addition to uny 'fax and interest payable or paid by him, by wey of penalty a sum of rupees one hundred per most.h of oai1 \hereot for t)ie detault period. The penalties specified under this sub-section shall be imposed by the Commissioner notwithstanding the fact that the assessment proceedings have not been initiated against the dealer under section 32, 33 or 34. Any penalty imposed uncler this sub-section shall be without prejudice to any prosecution for any offence unde this Act.

30. (1)'Fax shall be psid in the manner hereinafter providecl, and at such iriteivals as may be prescribed.

Periodicel **payment of tax and** interest on **non-payment** of tax.

(2) Every registurad dealer lu nishing return as required by sub-section (1) ol section 29 shall pay into aGovernmenttreasury, in themanner prescribed, the whole amount due from him according to such return and shall furnish along with the return a receipt showing full payment of such amount.

(3) \f the revised return furnis'hed by a registered dealer in accordance with sub-section (4)ofsection 29, shows a higheramountoftaxduethan shown in the return earlier furnished by him, he shall pay into a Government treasury theremaining amount of tax arisingfromthe revisedreturn alongwithinterest on delayed payment of such remaining amount, and furnish alongwith the revised return a receipt showing such payment.

(4) If a reqistered daaler does not pay the amount of tax payable in accordance with the provisions ol sub-section(1), (2)or(3), the Commissioner shall forthwith initiate recovery proceedings under this ÀGt.

(5) Where a dealer does not pay the amount of tax within the time prescribed for its payment undef this section, then there shsll be paid by such

dealer for the **period** commencing on the dste qf expiry of the aforesaid prescribed time and ending on date of paymerit of the amount of tax, simple interestatthe rate of eighteen percent, per annum, on the amount of tax not so paid or on any leas amount thereoiremainlng unpaid during such period.

Collection of tax only by registered d•alera

31. {1) Aparsonwhois not a registered dealer shall notcotlect in respect of any sale of gooda any amount by way of tax under this Act and no registered dealer 9hall make any such collection except in accordance with the provisions ot this Act and the rules made thereunder.

(2) A registereddealerwhohasbeen permitted by the Commissioner to make a lump sumpaymentundersection14 shallnotcollectfrom hispurchaser any sum by way of tax on the sales of goods during the period the permission for lump sum Bx is valid.

(3) The tax collected arid deposited under the provisions of this Act to which a dealer may beheld not liable shall notbeielunded tothe dealer and the amount of such tax shall stand f ited to the Government.

(4) II any person collects any amount by way of tax in contravention of the provisions pf this AGt, he shall be liabietopay, in addition to any tax payable, a penalty equal to the amount so collected.

Returo scrutiny and provisional assessment.

32. (1) Returns or revised returns furnished byth"e dealer in accordance with section 29 shall be subject to scrutiny by the Commissioner.

(2) (a) If any dealer has furnished return or revised retvm according to which,-

(i) net amount of tax payable, in accordance with section 13,is nil,

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(i} theamounto(texzed&icoaTied1oxad or subsequent reun,or

tiii) the amount of retund is claimed thera in, or

(iv) the dealer has claimed in his return or the revised return higher amount of tax credit than the admissible amount of tax credit, -

then, the Commissioner may, as soon as possible, p ovisionalty assess such dealer for ths period of such return or as the case may be, revised return. For the purpose of aforesaid provisional assessment, the Commissioner shall serve on such dealer in the prescribed manner a notice requiring him to explain in writing, on or before the date specified in the aforesaid notise the basis on which the dealer has furnished such returns or the revised returns. The Commissioner may, after considering such explanation provisionally assess the amount of tax due from such dealer and icsue an order in the prescribed form.

(b) If the dealer who has been served the notice under clause (a) fails to comply with requirement of clause {a), the Commissioner shall determine the amount of tax payable in the manner as may be prescribed and serve on suoh dealer an order of the provisional assessment.

(3) Where a registered de8ler has not furnished the return in respect of any tax period within the prescribed time, the Commissioner shall, riotwith-

standing anything contained in section 34, proceed. to assess the dealer provisionally for the period for such default. Such provisional assessment shall be made on the basig of past retun s or past records or on the basis of information received by the Commissionor and the Commissianer shall direct the dealed to pay the amount of tax assessed in such manner and by such date as may be prescribed.

(4) Where the Commissioner has reason to believe that the dealer has evaded the \ax or has claimed more amount of tax credit than the admissible amount of tax crsdit, he may, after taking into account all relevant materials gathered by him and after giving the dealer a notice in the prescribed form, provisionally assesstothebestofhisjudgmenttheamountoftaxpayabtebythe dealer.

(5) The provisions of this Act shall *mutatis mutandis* apply to the provisional assessment as it provisional assessment were an audit assessment made under this Act

(6) Nothing contained in this section shall prsve»t the Corrimissioner from making assessment under sections 33 and 34.

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33. '1) Every registered dealer shall, by such dates and to such authority as may be prescribed, furnish annual return by way of self-assessment in the pr6Sctib0d furm, ccriiaiiiing such pariiculars and accompanied by supporting documents, as may be prescribed.

{£) The amount of tax credit, exemptions and other claims by the dealer in the annual return for which no supporting tax invoice, declarations, certifi' cates, or evidence required under this Act or the Central Act is furnished, shall be self-assessed by the dealer by disallowing such tax credits, exemptions and other claims and by levying the appropriate rate of tax as if the sales or purchases were taxable.

(3) If a dealer has furnished all the returns, revisecl retiJrns, if any, and annual ietuzn within the prescribed period and the Commissioner is satisfied that the returns or as the case may be, revised returns, and annual return are correct and complete, he may accept the annual return by way of self-assessment filed by the dealer and shall assess the amount of tax and interest due from the dealer on the basis of such returns. The Commissioner shall send to suah dealer an intimation in the piesczibed form regarding thB assessment dorie under this section.

Audit assessment.

34. (1) Subject to the provisions of sub-section (2), the amount of tax due mom a registered dealer shall be assessed in the manner hereinafter provided, separately for each year, during which he is tiable to pay tax.

(2) Where,

(a) the Commissioner is not satisfied with the bonafides of any claim of . tax credit, exemption, refund, deduction, concession, rebate; or genuinenees of any declaration or evidence furnished by a dealer in support thereof with the self-assessment, a

(b) theCommissionsr has reason tobelieve that detaiied scrutiny of the case is neoescary,

the Commissioner may, notwithstandlngthefactthatthedealermay have been" assessed under section 33, serve on such dealer in the prescribed manner a notice requiring him to appear on a deteand placespecifiedtherein, which may
" be his place ot business ora place specified in the notice, either to attend and produceorcausetobeproducedthebookso faccountandallevidenceonwhich the dealer relies in support of his returns or to produce such evidence as specified in the notice.

(3) The dealer shall provide all co-operation and reasonable assistance to the Commissioner as may be required In case the proceedings under this section are required to be conducted at his place of business.

(4) If proceedings under this section are to be conducted at the place of business of the dealer and it is found that the dealer is not functioning from such premises or no such premises exists, the Commiasionef shall assess to the best of his judgment the amount of tax due from him.

(5) If the Commissioner is unlawfully prevented from conducting the proceedings under this sect;•on, he may assess to the best of his judgment the amountoftaxduefromthedealerandmayfurlhsrdirectthatthedealershall pay, by way of penalty, in adclition to the amount of tax so assessed, a sum equal to thstax amount.

(6) If any dealer –

(a) has not furnished returns in respect of any period by theprescribed date;

(b) has furnished incomplete or incorrect returns for any period;

(c) has failed to comply with the terms of notice issued under sub-section {2);

(d) has failed to maintain books of accounts in accordance with the provisions of this Act or rules made thereunder or has not regularly employed any method of accounting,-

the Commissioner shall assess to the best ot his judgment the amount of tax due from him.

(7) If the Commissioner is satisfied that the dealer, in order to evade or avoid payment of tax, —

(a) has failed to furnish, without reasonable cause, returns in respect of any period or the self-assessment by the prescribed date;

(b) has furnished incomplete or incorrect returns for any period;

(c) has availed tax credit for which he is not eligible;

(d) has employed euch method of accounting which does not enable the Commissioner to assess the tax due from him, or

(e) has knowingly furnished false or incorrect self assessment,-

he shall, after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a eum equal to twice the amount of tax assessed on account of the said reason in the audit assessment.

(8) If the Commi8sioner, upon "information which hss œme into his possession, issatisfiedthatanydealerwhohas been liableto paytaxunderthis Act irt æspsct of any period,has faled to get himseff registersd, the Commissionershall proceed to asseæto the bestof hisjudgrnenttheamountoftax due fiomthe daaler inrespect o\ suchperiodand ali subsequentpsriods.In making such assessment, he shall give the dealer an opportunity of being heard. The Commissioner may, if de is 6atisfied that the dsfauh was without reasonable cause,directthatthedealer9haIIpay,bywayofpenalty,Inadditiontotheamount of tax so assessed, a sum equal to the amount ot tax assessed or a sum o\ rupees five thousànd, whiohever is more.

,(9) No assessment under sub-sections(2),(5), (6) or (7) shall be made after the expiry of four years from the end of the year in respect of which or part of whioh the tax is assessable.

(*,0) Noassessmentundersub-section(8) shall be madeaftertheexpiry of eight ',less from the end of the year in respect of which or part of which the tax is assessable:

P cviusd that wî›ure amy assssmeni is fsqui ed to ôe maöe in pursuance of an order of any court or authority, such fresL assessment shall bemade a* any time within two years from the date of such order:

Providedfurthertñatincomputingtheperiodof limitationtor thepu‹posa this section, any period during which assessment proceedings are stayed by an order or injunction of any court or authority shall be excluded.

(1*i} Any assessrrierit made ur penalty imposed under this section shall be wi\hout prejudice to prosecution for any offence under this A*!.

(12) Where in the case of a dealer, the amount of to assessed for any periodunderthis section orreasaessedforanyperiodunder*ection 35 exceeds the amount of tax already paid under sub-section (1), (2) uf {3) ot section 30 by the dualer in respect of such period by more than twenty five per cent of the amount of tax so paid, flare shall be levied on such dealoi a penahy not exceeding one and one-half times the difference between the tax paid Hnder section 30 and the amount so assessed or reassessed.

M. (1)Where after a dealer has bsen assessed under section 32, 33 or 34 for any ye8r or part thereof, the Commissioner has reason to believe that the whole or any part of the taxable turnover of the dealer in respect of any period has,— **Turnover escaping assessment.**

(a) escaped assessment; or

(b) been under-assessed; or

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

Id) wrongly been allowed any deduction therefrom; or

te) wrongly been allowed any taxcedit therein,

the Commissionemay serve a notice on the dealer and after giving the dealer an opportunity of being heard.,and maléng. such inquiry as he considers necesea‹y. proceedtodeterminetoth bestofhisjudgrnent,theamountoftax due from the dealer in respect of such turnover which comes to his notice subsequently, and tha provisions of this Act shal), so far as may ba, apply accordingly.

(2) No orderahall ba made under sub•section (1) atter the expiry of five yeare from the end of the year in respect of which or part of which the tax ie assessable;

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yayoteat.

38. (1) Subject to other provisions of this Act and the rules, the Commissionermayrefundtoapersontheamountoftax,penaltyandinterest,ifany, paid by suoh person in excese of the amount due from him:

Provided that, theCommissioner shall first apply such excess towards the recovery of any amount due under this Act or the earlier laws and shall then refund only the balance amount, if any:

Provid&further that no such adjustment under the proviso shall be made towards a recovery of an amount due that has.been stayed by an appe!lats authority.

(2) Where any refund is due to any dealer, according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns fumish”ed under section 29 for any subsequent period in the year:

Provided that the amount of tax, or penalty, interest or surety forfeited Gr:°,ll or any of them due from and payable by the dealer on the date of such adjustment, shall first be deducted from such refund before making the adjustment.

Provisional

retuod.

37. (1) Ifa registered dealer has filad any return as required by or under this Act, and such return shows any amount to be refundable to the dealer, then the dealer may apply in such form and in such manner asmay beprescribed, to the Commissioner for grant of provisional refund pending assessment.

(2) Subject to the provisions ot sub-section {3), the Commissioner may require the aforesaid dealer to furnish a Bank Guarantee or other security as may be prescribed, for an amount equal to the amount of refund. On receipt of such guarantee or other security, the Commlssionermay, subject to rules, grant provisional refund to the dealer.

(3) The Commissioner may direct that assessment under section 32 of such dealer in respsct ofthe period covered hythe said return be taken up as early as practicable and adjust the grarit of provisional rsfund against tax due, if any, ąs a result oł the assessrr:ent.

(4) If, or -°• essmu I, *.h* :•rnvis.onaI reftjp rq$grtud under sub section (2) is found toI a in =.Xcess, then s .z!h uxcesstrial! be ie '›'.'ered as if it is a tax due from the r.ester «!«Jer th.s /•.' . !dI ie inieies on suet'. t‹'‹shall ba charged

at the rate of eighteen percent per‘annum, for the poriod from the date of grant of provisional refund, till the date of assessmeñt

Interest on **refund.**

98. (!) Where retund of any amount ottax becomes due to the dealer by virtue of an order of assessr0ent under section 34, he shall subject.tothe provision of this section be entitled to receive inaddition to the amount of tax, simple interest at the rate of six per cent per annum on the said amount of taX from the date immadiatelyfollowingthedateoftfiecfosureoftfteaccounting year to which the said amount of tax relates to the date of order ol aseeasment:

Provided that where the dealer has paid any amount of tax aher the closure of the accounting year and such amount i9 Required to ba refunded, no interest shall be payable for the period from the date of closure of such accounting year to the date of payment of such amount.

(2) A registered dealerentitledtorefund in pursuance of any order other than referred to under sub-section(1) orinpursuance of any order by any court, shall subject to rules, be entitled to receive, in addition to the refund, simple interest at the rate of six per cent for the period commencing after thirty days from the date of suchordertillthedateof payment of amount of such refund. The interest shall be calculated on the amount of refund due alter deducting therefrom any tcx, interest, penaltyoranyother duesunderthisActorunder the Central Act. If, asa resultofanyordsr passed under this Act, the amount of such refund is enhanced or reduced, such interest shall be enhanced or reduced accordingly:

Provided that where the amount becomes refundable by virtue of an order of the appellate authority or revision authority or of a court, the interest under the provisions of this section shall be payable from the date immediately lollowingthe expiry oftheperiodofthiitydays from the dateofreceiptoftheorder of the appellate authority or revision authority or the court, by the officer whose order forms thesubjectmatteroftheproceedings before theappellateauthority or revisional authority or the court to the date of refund.

Explanation 1.— For the purposes of this section, where the refund of tax, whether full or in part, includes refund of any amount of tax paid after the date prescribadformakingthalastpaymentofanyperiodcoveredby the return, then the interest, in so far as it relates to the refund arising from such payment, shall be calculated from the date of such payment to the date of such order.

Exp/aoatiboJ.—Ifthede/ayingrantingtherefundwithintheperiodofthirtydsys aforesaid is attributabtetothe said dealer, whether wholly or in part, the period of the delay attributable to him 9hall be excluded from the period for which the interest is payabts.

Expifination 3.— Where the refund of a sum deposited as a pre-condition for entertainment of appeal under sub-section (4) of section 73 becomes due on account of appeal being decided in daaler's favour, the 'date of order' for the purposes of this section shall be-

(a) in the case where the case has been remanded by the appellate authority, the date of the order made In purauanceoftheorder”oftheappellate authorlty;and

(b) in any other case, the date of tile order of the appellate authority.

(3) Where the realization of any amount remains stayed by the order of any courtbr authority and such order is subsequently vacated, interest shall be payable also for any period during which auch order remained in operation.

Power to withhold refund in certain cases.

39. (1) Where an order giving ri9e to a refund is the subject matter of an appeal or turther procoeding or vihere any ether pnx›eeding under this Act is pending,andtheCommÏs6Ionerisoftheopinionmatgrantofsuchrefundislikely to adversely affecttherevenue, hs may, after givingthedealeranopportunity of being heard, withhold the refund till such time as he may determine.

(2) Where a refund iswithheld0ndersub-section(1), the dealer shall be entitled to interest as provided under section 38, if as a result of the appeal or further proceeding he becomes entitled to refund.

Retund of tax for certain categorîes.

40. (1) Subject to such terms and conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *officia/gazette,* authorize the Commissioner to grantrefund of the amount of tax separately charged by any registeʳed dealer to any olass of persons who have purchased the goods from such deqler.

(2) Every notification issuedundersub-section(1) shallbelaidfor not less thanthiriydaysbeforethe State Legislature as soonaspossibleafter it isissued and shall be subject to rescission by the State Legislature or to such modifications asthe Sta\s Legislature may make, during the session in which it is so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Dfficial* Gazette and shall thereupon take effect.

(3) Any person, so entitled for refund uridersub-section (1) may apply to the prescribed authority in the mannerandwithinthetimeasmaybe prescribed. The Commissioner shall subject to provisions of this Act grant such refund to such pefson.

Remission of tax, penalty or interest.

41. (1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest in case ol double taxa\ion or to redress an inequitable situation, remit by an order either generally or specially, the whole or any part of the tax, penalty or interest payable in respect of any period by any dealer or aclass of dealers or of any specified olass of sales or purchase,

(2) The Commissioner may, in such circumstances and subject to suoh conditions andwithinsuch1imitasmaybeprescribed remitthewholeorany part of the tax, penalty or interest payable, in respect of any period, by any dealer.

Payment and recovery of tax and iaterest on **delayed payment.**

42. (1) The amount of tax assessed, reassessed or becoming payable for any period under ssction32,33, 34, 35, 75 or 70, less any amount already paid by the dealer in respect of such period, shall together with penalty and interest if any that may become payable under any of the provisions ofthie Act, be paid by the dealerorthe person liable therefor into a Government treasury or in such other manner as may be”prescribed within thirty days from the date of service of notice of demand issued by the Commissioner for this purpose.

(2) Gn an application by the dealer, the Commiesioner may in respect OÎ Qn/ EtrtÏClJlZlf' dealer or person and for reasons to be recorded in whiting, extend the time for payment or allow payment by installments, suhject to such conditions as rte may think fit to impose in the circumstances of the case.

(3) In a case whero payment by installments ts allowed under sub section (2) and the dealerorthe person liable for such paymentcommitsdefault in paying anyone of the iiistallments withln the tims fixed by the Commissioner under that sub-section, thedealerortheperson shall be deemed to be in default in respectofthe wholeoftheamountthenoutstandingandtheotherinstallments shallbe deemed tohavebeendueonthesamedateastheinstallmentindefault.

(4) Interest at the rate of eighteen per cent per annum shall be charged for the period as may be extended or the installments as may be granted under sub-section (2).

{5) Il the arr:ount of tax and penalty, if any, is not paid within the time specitiedin sub-section(t) or extended under sub-section(2), as the else may be, the dealer or the person liable therefor shall be deun ed to be in default in respect4 It r.t amount.

t6) Wheia the amount of tax assessed or toassessed tot any period, under section 34 or sectíOD 35, SUbject to revision, íf any, under section 75, excaadst*eaiTioüi1io1t'ox üireaúy paidòy a deaier ior ihat perioo, there shah be paid by such dealei, for the period commencing frurn the date of expiry of the timepresciibsdlot pa'yment ottax unòersuG-section(1), (2) or (3) of seution 30 and ending on date of o'úer of ass•ssment, m.assessment or, as the case may be, revision, simple inteie -I al the rate of eighteen per cent per annum on the amount of tax riot so paid or any less amount thereof remaining unpaid during such period.

(7) Where a dealer does not pay the amount of tax falling under sub-section (1) on or before the prescribed date, then there shall be paid by such deaierfcr the period commencing on the specified date and ending on the date of payment, simple interest at the rate of eighteen per cen*. per annum on the amount of tax not so paid or any less amount thereof reit!aiiJing unpaid during such period :

Provided that where secufity, other than in the torm of surety bond, has been furnished by a dealer under sub sections (1) and (2) of section 28, the Commissioner may, for good and sufliciant reasons to be recorded in writing, realise any amount of tax, penalty or interest remaining unpaid as aforesaid or part thereof by ordering forfeiture of the whole or any part o\ the security.

Continuation eertain proceedings.

43. ... Whare any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act(hereinafter in this section referred to as "Government dues") is served upon any dealer and any appeal, revision application isfiledorother proceeding isinitiated in respect of such Government dues, then -

(a) where such Government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the dealer another notice of demand envy in respect oJ the amount by which such Government dues are enhanced and any recoveryproceedingin relation to such Government dues as

are covered by the notice of demand sefved upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, becontinuedfromthestage at whioh such proceedings stood immediately before such disposal;

(b) wheresuohGovemmentduesaereducedinsuchappealreGsonorin other proceeding

(i) it shall not be necessary for the Commissioner to serve upon the dealer a fresh notice of demand;

(ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceeding is pending;

{iii) any recovery proceedings initiated on the basis of the notice of demand served upon him prior to the disposal of such appeal, revision application or other proceeding may ba continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

Special mode of recovery.

44. ('.) Notwithstanding anything contained in any law or contract to the contrary, the.Commissioner may, at any time or from time to time, by notice in writing, a c:spy of which"shall be forwarded to the dealer at his last known address, require,—

(a) any person from whom any amount of moniesisdue,or may becomeclue, to a dealer on whom notice has been served under sub-section (1), or

(b) any person who holdsormay subsequently hold moniesfororonacco!!nt of such dealer,

to pay to the Commissioner, either foi1hwith upon the monies becoming due or being held or within the time specified in the notice (but not before the monies becomes due ur is held as aforesaid) so much of the monius •s is sufficient to pay the amount due by the dealer in respect of the arrears *r.-•'* tax, penalty or interest under this Act, or the whole of the money when it is eq‹isI to or less than that amount.

Explanation.— For the purposes of this sub-section, the amount of monies due toa dealer from, ormonies heldfororon account of a dealer by any person, shall be calculated by the Commissioner after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due tor payment by such dealer to such person.

(2) The Gommissioner may amend or revoke ar,y such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have mad= tLi• pa'zment under the authority of the dealer, and the receipt thereof fry the Commissioner shall constitute a good and sufficient discharge of the liability oT such persan to the extent of the amsunt specified in the receipt.

(4) Any person discharging zn;/ Iiabi!'ty to tile •'. :t after receipt of t1e notice referred to .n ihis sectiC›!1, s..-‹I! b* pers‹ nally¡;q§s!• !' '.he Cons i i sioner

to the extent of the liabili discharged or*.o t.'ieextent t›i thE iiability ot the ‹dealer for tax, ponalt'y and interest, w"›Ichevsr is loss.

(5) Where a person to whom a notice under this section is sent objects to it by a statement in writing that the sum demanded or any part thereof is not due or payable to thedealer or that he dogsnothold anymonies for or enaccount of the dealer, the Commissioner shall hold an inquiry and after giving to such person or dealer a reasonablGopportunity of being heard, make such order as he thinks fil.

(6) Any amount of monies which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, bereccvefableas an arrears of land revenue.

(7) The Commissioner may apply to the court in whose custody thete is monies be\onging to the dealed for payment of the amount o\ such monies towards the outstanuing amount of tax, interest and penalty payable by the dealer.

Provisinal attachment.

45. (1) .*re during the pendency of any proceedings of assessment or reassess lent of turnover escaping assessment, !he Commissioner is of the opinionthatforthepurposeolprotsctingtheinterestoftheGovurnmentrevenue, it is necessary so to do, he may by order in writing attach provisionally any Property belonging to the dealer in such manner as may be prescribed.

{2) Every such provisional attachment shall cease to have effer.t after the expiry of a period of one year from the date of the order made under sub-section (1).

Special powers tit tr.-. autborities **for recovery** of tax as **arrears of** land revenue

46. (1) For the purpose at effecting recovery of the amount ef tax, penalty or interest due from any dealer or other person by or under the provisions of this Act or under any earlier law, as arrears of land revenue -

(i) the Commissioner, the Special Commissioner, /'.rlditionaI Commissioner andthe Joint Commissioners shall have and exercise all the powers and perform all the duties of the Collector under the Bombay Land Revenue Code, 1879.

Iom. V of 879.

(ii) the Deputy Commissioners and Assistant Commissioners shall have and exercise all the powers (except the powers of arrest and confinement oladefauIterinaciviljail)andperformaIIthedutiesoftheAssistantCollector or Deputy Collector under the said Code.

(iii) the Commercial Tax Officersshall have and exercise all the powers (exceptthepowersofarrestandconfinement of adefaulter in aciviljail)and perform all the duties of the Mamlatdar under the said Cods.

(2) Evary order passed in exercise of the panels conferred by sub-section (1) shall, for the purpose of section 73, 75, 78, 79 or 94, be deemed to be an order passed under this Act.

Transfer to defraud **revenue eoid.**

47. Whereadealerafteranytaxhasbeoomeduefromhimcreatesacharge onorpartswiththepossessionbyway of sale, mortgage, exchange or any other modeoltransfsrwhatsoever of any of hispropeñy in favourot any other person with the intention of defrauding the Government revenue, such charge or transfer shall be voldasagainst any daimin respect of any tax or any other sum payable by the dealer.

Tax to be first CbB7 COM **property.**

48. ttotwithstanding anythingto'lhe contrary contained in any law tor the time being in force, any amount payable bya dealer or any other person on account of tax, interest or penalty for which he is liable topay to the Government shall be afirstcharge on theproperty of such dealer, orasthecase maybe, such person.

CHAPTER VI

LIABILITY TO PAY TAX IN CERTAIN CASES.

Applicability af the Act ur **earlier law to other persons** liable to yay **tax.**

49. Where in respect of any tax, interest or penalty due lroma dealer under this Actor under any earlier law, any other person isliableforthepaymenttherenf under any provisions of this Act or earlier law, all the relevant provisions of this Actor, asthecasemaybe,of the earlier law shall, in respectofsuch liability apply to such person also, as if he were the healer himself.

Liability of commission agent and **principal.**

?0. (1) Whern a r mmissi**o**n agent piirchn.*es or sells nriy taxable Gods on behalf of his principal, such commission agent and his principal shall be jointly and severally liable to pay the tax payable under the Act.

(2) If the commission agent shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable by him under this ACt in respect of any goods, has been paid by the principal on whose behalf the goods were purchased, the commission agetɔt shsll not be liable to pay the tax again in respect of the same transaction.

(3) If the principal, on whose behalf commission agent has sold the goods, shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable under this Act in respect of any goods, has been paid by his commission agent, the principal shall not be liable to pay the tax again in respect of the same transaction.

Liability io case of tKS05f£F OF business.

51. (1) Where a dealer, liable to pay tax under this Act, transfers his business in whole or in part, by salu, gift, lease, leave and licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax, interest or any penalty due from the dealer up to the time of such transfer, whether such tax, inte est or penalty has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

t2) Whera the transferee or the lessee at abusiness refetredto in sub-section (1) carries on such business either in his own name or in some other name, he shall beliabletopay tax on the saleof goods effected by him with effect from the date of such transfer and shall, if he is an existing dealer, apply within the prescribed time for amendment of hls certificate of registration.

Amalgmation of companies.

52. (1) When Mo or more companies are amalgamated by the order of court or of the"Cential Government and the srder istó taKe efiect from a date earlier to ihe date of the ordsr and any two or more of such companies have sold or purchasad any goodsto"orfrom each other duúrig the period commancing on thedatefromwhichtheordsristotakeeffectanéendingonthadateoftheorder, thensuchtransactions of sale andpurchase shall be indudedinthe tumoverof sale or purchase of the respective companies and shall be assessed to tax acccrdingly.'

(2) NoMithstanding anythin8 ca«ained in the said order, for al) the purpoGes of this Aot, the said two or more companies shall be treated as distinct companies for all the periods upto the date of the said o"rderandtheregistration certificates of the said companies shall be cancelled, where necessary, with eflect from the date of the said order.

Explanation.— Words and expressions used in this faction but not de1insd
1of 1P56. Shall have the respective meanings assigned to them in the Companies Act, t956.

Liability in case of liquidation.

53. (1) Every person—

(u) who is a liquidator of any company which is being waund up whether under the orders of a court or otherwise; or

(b) who has been appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"),

shall, within thirty days after his appointment, give intimationoT his appointment as suoh to the Commissioner.

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

(3) When any private company is wound up and any tax, interest or penalty assessed under this Acton the company for any period, whether before or inthecourseoforafterits liquidation,cannotbe recovered, then every person whowasadirectoroftheprivate oompanyatanytimeduringtheperiodforwhich the tax is due, shall jointly and severally be liable for the payment ol such tax, interest or penalty, unless heprovestothesatisfactionoftheCommissionerthat such non-recovery is be attributed to any gross neglect, r«isfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation.—For thepurposes of this section, theexpressione"company"and "privatecompany"shall have the meaning respectively assigned to them under
t«r sss, clauses (i) and (ii) of sub-section (1) of section 3 of the Companies Act, 1956.

Liability of partners of firm to pay tax.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment:

ProvidedthatwŚerpanypartner r resfromthefirm, heshall inti tethe date of hls retire.mentło the Commissioner by a notice in that behalf in wnt'ing andheshalltw,liabletopaytax,inte/ystorpenattyremainingunpaidatthetime of bis rebrement and.any. tax, interast or penalty due up to the date of his retiremeńt whether assessed or not aaaes8ed", on that date:

Provided further that if no such intimation is given within one month from the date ot retireme?t, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians trustees etc.

55: Where the business in respect of which Bx is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penaky shall be levied upon and.recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minororother incapacitated person, as if he were major and capacitated person and if he were conducting the business himself, and.all the provisions of this Aot shall, so far as may be, apply aocordingly.

Liability of **courts of Wardsetc.**

56. Wheie the estate or any portion of the estate of a deaier owning a business in respect nf which tax is payable under this Act is under the control of the Córt of Wards, the Administrator General, the Of/feia/ *Trustea a.' any* receiverormanager(includingany person, whateverbehisddsignation, w•^.o in fact manages the business) appointed byor under any order of a court, the tax, interest or pecalty shall be levied upon and be racoverable from such Court of Wards, Administrator General, *Offic/a/T/usfae,* receiveror manageras hecase may be,in !!kEtizlannerandtothesame extentas it would be assessed upor:. , ‹.' be recoverable from the dealer as if he were conducting the business nin›‹s.'.'f, and all the provisions of thís Act shall, so far as may be,"apply accordtngly.

Special provision regarding liability to pay tax in «xa, ‹ .

57. (1) Wherd a person who is ór has been a dealer, liable to pay tax under this Act, dies, then-

(a) if a business carried on by the dealer is continued after his death by his legal representative or any olher person, such legal representative or other person,"shall be liable to pay tar, interest or penalty due *trom* such dealer under this Act or"under any earlier law, and

(b) if the business carried onby the deader is discontinued, whether before or after his death, hislegal representative ehall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from "such dealer under this Act or under ariy earlier law,

whether suchlax interest or penalty has been assessed before his death but has remained unpaid or ie assessed after his death.

'(2) Where a dealer, liable.to paytax under this Act, is a Hindu Undivided FamilyanbtfiepropertyoftheHinduUndividedFsmilyispartitionedamongstthe various members or grou*e of members then epoch member or group of members shalljointlyandss •aralIybeliabletopaythaix, interestorpenaltydue. mom the dealer !Jnder this Aci or under any oarlisr law upto the time of the

partition whether such tax., penślty or“interest has been assessed before partitiop but has remained unpaid”or is assessed after the partition.

(3) Whereą dealer, liable to paytax un rthis Act, is a firm, and the firm is dissolved, then.every parson whowesapartner.shall je jointly and.sevs.rally !iable to pay to the extent to which he is liable under section 54the tax, intarest orpenalty*due* fromthe firm underthis Actor underany earlier law, upto the time of dissolution whether such tax, interest or penalty has been assessed before the dissolution, but has remained unpaid or is assessed after dissolution.

(4) Where the dealer lieble to pay tax under this Act,-

(a) is the guardian of award on whose behalf thebusiness is cari1ed on by the. euardian,or

(b) is a trustee who carries on the business under a trust for a beneficiary,

then if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax, interest or penalty due from the dealer upto th*timo of the termination of the guardianship or trust, whether such tax, interest r penalty has been assessed before the termination of guardianship oi trust but has remained unpaid or is assessed thereafter.

(5) Where a person becomes liable to paytax in the manner described also.se (a) of sub-section (1), then such person shall, (notwithstanding iy iii'!gcontainedin section 3),be liable to pay tax on the sales of goods made by him on and after the date cf such succession or transfer and shall (unless ho already holds a certificate of registration) in the case of succession, within six months and in the case of transfer, within thirty days, thereof apply for registration.

Liability iii ottier cases,

”ñ6. (1) Where a dealsr is a firm or an association of persons or a Hindu Undivided Family and such film, association or family has discontinued business—

(a) the tax payable under this Act,by such firm, association or family up to the date of such discantinuance may be assessed as if no such discontinuance had taken place; and

(b) every pereon who was at the time of such discontinuance, a partner of suchfirm, or a member of such association or family, shall, notwithstanding such discontinuance be liable jointly and several\y tor the payment of tax assessed and penalty or interest imposed and payable by such firm, association or family, whethersuchtax, interest or penalty or has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as i1 every such person or partner or member were himself a dealer:

(2) Where a change has occurred in ths constitution of a firm or an association of persons, the partners of the firm or merribers of ascooiaton, as it existed before and as it exi8ts after iB reconstitution, shall, without prejudice to theprovisions of section 54, jointly and severally be liable to paytax, interest and penalty due from such firm or association for any period before. its reconstltutlon.

(3) The provi9ions of sgb-section (1) shall, so far ae may be, apply where the dealer, being a firm or asfiocia0on of persons is dissolved or where the dealer,beingaHinduUndivided Family, haseffectedpartitionwithrespecttothe business carried on by it and accordingly references In that 9Ub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition.

Service of notice in ceti»In **circum-stances.**

59. (1) Wherea Hindu UndividedFamilyhasbeen partitioned, notice under this Act shall be served on the person who waé the last manager of the Hindu Undivided Family, or if such personcannotbefound,thenonalladultswhowere members of the Hindu Undivided Famlly, immediately before the partition.

(2) Where a firm or an association of persons is dissolved, notice under this Act may be served on any person who was a partner (not being a minor) of the lirm, or member of the association, as the case may be, immediately before its dissolution.

(3) Where the business of a firm, an association of persons or company has been discontinued, a notice under this Act shall be served in the case of a firm or an association of persons on any person who was a memborofsuch finn or association at the time of its discontinuance and in the case of a company, on the principal officer thereof.

CHAPTER Vil

ACCOUNTS AND RECORDS

Invoices.

60. (1) A registered dealer who sells ,taxable goods to another regis-tered dealer, shall, at the request sf the purchaser, provide to him, at the time of sale, with a tax invoice containing such"particularsasmay be prescribed and retain a copy thereof:

Provided that a tax invoice shall not ba issued by a dealer-

(a) in respect of the goods specified in Schedule I or exempt by notification under sub-section (3) of section 5:

(b) who has given an option to pay lumpsum täx in lieu of tax under section 14;

(c)for§ale in the course of inter-State trade or commerce or export out of the territory of India: or"

(d) to a person who is not a registered deäler.

(2) "Except when 'tax-invoice is issued under sub-section (1), if a registereddealersellsanygoodsexceedingrupeesonehundredinvalueinany o"ne transaltion to any persori, he shall issue lo the purchaser a retail invoice, containing such particulars as m8y ba prescribed and retairt a copy thereof.

Credlt and deblt notm.

61. Subject to the provlsione of sections 8 and 60, where a tax invoice has been provided as contemplated in sub-section (1) of section 60, and-

(a) the amourii shown as tax charged in the tax invoice exceeds the actual tax charged In respect of the sale concerned, the seller shall provide the purchaser with a credft note within three months ef the salas of goods in' olveb in the transaction, containing sush parttculara as may be pin scr¡bed;

(b) the actual tax charged in respect of the sale concerned exceeds the tax shown in the tax invoice as charged, the seller shall provide the purchaser with a debit note, containing such particulars as may be prescribed:

Provided that-

ti) not more than one credit note or, as the case may be, debit note shall be issued for the amount in excess;

(il) no credit note shall be issued for the amount in excess which aris°s when the purchaser avails of the discount offered"by the r.*I'er.

62. (1)Every dealer liable to paytax under this Act, and every other dealeron Area whom a not t:e has been served to furnish returns unóer sub-section (2) of sect'ion 29 s! al! tilaintain at his place of business a true account of the value of goods pr: Pasad, sold, supplied and de(ivsry of gocds rriade by him in such form and in such manner as may be prescribed.

(2) If the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper scrutiny of the returns rot‹*rred to in section 29, he may require suoh dealer by notice in writing to keep such accounts (including focnrds of purchases and sales) in such fcrm and in such manner as mav be sgocitied therein.

(3) The Government may, direct any class ot registered dea1ers gener ally to kepp such accounts (including records of purchases and sales) in such manner as may be prescribed.

Accounts to be audited tn certain cases.

63. (1) If in respect of any particular year, total turnover of a dealer exceeds rupees one crore, then such dealer shall get his accounts verified and audited by aspecifiedauthoritywithinoneyearfromthe endofthatyea/ andobtain within fhat period a report of euch audit in the prescribed form duly signed and verified by such specified authority alongwith such particulars as may be prescribed. A truecopy of such rspor\ shall be furnished by s?cfi dealer to the Commissioner w'ithin such period ae may be prescribed,

Explanation.— Fotthepürposesofthis5éction,"specified authority"means,-

38 of t94r. (i) a Chartered Aocountantwithin the meaning of the Chartered Accountants Act, 1949 and includes perconswho by virtue of the provisions of sub-section 1»r ssh (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of companies;

(ii) a Cost Accountant withinthe meaning of the Cost and Works Accountants 33 of 1959. Act,1959;

(iii) a legal ptactidoneror a Sales Tax Practitionerwhose nameis"antered in The list maintained by the Commissioner in accordance with the provisions of section 81.

(2) If any dsaler liable to get hisačœunțs audited under eub-section (1) fails to furnish a lrue œpy of 6 łCh report" within the prescribed time, the Commigsioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, 8 6Um by way of penalty not exceeding rupees ten thousand, as he may detenîiine.

ž'rœeryqdon •f - • Øg'. ThØ dęaler shall pæærvs his books of accounts and the records relevant for the purpose of this Act till the period of eight years from the end of the acœunting year to which the books of accounts and the records relate.

CHAPTER VIII.

LIABILITY TO PRODUCE ACCOUNTS AND SUPPLY OF INFORMA-TioN.

Dealer to **declare the** name.of manager of **business.**

65. Every registered dealer shall within the period prescribed, file a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be the managerormanagers of business of such dealer, for the purposes of this Act and in the event of change of manager, the dealer shall revise the declarătlon within thirty days from the date of such change.

gealer to **declare details of bank** ttCCOUOt5•

66. Every dealer, who is liable to pay tax shall send a declarašon in such form, within such period and to such authority as may. be prescribed, stating therein the particulars of the Bankačcounts operated by him in connection with his business and shall within the period prescribed, inGmate to the authority the changes in the pai1iculars in the declaration.

Production and inspec- tion of 4a<uaents premises•

67. f11 The Oommissinner may, subject to such conditions as may be prescribed, require any deäler or any other person —

(a) to produce before him such"books of account, registers or documents;

(b) to furnish such information relating to the stock of goods, purchases, sales, deliveńes of goods by the dealers or any other information relating to his business,

as may be deemed necessary, for the purposes ot this Act.

(2) All books of accounts, registers and documents relating to the stock of goods, pumhases, sales and deliveries of goods by aoy dealer; and all goods kept in any place of business or wàrehouse of any dealer, or at any other place for and on behalf of a dealer, shall at all reasonable time be open to inspection by the Commissioner. The Commissioner may take or cause"to be taken such copies or extracts of the said books of account, registers or documents and such inventory of the goodsfoundas appear tohim necessary for the purposes of this Act.

(3) Where the Commissioner, has reason to believe that—

{a) any psrsón to whom a notice under thi9 /Atct W8G Í6Sued tO roduCe or cause to be produced, any b"ooks'oł account or other documents hag failed to produce""or cause to be produced such books of account or other documents as required by such notice; or

(b) anypersontowhomanoticeasaforesaidhasbeenormlghtbelssued, will not, or would not, produoe or cause tobe produced any books of account or other documents which will be useful for, or ‹etevant to, any p sceeding under the earlier law or under this Act; or

(c) booKs of account, registersor documenta of any dea\ei maybe destroyed, mutilated, altered, falsified or any sale or purchase by that dealer have been or may be suppressed, or ány goods have not been or may not be accountedforinthebooksofaccount,registersor other documants equitedto bemaintaíned undár this Act, With a view to evade or attempt to evadepayment of tax due under the earlier law or under this Act,-

the Commissioner or any other person appointed under sub-section (2) of section 16 if so authorised by him, may,-

(i) enter and search any building or place where he has reason to suspect that the books of account and other documents or the goods or the sale proceeds are kept;

(ii) break openthe lockofanydoor,box, locker, safe, orother teceptacle for exe ci: =g the powers confe ed by sub clause I' where fhe keys thereof are r .'available;

(ii) seize any such books oT account or other documents or any inventory of goods or any goods as appear to him necessary for the purposés of this Act;

(iv) place marks of identification on any buoks of account or other documents or make or cause to be made extracts or copies therefrom;

(v) make a note or any inventory of any such money or goods found as a result of such search or place marks of identification on such goods;

(vi) seal the premises including the office, shop, godown, box, locKer, safe, almirah or other receptacls if the owner or the person in occupation or in-change ol such oflice, stop, godown, box, locker, safe, almirah or other receptacle leaves the place or is not available or fails or refuses to open it when called upon to do so, or causesorsttemptsto causeobstructionto the Commissioner or the authorised officer in the discharge of his dutles under this section.

(4) The Commissioner may requisition the services of any police officer or any public servant, or of both to assist him for all or any of the purposes specified in sub-section (3).

(5) Where the Commissioner Seizes any books of account or other documents or any goods, he shall give the dealer or the person present on his behalf a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the dealer or person from whose cu9tody the books of account or other documents or the goods are seized refuses to give an acknowledgement, the Commissioner may leave the receipt at the premises and record the fact:

(g) Where it ie not feasible to selze the ăccountø or other documents ortha gooós undèrsubæection{3), theCommlssionerortheauthorisedofficer, mayærve ontheownerorthepersonwhoisin imm6dlatsposseasionorœntrol thereof, anorderthatheshallnotæmoveorpartwithorotherwigedealwiththem except with the pævious permission of the Commissioner or such authorized officer.

(7} The Commlssioner shall keep in his custody the books of account, registers ôr doćuments śeized under aub-secšon (3) lot such period not later than the completion oìall theprocøeding9 under thìs Aot in æspect of the years łor which those books of account, registers or documents are relevant,as he considers necessary, and thereafter shall return lżie same to the dealer or any other person from whose custody or power they were seized:

Provided mat the Commissioner may, before ætuming such books of account or other documents as aforesaid, place or cause to be placed such marks of iden\•íication thereon as appear to him to be necessary:

ProvídedfurtherthattheCommissionermay,before returning the books of acčount and other documents, require that the dealer or the person, as the case may be, shall give writtenundertakìngthat the books of account and other documents shall be presenterł whenever required by any competent authority for any prgceedíngs ur her thia Act.

(?} Save art otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code ol Cńminal Procgdure, 1973 relating to searches or seizures made" 2 of lP74, under that Code.

{9) The Commissioner msy, for the purposes of this Act,—

(a) require.any person, includinğ a banking company. post office or any officer thereof, to furnish information in rëlation to such matters or to tum›sh statements of accounts and affairs verified in the manner specited by him, giving information in relation to such points or matters as in his opinion will be useful for, or relevant to, any proceeding"under this Act;

(b) require any perco

(í) who transports or holdø in custody, for delivery to or on behalf of any dealer any goods to give any informaton likely to be inhis possession in respsot of such good9 Or to permit inspection thereof, as the.ease may be;

(Ii) who maintains or has in his possession any books of account, registers or documents relating to the business of a dealertoproduce such books of aocou•. 8 Bteie or documents for inspection.

(10) If any person; who transports **or.holds in custody for delivery to ör õn** behalf **of** any dealer any goods, on belng **requiæd by the**

Commissioner under subWauae (i) of clause (b) of sub-section (9) so to *do,* fails to fumish the Infonnation liksly to be in his"possessionin respect of such goodsorfailstopérmitinspectionthereoftheCommissionermay pasùanorder of detentionorseizureofgoodsin hiecustody orposaessiòn in respectof which the default ìs oommittèd.

(1t) The older of detention or seizure pasaed uoder su&sestion (10) shall remain in fo oe so long as the person ooncerned does not fumieh information required under sub-dause (i) of clsuse (b) of sub-section (9) or make proper arrangement for inspection of the goods under the said sub

(12) If any person, who transports or holds in custody for delivery to or on behalf of any dealer any goods, on being required by the Commissioner under sub-clause (i) of clause (b) of sub-section (9) so to do, fails to give any information likely to be in his posseeslon in respect of s"uch goods or fails to permit inspection thereof without prejudice to a«y other action which may be taken against such person, a presumption may be raised that the goods in respect of which he has failed to furnish information or permit inspection, were meant fcr safe by him and ha isa dealerliab)eio pay tax under this Act and the provisions of this Act shall apply accordingly.

(13))f ally person ccn mits default under clause (a) or sub-clause (ii) ofclau e(b) of sub-section(9), th+ Commissioner may, withoutprejudicetoany uther action which may betaken against such per9on under any other provision of this Act, ciirect, after giving an opportunity of being heard to such person that such person shali pay by way of penalty a sum not exceeding rupees fifty thousand.

(14) IftheCommissionerissatisfisdthatanype sononbeingrequired by him so to do, has failed to furnish the information in respect of the goods in his custody for delivery to or on behalf of any dealer or to permit inspection thereof under sub-clause (i) of clause (b) of sub-section (9), the Commissioner may, by order in writing ard after giving opportunity of being heard to such perscn, imposebywayotpenaltyasumrotsxceedingthsamountoftaxleviable under this Act on the goods in respect of which the default was committed.

(15) Where an ord•r of detention or seizure of goods is made under the provisions of this section, the Commissioner or the officer authorised In this behalf mayreleasethegoodsonsuchpersonexercisingtheoptionofpayingby way of penalty suchsumasmaybedirected,notexceedingtwoanda halftimes the amount of tax leviable on such goods u'\der this Act.

(t6) Where any premises including the office, shop, godown, box, locker, safe or other receptacle have been saalsd under sub-se tion (3), the Commissioner, on en application made by the owner or the person in occupation or in-charge of such 9hOp, godown, box, locker, safe, or other receptacle, mayotde de-sealingthereofonsuchtermsandconditions,including furnishing cf secuilty for such sum in such form and manners as may be prescribed.

(17) Where an order of detention or seizure of goods is made under this section and no claim is lodged by any person with respect to such goods within s peñod of three months from the date at sudh order, the Commissioner may, by order in writing, direct the auction of such goods:

Provided that if the goods, in respect of which an order of detention or seizure is mads, are ot a perishable nature or subject to speedy and natural decayorwhenthsexpensesofkeepingthemincustodyarelikelytoexcaedtheir ve|ue,mesamemaybeorderedtobeaudionedassoonasR|spec€cabBsonn after an ordet of detention or seizure of such goods is made and the amount so realised by the auction of goods shall be remitted in the Government treasury immediately.

(18) Where an order imposing penalty is pasaed under sub-section (14) or an option of paying psnalty is exercised under sub-section (15) and the person liable fails to pay the penalty within the prescribed period, the goods detained or seized may be sold by public auction and the sale proceeds deposited immediately in Government traasuiy.

(19) Auction of goods to be madé under sub-section {17) or sub-section (18) shall be carried out In the rñannér as may be prescribed.

(20) Any person entitled to the sale proceeds ot goods auctioned under the provisions of this section shall, on application made to The Commissioner and upon sufficient proof, be peid the sale proceeds of the goods auctioned, after deducting therslrom the expenses of the sales and other incidentaldhargssand the*amount* of tax, in'arestandpenaltyleviable under this

'nspection •t goods in l›"nasit, etc.

68. .(‘i) If the Stato ñnver mnnt considers that with a view to preventing evasion of tax iii.›. , place or places in the State.•, itIs necessary to so do;it/»ay, fry notification in the Officia/ Gazelle, direct that such number of check-posts shall be set up or such numt›*r of barriers shall be erected at such places *as* ”may be specified in the notifi«ation,

(2) At eveg• check-pust or barrier set up cr erected under sub-s0stion (1), the driver or any othar person in-charge of any vehicle,boat or animal shall stop the same, and keep it stationary so long asmay reasonably be necessary, and allow the oii. er-in-charge ol the check-post or barrier to examine the contents in the vehicle or boai or on the animal and inspect all *records* relating to the goods canied in the vehicle nr boat or on the animal which are in the pos”session of such driver or other person in-charge who shall, if so required, give his name and address und *.he names and addresses of the owner of the vehicle, boat or anlinalasweilz< uf the consignor andconsigneeofsuch goods; arid whera any of the consignors or consignee is a dealer registered under this Act or the Central Sales Tax Act, 1956 or relevant Act in any other State, the ditverorany other person in-charge of the vehicle, boat or animal shall alsc give the number and piace of issue of the certificats of registration, il any, of such dealer.

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(3) The driver or othef p=rso* in-charge of a vehicle, boat or animal carrying goods shall

(a) carry w'th him u log book, a bill ol sale or delivery note and such other documents relating to ths géods carried in the vehicle or bost or on the animal andcontaining such *paniculars as* may be prescribed and the driver or person in charge of a transpori vehicl• shall, in addition, carry a goods vehicle record anci tr:ja !,*eet;

(b) produce the same when requested to do so by the office-in-charge of the check-pést or barrier;

(c) givetotheofficer-in-chargeofthecheck-pastorbarrieradeclaration relating to particulars Of the goods carried in the vehicle orboatoron the animal in such form as may be prescribed and keep one copy of dedaration with him.

(4) If the oflicer-in-charge ofthe chœk-post or barbier is of the opinion that -

(i) goods under transport are not œvered by goods vehide record, trip-sheet or log book, or

(ii) goods under transport are not in accordance w'ith the documents prescribed under'clause (a) of sub-section (3), or

{iii) a" declaration relating to particulars of goods as made under clause (c) of sub-section (3) is false,

he may, ofter recording the reasons, seize such goods and vehicle and give receipt thereof to the person from whose possession or control, the goods or vehicles are seized.

(5) (a) Th.q '1› !Û ! iÜ Charge ul the check-posts or barbier may, after givii e thea o'vii•i, diiv / u ¿e:son-in-charge of goo'1s, a reasonable upportunity of jeinr, .ward land allant holding such fui1her inquiry, as he deems lit, impose on hi cge -daily, in additiontotax payable underthis Act, notexceadingoneandone-hall times of the tax for possession of goods or vehicles so seized.

(b) The officer-in-charge of the check post or a barrier may release any of the goods, vehicle or documents so seized under sub-section (4) on payment of tax, interest and penalty or on furnishing such security in such lorm as may be prescribed.

(6) The officer-in-charge of tha check post or barrier may, during inspection and verification of goods under transport including the documents and records relating thereto, directthecarriernottopartwiththegoods including re-trsnsportingorre-bookinguntil verificationofgoods, recordsanddocuments is done or inquiry, if any, is completed.

Explanation.— In this section,-

(a) "goods vehicle recor‹l" means the documents required to be carried by me dealerof atransportvehicleundertheMotor VehicleAct, 1988orthe rules made thereunder; 59 of 1988.

(b) "log book" means a register, statement or othe record containing particulars of the gooôs under transport;

(o) 'trip sheef' means a sheetorother documentcontainingparticularsrelating to the trip-wise use of a transport vehicle, required to bs carried by the dfiver kinder the Act referred to in clause (a);

td) "goods under tfansporf" means goods which have been handed over to a ca‹rlsr and completedelivery thereof ha9 not bsen taken **from such carrier;**

(e)"carrier" meansany percon or agency who undertakes to carry or transport goods from one place to another.

Transit pass for transit of goods by road through the State.

09. (1) Whereavehicle,boatoranimalcarryinggoodscomingfromany place outsidetheslate is boundfor any other placeouteidethe State, the driver or any other person in<›harge of such vehicle, boat or animal shall obtain in the prescribed manner a transit pass for such vehicle, boat or animal from the officer-in-chargeofthefiretcheck-poatorbarrierâfterhi9entryintotheStateand deliverthesametotheofficer-inehargeofthelastcheck-postsorbarrferbefore his exit from the State.

(2) If the driver or person-in-charge of such vehicle, boat or animal failstodeliversuchtransitpass,orgoodsinvehicla,boa‹oranimalarenotfound in accordance with the transit pass, at the placé of exit from State, it shall be presumed thet goods carried thereby are sold within the State and he shall be liable to pay tax and penalty not exceeding one and one-half times the amount of tax as may be determined, after giving a reasonable opportunity of being heard, on such sale in accordance with provisions of this Act.

70. (1)Notwithstanding anything to the contrary oontainedin any law for the time being info‹ce every owne'or lessee of acoIdstctage,warehouss,godown or any such place, who stored therein *exable goods for hire or rewafd shall maintain or cause to be”maintained a correct and complete account indicating the full particulars of the person whose goode are ziored in such places and the quant' , value and date of delivery of such goods.

(2) Such accounts shall, on ci6mand, be produced before the Commissioner or any officer authorised in this behalf who may take or catise to be taken such extract therefrom or require such extracts to be *tum"ished* as he may consider necessary‘.

(3) If any owner cr lessee of a cold storage, warehouse, godown or any other such place, who stores gocds tor hire or reward, contravenes any of the provisions of sub-section '1) or sub-saction (2) in a manner likely to lead to evasion of any tax pat•ab' undef this Act, the Commissioner may, without prejMdice to any other acti‹•r whir.h may be taken against such owner or lessee under any other provision of this Act direct, after giving an opportunity of being heard, that such owner or lessee shah pay by way of penalty not exceeding the amount of tax leviable on the goods in respect of which default is committed under eub-section (1) or (2).

Power ts **collett statistics.**

71. (1) Il the Goveriiment considers that for the purposes of better admin-istration of this .let, it is necessary soto do, i: may by notification in the Of//c/a/ čiazefte, diiect that statistics b• collected relating to any maler dsslt wit*, by or under this Act.

(2) Upon such direction being made, the Commissioner may, by notice in any newspaper or in such other”manneras he d° s fit to bring to the notice of deale”rs, ca)l upon any class of dealers to furnish such information or statements as may be st-.t, d in such net. e r lat.ng to any matter in respect of which statistics are to be° .i‹• 'e .”the /'› m .'n which, UG persons to whom or,

theauthoñtiestowhich, suchinfo/mationorreturnsshouldbefumishedandthe intervalsatwhich such information or returnñshouid be furnished, shall be such as may be prescr\bad.

(3) Without prejudice to the eeneral'ity of the provisions of this Act, the StateGovemmentmaybyrutasp‹ovtdothataveryregistereddealeroranyclass of registered dealer ehall furnish such datements as may be prescribed.

Special powers for reconstitu-

tion ot r8C0YQ$ ill **certain drcuoi-** staztces.

72. (1) If the Commissioner iseatisliedthatany recordspertatningtoa dealer have been destroyed as a result of fire or any natural orothercalamity or event, he may by notice in writing, require the dealerto'appearbefore him on a date and at cuch place specified in the notice, or to produce before him any accounts or registers or documents or copies thereof or t ftjmishfresh rsNrns under this Actor earlier law for such period, by such dates and to such authority as may be specifiedinthe notice(being returns for ape iodfor which the dealer has nrt yet been assessed), or to furnish true copies of or ex'.rafts from any documents already submitted to the Commissioner, on or before the date speciliedinthenotice, ortofumishanyothar information relatingtothebusiness of the dealer as may be specified in the notice, b=ing information which the Commissioner considers necessary for facilitating the work of assessment or reassessment or the collection of the tax frcm such dealer under this Act or under earlier law.

(2} Witho.'I prejudic.e to ie generality at the poy/ers conferred by sub-section (1), the Ccmmissionet may require the dealer to produce for inspection to or furnish cop‹es of or extracts from ₊!' ₀r any of the following, namely:-

(a) appliCtltiOfl fOT the issue of a ccrtificatc of registration made under this Act:

(b) certificate of registration granted to the dealer;

tc) returns furnished by the dealer;

(d) proof of payment of tax and penalty by the dealer;

{e) a certified copy of the assessment order given to the dealer;

(I) any notice of demand served on the dealer;

(g) specimen signature furnished by a dealer;

(h) any nomination made by a dee)er.

t3) Forsecuringcompliancewithany notlcegivsnunderth\ssection,the Commissioner shall have all the powers specified in section 67.

(4) Where any person is prosecuted for failure to comply with any requirementmade of him under this section, the burden of proving that he had reasonable excuse for such failure shall be on him.

CHAPTER IX

APPEAL, REVISION, REFERENCE AND RECTIFICATION.

Appeal.

73. (1) An appeal from every **original** order, not being an order mentioned in section 74, paesed under this Act or the rules, shall lie,-

(a) if the order is made by a an Assistant Commissioner or Commercial Tax Officer, or any other officer sub-ordinate thereto, to the Deputy Commissioner;

(b) if the order is made by a Deputy Commissioner, to the Joint Commissioner;

(c) if the order is made by a Joint Commissione‹, Additional Commi sioner, or Commissioner, to the Tribunal.

(2} !n the case of an order passed in appeal by u D=puty Gommissionsr or, as the case may be, by a Joint Commissioner, a second appeal shall lie to the Tribunal.

(3) Subject to the provisions of section 64, no appeal shall be entertained •!0ss it is îiied within sixty days fron: t*' rtate of communication of the order acoü3!cd agsinst.

(4/ I c ut›peal aga.n‹ t an order of assessment shall ordinarily be entertained by an appellate authority, un‹ess such appeal is accompanied by satisfactory proof cf payment of the tax.n respect of which an appeal has been preferred:

Provided that an appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertainanappealagainstsuch order on production of proof of payment of twenty per cent of the amount of tax payable under such order.

(s) Thu ^•ommissioner, on receipt of notice that an appeal against the order passed in a peul by the Deputy Commissioner or, as the case may be, by the Joint Commissioner has been preferred by the other party to the Tribunal may, within thirty days nf receipt of the notice, file a memorandum of cross objection against any part of the order passed in appeal by the Deputy Commissioner or, as the pass may be, by the Joint Commissioner and such memorandum shall be disposed of by the Tribunal as if it were an appeal.

(5) Subject to such rules of procedure as may be prescribed, an appellate authority may pass such order on appeal as it deems just and proper.

(7) Everyorder passed in appeal unöer this section shall, subject to the provisions of sections 75, 78 and 79, be final.

Non-appeelable orders.

74. Nu appeal or no application for revision shall lie against,—

(a) a notice issr[ed under this Act calling upon a dealer for assessment or asking a deeler to sho'a cause as to why he should not be prosecuted for an offence under this Act; or

(h) an order of th-› ?o'nmissIoner uncler sub-section (1) of section 17;

(c) an order pertaining to the seizure or retention of books of account, register and other documents; or

(d) an older sanctioning prosecution under this Act; ot

(e) an interim older in the course of any proceedings under this Act.

75. (1) Subject to the provisions, of section 74 and to any rules made there under,- Revtsioa.

{a) the Commissioner of his own motion within three years or on an application ITiad- O him within one year from the date of any order passed by any officer appointed under section 16 to assist him, may call for and examine the record of any such order and pass such order thereon as he thinks just arid proper within two years from the date uf service of notice for revision;

(b) the Tribunal, on application made to it against an order of the Commissioner (not being an order passed under sub-section {2) of section 73 in second appeal or under clause (a) in revision on an application) within four months from the Jate of the mmr‹ni*ation sf ti›. order may call for and examine the rernrd of any f! *h ordei, «nd past such or¢ler thereon as it thinks y‹*›t and preps- .

(2› t*Jhere an -uppeal lies under section 73 and no appeal has been filed, no prosaedings in revision under this section shall be entertained upon application:

Provided that the proceedings in revision may be entartalned upon an application where the applicant satisfies the Commissioner that he had sufficient cause for not preferring an appeal against the order in respect of which an application for revision is 'made.

{3) No order shall be passed under this section whioh adversely affects any person, unless such person hasbeen given reasonable opportunity of being heard.

(4) Where the Commissionerorthe Tribunal rejects any application tar revision under this section, the Cammissioner or, as the case may be, the Tribunal shall record the reasons for such rejection.

Buits XXXYI 0f 19 Q.

76. Notwithstanding anything contained in the Bombay Court-fees Act, 1959, an appeal prefsrrarl under section 73 and an application for revision made under section 74 shall bear a court-fee stamp of such value as may be prescribed.

llFt-(M OM appeal and application f0fi PtYI8l0I1•

63 or to.

77. In computing the penod laid down under sections 73, 75 and 78, the provisions of sections 4 and 12 of Limitation Act, 1963 shall, so far as may be, apply.

Applications of sections 4 and 12 of

y6. {1) Any person or the Commissioner, within ninety days from the date of the communication of the order of the Tribunal, passed in appeal or revision, being an order which affects the liability of any person to pay tax, interest or penalty,

Statement of case to the Rlgh Cnurt-

orwhichaffectsthe recoveryfrom9UChperson of anyamountundersectton 44, may, by application in writing (accompanied, where the appiication is made by that pemon, by a fee of one hundred Rupees) require the Tribunal to refer to the Higr› Court any question oflawarisingoutofsuch **order;** andwheretheTribunal agrees, the Tribunal shall, ae aoon ae may be, after the receipt of such application, draw up a statement of the case and refer it to the High Court:

Provided that Tf in the exemise of rts power under this sub-section, the Tribunal refuses to stata thecace which has been required to do on the ground that no question of law arices, that psmon, or as the case may be, the Commissioner may, with!n thirty days of such refusal either withdraw his application or apply to the High Court against such refusal.

(2) If the High Court, upon receipt of an application under sub section (1), is not satisfied as to the correctness of the decision of the Tribunal, it may require the Tribunal to state the case and refer to it; and accordingly, on receipt of any such requisition, the Tribunal shall state the case and refer it to the High Court.

(*) If The High Court is not satisfied that the statements in the case referred under this section are sufficient to enable It to determine the question raised thereby, it may refer the case baci‹to the Tribunal to make such addition thereto or alterations therein, as the High COlJrt nlqy direct in that behalf.

(/) The High Court upon the hearing of any such case, shall decide the question of luw r i:.»4 thereby, and! shall deliver its judgement thereon containing the grounds on which sush decision is founded, and shall send to the Tribunal a copy of such judgement under the seal of the c urland the signature of the Registrar, and the Tribunal shall clispose of the uase accordingly.

(S) Whore a reference is made to the High Court under this section, the costs incJudii:g the disposal of the fee referred to in sub-section (1), shall be in the discretion of the Court,

(6) Tfie payment of the amount of the tax, if any, due in accordance with the order"oftheTribunal in respect of which anapplicaton has been made under sub-section (1) shsll not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as a result of such reference, the e ass tax paid shall be refunded in aocordance 'with the provisions of section 36.

Rectification of mistakes.

79. (1) The Commissioner may at any time within Mo years from the date of the communication of the order passed by him, to the person affected by such urder, on his own motion, rectify any mistake of fact apparent from the record, and shall 'within a like period rectify any .uch mistake which has been brought to his notice by any person affected by such order :

Provided that, no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount o• refund or tax credit, unless the Commissioner I was given notice in writing to such person cf his intention to do so 'and has allowed such person a reasonable opportunity ol being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or an appellate authority under section 73 as they apply to the rectification of a mistake by the Commissioner

(3) Where any such rectification has the effect of reducing the amount of thetax, interestorpenatty,theCommissicindrshall,inthepreScribedmantier, reTund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or penahy or reducing the amount of refund, the Commissioner shall recover the amount due from such person in accordance with the provisions of the Act.

Determination of disputed

BO. (1) If any question ariaes, otherwise than in proceedings before a court, or proceedings under section 33, S4 or M, whether for the purposes of

(g) any person, society, club or association or any firm or any branch or department of any firm is a deafer, or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods within the meaning of that term, or

(c) any transaction is a sale or purchase, or

(d) any particular dealer is required tG be registered, or

(e) any tax is payable in respect of any particular sale or purchase or if tax in payable the rate thereof, or

(f) any tax credit is admissible under section 11 or section 12,
the Commissioner shall make an order determining sucLqiJestion.

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

(3) If any suchquestionarisestromany order alreadypassed under this Act or under the earlier law, no such question shall be enterBined for determination under this section; but such question may be raised in appeal against, or by way of Revision of such ordsr.

CHAPTER. X

PROCEEDINGS

Appearance before any authority in

81. (1) Any person, who is **entit1ed or required toattend before any authority in connection with any proceedings under thie Act, may** attend,—

{a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

{b) by a legal pfactitiooer o Chartered Accountant or Cost Accountant who is not disqualified by or under 9ub-section (2) ; or

(c) by a sales tax pfactitionsr who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that b6half, and who is not disqualified by or under sub-section (2).

(2) The Commiaaioner may, by order in writing and for reasone to be recorded therein, disqualify for euch period ae is stated in the order from attending before any such authority, any legal practitioner, Chartered Accountant, Cost Accountam or sales tax practitioner-

(a) who has been removed or dismissed from Government service; or

(b) who being a legal practitioner or Chartered Accountant or Cost Accountant is found guilty of misconduct in connection with any proceedings undsr this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(c) who being a 6ales tax practitioner is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unles's he has been given a reasonable opportunity of being heard.

(4) Any person against whom an order of clisqualitication is made under this section may, within one mcnth of the date cf communication of such order, appeal to tho State Government and t'›t› State Government may pass such odel:*r in appeal as it may think fit.

(S) fh- c,d r ‹;! the Commissioner shall not take effect until one month of the ma!‹i! r;t, ererf or when an appeal is preferred, until the appeal is decided.

(6) The Commissioner may at any time *suo-motu* or on an application made to himinthisbehalf, revckeany orJer madeagainstanypersonundersub-section (2) and thereupon such person shall cease to be disqualified.

Power of Commis- •is»er and Otber **autborlties to** i ake **evidence** on oath, etc.

82. (1) The Commissioner or any person appointed under sub-section (2) of section 16 to assist hint shall, for the purposes of this Act, have the same 5 of 1908. powers aa are vested in a court under the Code of Civii Procedure. 1908, when trying a "suit, in respect of the following matters, namely, -

(a) enforcing the° attendance of any person and examining him Oil Oath or affirmation; and

(b) compelling the protection of accounts and documents; and

(c) issuing commissions for the examination of witnesses.

(2) Any proceeding undor this Act before the Commissioner or any person appointed under sub- section (2) of section 16 to assist him shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860. XLV of 1908.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain inIts custodyforsuchperiod as it thinks fit, any books of account or other documents produced before it in any proceedings under this Act:

Provided that a per..:sn appointed under' sub-section (2) of section 16 to assist the Commissien•. shall not impound any books of account or other

documents without recording hie reasons for doing so and retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval ol the Commissioner therefor.

Change of an incombent nt an office.

83. Whenever in respect of any proceeding under this Act, the Commis- sionerorany person appointedundersub-section(2) of section l6toassisthim, ceases to exercise jurisdiction and is succeeded by another person who has and exercises jurisdiction, the person so succeeding may continue the pro- ceeding from the stage at which the proceeding was left by his predecessor:

Provided that the dealer concerned may demand that before the proceeding is so continued, the previous proceeding or any part thereof be reopenedorthatbeforeany orderof assessmentispassedagainst him, he shall be reheard.

Extension of period of **limitation in certain cases.**

84. An appellate authority may admit any appeal or permit the fillin'g of a memorandum of cross objections under section 73 and the Tribunal may admit an application under section 75 or under section 78 after the period of limitation laid down in the said sections, if the appellant or the applicant satisfies the appellate authority or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or filiMg a memorandurri of cross objections or making the application, within s.!ch pericd.

Ëi tAPTER XI

OFFENSES AND PENALTIES.

Offenses and **penalties.**

85. (1) WI›oever,-

{a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or purchases goods:

(b) knowingly furnishes a false return where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs. 1000;

{c) knowingly produces before the Commissioner, false tax invoice, bill, voucher, cash-memorandum, declaration, certificate or other document for claiming deduction or tax oredit, the value of which exceeds Rs. 1000

(d) fails to pay tax as per the returns filed by him;

(d) knowingly keeps or produces false account;

(f) issues to any person certificate or declaration under this Act, ora invoice, bill, cash-memorandum, voucherorother document which he knows or has reason to believe to be false;

(g) willfulIy attempts, in anymannerwhatsoever, to evade taxleviableunder this Act;

shall on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extendtothreeyears andwith fine ofrupeee twenty thousand.

(2) Whoever-

(a) carries on business asadealerwithoutbeing registerediücontravention of section 21; or

(b) **fails** without **sufficient** cause to furnish any information required by section 26; or

(c) fails to surrender his certificate of registfation as provided in sub-' section (9) of section 27; or

(d) fails without sufficient cause to furnish any returns as required by section 29 by the date and in the manner prescribed; or

(e) without reasonable cause, contravenes any of the provisions of section 31; or

(f} fails without sufficient cause, when directed so to do under section 62 to keep any accounts or record, in accordance with the directions; or

(g) fails without sufficient c•xrise, to comply with any requirements made of him under section 67, or obstructs any officer making inspection or searoh ‹'r '›e›z're under that secttun; or

(h) obstructs cr prevents any officer performing any function under this Ast, or

{i) being owner or in-charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 67 or 68,

§) issuestoanother registereddealeftax invoice, retail invoice, billorcash merriorandum with the intention to defraud the Government revenue or with the intention that the Government may be defrauded of its reve due,

shall, on conviction, be punished with imprisonment for a term which may extend to one year «nd with fins of rupees twenty thousand.

(3) Subject to t'ie pre.vision of section 97, ifanyGovernmentservant discloses any particulars refei mud to in sub-section (1) of section 92, he shall, on conviction, be punished with imprisonment for a term which may extend to six months and witfi line.

(4) Whoever aids or abets any person in commission of any act specified'n sub-sections(1) or (2)shaIIonconviction,bepunishsdwithrigorous imprlsonmsFit which shall riot be less than three months but which may extend to one year and with fine of rupees twenty thousand.

(5) Whoever commits any of the acts specified in sub-sections (1) to (3) and the offence is a continuing one under any of the provisions of thèse sub-sections, shall, on conviction, bepunished with daily fine which shall notbe lessthan rupeesfive hundredduringtheperiodofthecontinuanœofthsoffsnce, in addition to lhs punishments provided under this section.

/?l Where a de !er iE gui!H¿ of en oHe o= •pe•;*f! !n Sub-s !;›o • (1) and (2), the person to be the manager of the business of such dealer under section 65 shall also be deemed tc be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commiecion thereof.

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

Offences by companies, etc.

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the ohence was commited withoutWs knowledge or |hathe exefcS0d Wl due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where ari offence under this Act has been committed by a company und it is proved that the offence hos been committed with the consent or connivance of, or is attributable to any neglect on the pari of any director, manager, secretary or oiher officer of the company, such director, manag"er, secretary or other officef shall also be ‹deemed to be guilty of that offence ond shall be liable to be proceeded against and punished accordingly.

F-.xplanation.—for the purpose of this section,

(a) "company" means a body cnrpotate, and includes a firm or other association of persons; and

tb) "director" in relation to a firm means a partner in the firm.

{3) Where an offence under this Act has been committed by a Hindu Undivided Family, the karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall tender the *karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission oT such offence:

Providedfurtherthat,where an offence under this Acthasbeencommitted by « Hindu Undivided Family and it is proved that the offence has been committed with the consent or oonnivance of or is aflributable to any neglect on the part of any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

87. (1) No court shall take cognizance of any offence under this Act or the rules except with the previous sanction of the Commissioner„and no court interior to that of a Metropolitan Magistrate shall try any such offence.

c•s•izaoce of olTences.

t2j rsotw‹ihstend›ng anyih•ng cc *ai -°d 'n tü••- CE-• of ürtminel Procedure, 1973, all oflences punishabie under this Act or the rules shafl ôs 2 of 1974. cognizable and bailable.

]oye8tigatioo of otf'encos.

88. (1)Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under fhis Act.

(2) Every officer or person so authorized shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in-charge of a police station for the Investigation of a cognizable offence. 2 of 1974.

Couipound- iag of offences.

89. (1) The Commissioner may, either before or after the institution ol proceedings for any offence punishable undsr section 85 or under any rules accept from any person charged with such offence, by way of composition of offence a sum of rupees five thousand or where the offence charged is under section 85 not exceeding double the amount of tax, but not less than the amount of tax, which would have been payable on the turnover of sale or purchase to which the said offence relates, whichever is greater.

(2) On payment of such sum as may be determined by the Comr sioner under sub-section (1), no further proceedings shall be taken again. i itie accused person in respect of the same offence and any proceedings, if already taken, shall stand abated.

CHAPTER XII

MISPELLANEOUS

Indemnité.

90. (1) No suit, prosecution or other legal proceedings shall lie against the Commissioner or any officerofthe Government for anything which is ingood faith done or intended to be done under this Act or the rules.

(2) No action shall lie for damages orforanyotherclaimbyanyperson against the Commissioner or any officer of the Government for anything done in good faith !n discharge of their duties unrJer this Act.

Public servanÎs.

91. The Commissioner and all officers and persons appointed under section 16 and «II m•inhers of Tribunal appointed under section 19 shall be daemed to be public servants within the meaning of section 21 of Indian Penal Code, 1860. XLV of 186

DiseJpsurt of information by a **ptlbliC** SAF1'$flt•

92. {1) All particulars containecl in any statement made or return 1urnished or accounts or documents produced in accordance with the provisions of this Act, or anyterord of evidence given in the course of any ptoceedings under this Act (other than proceeclings before a criminal court), shall, save as provided in sub-section(S) be treated as confidentia! and no court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any statement, declaration, return, accounts, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) Nothing contained in this section shall apply to the disclosure,—

ta) of any such particulars in respect of any such statement, return,' account, document evidence, affidavit or deposition for the purpose of any prosecution unòer the inòian r"uiiai rude, i ÒÔÜ oi ii iÕ P ava›iiio i of woiüptiw Act, 1988, or this Act, or

XLV of 1860. 49 of 1988.

(b) of any such particulars to the State Government or to any person acting in the execution of this Act, for the purpose of carrying out the object of this Act, or

(c) of any such particulars when such disclosure is očcasiòned by the lawful employment under this Act, of any process for the service of any notice or the recovery of any demand. or

{d) of any such particulars to a civil court in any suit, to which the Government is a party, which relates to any matter arising out of any proceedings under this Act, or

(e) of any such particulars to any officer appointed to audit, receipt or refund of the tax imposed by this Act, or

(f) of any such particulars where such particulars are relevant to any inquiryintotheconductof an officialofthe Sales Tax Department to anyperson or persons appointed to hold such inquiry, or

(g) of such facts tu an officer of the Central Gove nment o'r a State Government asmay be necessaryfor thepurpose of enabling the Government to levy or realise any tax or duty imposed by it, or

(h) of any súch particulars, when such disclosure is occasioned by the lawful exercise by apublic servant olhis powers under the Bombay Stamp Act, 1958 or the Indian Stamp Act, I Sü9 to impound an insufficient sts loped document, cr

Boni. LX of 1958.

II of 1899.

(i) of any suoh particulars where such particulars are relevant to any inquiry into a chsige of misconduct in connection with sales tax proceedings against a legal practitioner, salestax practitioner, Chartered Accountant or Cost Accountant to the authority empowered to take disciplinary action against members practising the profession of a legal practitioner, salestax practitio ‹, Chartered Accountant or Cost Accountant, as the case may bo, or

g) of any such pai1iculars to the Director, Bureau of Economic and Statistics or to any person or persons authorized undor sub-section (2) of section 71 as may be necessary to enable the Director or such person or persons to work out the incidence of tax on any commodity, or

(k) of any such particularstöan officer of the Central Government for the purpose of investigation or prosecution under any lawforthe time being in force, as the State Governmant may direct in any specific case.

93. (1) No assessment(including re-assessment, revision or rectification), notice, summons or other proceedings made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions of this Actor undsrtheearlierlawshall beinvalidorshallbedeemedtobeinvalidmerely

Assessment proceedings etc. not to be **invalid oa certain grounds.**

by reason of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such aSse68ment, notice, summons or other proceedings are in substance'and sffect in conformity with or according to the i•tsnt.•.nd •uaes-s ef thls ñ.ot o• n" eor!tar last.

(2) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been scted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliestproceedings commenced, continued oi Jinallzed pursuant to such notice, order or communication.

(3) No order of assessment, re-assessment, revision or rectification passed under the provisions of this Act shall be invalid merely on the ground thattheactioncouldalsohavebeentakenby any other authority under any other provision of this Act.

Bar of jurisdiction of civil courts.

94. Save as provided by section 78,-

(b) no civil court shall have jurisdiction to deal •v.th or decide any question which the Tribunal, the Commissionef or any officer appointed to assist him iz• empowered to deal with or decide by or under this Act and noinjuncliori Sh.;!! !;f" granted by any civil court in respect of any action taken or to be tak !J in pursuance of any power by or under this Act;

(c) no assessment made and no older passed under this Act or ih‹a rules madetheieunderbytheTribunal, the Commissioner or any officer appo.nted to assist him shall bé called in question in any civil court.

Disclosure of ÎBfOFfldtiOD required unüer section 7t.

95. {1) No information of any individual return or p8rt thereof with respect to any matter given for the purposes of section 71 shall without the previous consent in writin,q of the owner for the time being or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of this Act.

(2) Excapt for the purpose of prosecution under this Act, or under the Indian Penal Cocie, 16ti0 no person who is not engaged in the collection of statistics under Section 71 or in the administration of this Act shall be permitted to see or have acc+ss io ony information or any individual return referred to in that section. XLV of 1860.

(3) If any p0rson reu,‹ i:ed tn furnish any information o‹ return unöer section 71,—

{a) without reasonable cause fails to furnish such information or return as may by that section be required, or

(b} willlully turriishes or causes to turnish any information or return 'Ÿti!Oi i rte knows to be false,

he shall, on conviction, be p'iaishsd with fine which may extend to one hundred rupees and in case of a continuing oftence to a further fine which may extend to one hundred rupees for each dav after the first day during whir.h the offence continues.

(4} \i any person engaged in connection With the coJjectinn nf statistics under secti'on 71 willfully discloses any inforn atiun ur the contents of any return given or, made under that section, otherwise than in execution of his dutiee under that section or for the purposes of the prosecutionof any offence under this section or for the Durposes of the prncerxitinn nf on n{fgnse !n sr this Actor underthelndlanPenalCode, 1860heshallonoonvictionbepunished w'ñh imprisonmentforaterm which may extend to six months or with fine which may be extend to one thousand rupees or with both.

xcva,s«.

96. On every application,— Leg of fees.

ta) for a certified or duplicate copy of a certificate of Registration or

{b) fora cei1ifiedcopy of an order of assessment or any order passed or any document produced or filed in any.proceeding under this Act, or

(c) for the determination of any question undef section 80, or

(d) for a copy of order or document under this Act

there shall be paid such fee in court fee stamps as may be prescribed.

Publication of information regarding dealers and other persons in public interest.

97. (1) Notwithstanding anrihing contained in section92, if the Commissioner is of the opinion that it is necessary or expedient in the public interest to publish ur disclose the names of any dealers or other persons and any other particulars relating to any proceedings undsr this Act in respect of such dealers and persons, he may publish or disclose or cause to bapublished or disclosed such names and particulars in such manner as he thinks fit.

(2) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Act, until the time for presenting an appeal to the appropriate appellate authority has expired without an appeal having been presentedortheappeal, 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, the directors, secretaries, treasurers or managars of the company or the members of the association, as the case may be. may also be published or disclosed, if, in the opinion of the State Government, the circumstances of the case justify it.

Power to make rules.

98. (1) The State Government may, by notification in the *Official* Gazelle, make rules for °aiying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, auch rules may provide for aft or any of the matters expressly required or allowed by this Act to be prescribed by rules.

(3) In making any rules under this section the State Government may direct that a breach thereof shall be punishable with fine not e\‹ceeding two thousand rupees, and when the offence is continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) Tfie power to make rules conferred by this s6ction shall be subject tc the condition of the rules being made after previous publication:

. ro•':•d t •t th•- . t«C'•overnmentissatisfiedthatcircumstances exist which render it necessary to Bke immediate action, it may dispense with the *previous* publication of any rula to ba made under this section.

(5) All rules made under this Section shall be laid for not less than thirty daya before the Stata Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session In which they are so laid orsessionlmmediateTyfoIlow/ng. Anyrescissionormodificationsomadebythe State Legislature shall be published in the Of//cia/Gazette, and shall thereupon take effect.

eov•«• remove **difficulties.**

99. If any difficulty arises in giving effect tothe provisions ot this Act, the State Government may, by general or special order published inthe Of//Oid/Gazefts, make such provisions not inconsistent with the provisions of thie Act as appear to it to be necessary or expedient for the removal sf th+ difficulty:

Provided that no such order shall bè made after the expiration of two. years from tho comrrisncemont of this Act.

Repeal and s^ *"

100. {1)TheGujarat Sales Tax Act, 196B andtlzeGujarat Purchasel" XOn Sugarcane Act, 1989 are hereby repealed:

Cuj. 1 of 1P70. cs. 1 «r sae.

Provided that such repeal shall notaffectthepreviousoperation of the said Acts or any right, title, obligation or liability already acquired, accrued or incurred thereunder and subject thereto, anything done, or any action taken including uny appointment, notification, notice, order, rule, form or certificate in exercise cf any powers conferred by or under the said Act shall be cleemed to have been done or taken in exercise of the powers, conferred by or under this Act, asifthisActwereinforceonthedate onwhich such thingwasdoneor action 'was taken, and all arr=ars of tax and other amount due at the commencement of this Act may be recovered as if they had accrued under this Act.

(2) Notwithstandingthe repual ofthe Gujarat Saies Tax Act, 1969, or asthecase **may be, the Gujarat Purchase Tax on Sugarcane Aot, 1989, (hereinafter in this section referred to as the "said Acf') —**

u•J. 1 •hio. **G.;. 11of1989.**

(a) all rule°, regulations, orders, notifications, forms and notices issued under the said Act and in Tnrce immediately before the appointed day shall continue to have effect for're purposes of the levy, assessment, reassessment, collection, refund or set uffcf any tax, or the granting ota drawback in .respect thereof or the imposition of any penalty, which levy, assessment, reassessment, collection, relund, set-off, drawback or penalty relates to any period bofore the appointed day cr for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid.

(b) any registrationcertificate issued under the said Act and In forca immediately before the appointed day shall be deemed to be the registration certificate lseued under this Act, and accordingly such registration ceitificate shall be valid and effectual as a registration cerfFicate under this Act until such certificate is issued, substituted, suspended or cance!led under the provi6ions of this Act.

(c) Any appolntment, notification, order, rule, regulation, form or notice made or issued under the said Act shall, so far as it is not inconsistent wfth the provisions of this Act, continue in forse, and be daamsd to have been made or i8sued undar the provislons of this Act, unless and until it is superseded by any appointment, notification, order, rule, regulation, torm or ñotice made or issued under the provisions of this Act;

(d) any person entitled to appear before any authority under the said Act shall be deemed to be entitled to appear before any authority under this Act, and accordingly if such person be a sales tax practitioner he shall be entitled to have his name entered in the list maintained under section 81.

Bom. 1 of 1904.

(3) Without prejudIce to the provisions contained in sub-section (2) and subjec't thereto, secfioy 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal of said Act as if the said Act had been enacted within the meaning of the said section 7.

SCHEDULE I

[See **sub-section** (1) of section 5)

GOODS, THE SALES OR PURCHASE OF WHICH ARE EXEf/IPT FROM/I TAX"

j s'. TO.	Description of goods.	Conditions and exceptions subject to which exemption is granted.
1	2	3
1	Agate *(Akik)* Stones and articles made therefrom	
2	(i)Agricultural Implements operated exclusively by human or animal agency fof exclU9ive use in agricultural operations and the parts thereof, which are ordirBrily not also used otherwise than as such parts. (i) Opener"(Hu!ler) and thrashes for agriculture use.	
3	Aids and Implements used by handicapped persons. {1) Biaillo educational equipment, Braille typewriters, Braille writing slates and Braille watch. (2) Grou'p hearing aida and Hearing alds. (3) Induction group aids. (4) Speech trainer. (S) Language ma9ter (6\Audiometer.	

	tz) °°ice chorri. (B) Walkera. (9) Wheel chair. (10) Calipels of all types. /1‹.W A f, !e! !l . (12) CMches. (13).Orthopaedic footwear and Orthopaedic Implants. (14) Tricycles and auto-tricycles for handicapped persons {15) All typBs of splinB. (16) Heart valves. (17) Prosthetic aids for leprosy affeoted people. {18) Intra-ocular lens u6ed for cataract operation.	i ,
4	Artificial teeth.	I
5	Bangles made of glass or plastic bangles.	
6	Betel leaves and *pan, tembul, vida,* or paftiprepared from betel leaves.	t
7	*Bindi, Kumkum or sindur.*	
8	Books, periodicals and journals, *time* tables for railways and passenger transport services.	Except *which are* specified in entry 56 in Schedule II
9	(1) Bread. *(2) Khakhra, otpad, papad pipes* (3) Sey made out oi wheat flour or *maida*. 4 Unfried otato *katri* •	
10	Cattle, stiee and oats.	
11	Cattle feed including fodder, grass, hay end straw and concentrates•(excluding cottonseeds, oilcakes and de-oiled cakes	
12	(i) Cereals and pulses• (iii) Flour of cereals and pulses except Maize flour• (i›i) Wheat flour, Jaya, Suzi or *maida* made from wheat.	Excnpt when sold in seaied Si ageunder a
13	*Charkha* and other implements and spare parts thereof meant for use in the production of handspun yarn, as may be specified by the State Government by notification in the *Official Gazette.*	
14	Chi/r/‹land *revdi.*	
15	Chilliss, tamarind and turmeric whole or in powder form.	Except when sold in sealed package under a brand.
16	Coconut in shell (other than *kopra).*	
17	Condoms, l¢›ops and contraceptive devices.	-
18	*Deshi Nalia..*	-
19	Drip Irrigation equipment.	
20	Egg9‹	
21	Electrical energy.	
22	*Farsen* and eatables (other than sweetmeats) as the State Government may by notification in the *Official* Gazofte, specify ior the purpose of this entry.	Except when sold in sealed containers under a brand.
23	(i) Firewood and Charcoal. (ii) Wood *ot Llmda, . ipla, Baval* and *Vadla* sold in form other than fire wood.	

24	Fish, Sea food, and other aquatic products,	Except when said containers under a bfand.
25	Fishing nets,	-
26	(i)Fresh flowers (exduding artifzñal flowers). (i) *Vani, gajrfi,* garlands and such other artlcleé prepared from fresh ftowers (excluding those of artificial flowers/.	
27	Flower, tru"ft and vegetable seed, eeeds of I«cerne grass *[Rajka)* and of sann hemp, bulbs, tubers and plants other than orchids.	-
28	Fresh fruiB, fresh vegstabk›s, edible tubers and garlic.	-
29	*Gurbut* not includin§ *Kakavl or Kakab* or molasses.	
30	*Haaf, Pav"itra, Kalagi, Muget, Modh.* etc. rñade from artificial silk yarn and artificial silk *yarn"waste.*	-
31	Hand Carts or animal driven carts.	
32	Handlooms and pails thereof,	
33	(i) Handloom fabrics, "" " "" "" (ii) *Patola* sarees.or other arti‹:les woven ‹;n iiaridlooiris. (iii) wilk *Kinkhab* fab'inz, innt is IG *Ü,' handlaom cloth interwoven with silk yarn and jari* thread.	
34	*Hoena Powder (Mahendi).*	
35	Human blouü and human blood plasma.	
36	Hurricane acid hurr,icane lamps of all kinds and spare parts and accessories thereof.	
37	*Khakhra pan.*	
'38	Kites *(Patang).*	
39	Manure, that is to say' orgargc manure (excludinBchemical fertilizers, oil cakes or de-oil cakesg	
40	Meat	Except when sold in sealed containers.
41	t(i) Milk - whole or separated, or pasteurized milk (except milk powdër). vii) BtJtter milk, Curd, *Last,* and *Chakka.*	-
42	Motor Spirit as defined in the Bombay Sales of Motor Spirit T_axation Act, 195a	
43	Musical instfuments tnandmade and other than electronic musical instruments} and Harmonium reeds.	
44	*Padia and patrdla*	
45	*Pawrdh* and piek-axe,	
	Planlain leaves,	
47	Poullry,	
48	Poulxy feed,	
49	*Rak adi* _	
50	S8lt.	
51	(l)Stamk papers sold by Government Treasuries or vendors **(ü) Postal Items** like Envelope Post card etc. sold by f ovemmeni.	
52	Vaccines, Toxoids or eera.	

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53	Water (other than aerated, mineral, purified water, medicinal, ionic, distillad, batlnry, de-mlneralizsd water and water sold in sealed container).
54	{i) Wooden brushes meant for house-hold purposesp (ii) Articles made from wood, that is to say *Dhaka, Welan, Bajoth, Patla-Palli and Cradles.* tiii) Wooden 1rames dl Drum, Dholak, *T8bta, Kong8* or bor)pa.

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[See **section** 7 **and section 9]**

GOODS, THE SALES OR PURCHASE OF WHICH IS SUBJECT TO'TAX
AND THE RATE OF TAX

Sr. No. '1"	**DESCRIPTION OF GOODS.** 2	Rate of tax 3
1	Agricultural implements to whi•h entry 1 ih : S hedrllC!does not apply and agricultural machinery.	Four paise in the rupee
2	13amboo, whether «hole or split and articl°s mads of Bamboo.	Four paise in the rupee
3	Bearings o ali Yes, ir ‹.i'uding ball-Sharing, coli:Mr bearings, taper ' bearing and niddle roller beari!.gs and spare parB and components thereof.	Four paise in the rupee
4	Bettings.	Four pause in the ee
5	Betel nut and Arecanut powder.	Four paise in the rupee
6	Bicycles, tricycles, cycle ricx>haws, pedal rickshaws, and cycles combination and & accessories and parts thereof	Four paise in the rupee
T	Bolts and nuts.	Four paise in the rupee
8	Bone meal	Four paise in the rupee
9	Brass parts	Four paise in the ee
10	(i) Bricks of all kinds ino!' 4ing fly ash bricks, refractory bricks. cii) Roofing tiles know' . as *h'ικznglori Nalia.*	Four paise in tha rupee
11	Buckets, drums, trunks, G/iame/a and Tapara made ot GP sheets or CR Sheets.	Four paise in the rupee
12	Bulk drugs.	Fpur paise in the rupee
13	(i) Bullion and specie, gold, silver, and other precious motals. {ii) Articles or jewellery made of gold or silver or both or of other precious matals (studded or not studded With pfecious stones or pearls whether real, artificial or cultured) {iii) Precious stones, semi-precious stones and pearls of all types.	One paise in the rupee
14	Candle mdde o1 wax	Four paise in the rupee

15	(i) Capital goods as may be notified in the *Of//oia/* Gazeftdby the State" Government under clause (5) of section 2. " (ii) Plant and machinery.	Four ¢giss in*. the rupee
16	Castings or Cast Iron casting.	Four paise in the rule
1?'	Caustic soda and silicate of soda	Four paise in the rupee
18	Chemicals.	Four paise in the rupee
19	Chemical fertilizers of all types. "	Four paise in the rupee
20	(i) Coal including coke in all its forms but excluding charcoal. (ii) Fly ash of coal. (iii) Coal gas.	Four paise in the rupee
21	Coir and coir products excluding coir mattresses	Four paise in the rupee
22	Coffee beans and seeds, cocoa pods, and Chicory tuDers o7 Chicory roots whether cut or dried or processed.	Four paise in the rupee
23	Communications equipment such as, Private Branch Exchange (P.B.X) and Electronic Private Automatic Branch Exchange *[E.P.A.B.X)* etc.	Four paise in the rupee
24	(i) Cotton, tha is to say, all kinds of colon (inQigenous or imported), in its unmanufactured state, whether thinned or unginned, balec, pressed or otFt2wise. Clotn »aste	Four paisu in the rupee
25	Gountry liquors that is all liquors other than foreign liquors manufacture in India and foreign liquors that is potable foreip liquors brought into or manufac\used in India inctuding spirit, wines and fetmented liquors	Sixty paise in the rupee
26	Grucibles	Four paise in" the rupee
27	Crude oil, that is to say, crude petroleum oil and c ude oils obained from bituminous materials such as the shale, calcareous rock sand, whatever their composition whether obtained"from normal or condensation oil deposits of by the destructive distillation of bituminou9 minerals and whether or not subjected to all or any oJ the following processes, - (i) Decantation, (ii) de-salting (iii) dehydration, (iv) stabilisation in order to normalise the vapour pressure (v) elimination of very light fraction with a view to returning them to the oil deposits in order to improve the drainage and maintain the pressure (vi) the addition of only those hydrocarbons previously recovered by physical methods during the coune of the above mentioned processes (vii) any other minor process (including addition of purpoint depressants or flow improvers) which does not change the essential character of the substance.	Four paise in the rupee
28	Drilling rigs of all types and spare parts and accessories thereof.	Four paito in tha rupee

29	Dyes	Four paise in the rupee
30	(i) Edlble oils, (ii) Wa8hed cotton sead oils (iii) Vegetable non-essential oils, *livl Hydragenated* vggetable oils *inntuding* Danas//	Four palee ln the rupee
31	**ElBCtfDd69**	Four paise in the rupee
32	Fabrics of all types which are not liable to Additional Excise Duty	Four paise in the rupee
33	Herb, bark, dry plant, dry root, commonly known as *jadi* booti.	Four paiee ln
34	Hidea and skins whether in row or dreæed state.	Four pai6e in the rupea
35	Hose pipes.	Four paise in the rupee
36	Hosiery yoods.	Four paise in the rupee
17	Husk ir cluding groundnut husk.	Four paise in the rupea
3B	Ice	Four paise in the rupee
39	Imitation jewe1try.	Four paise in the rupee
40	Incense sicks commonly known a. ,". Érbaf/i, *Padi, Dhoop or dhupbatti and Lob'an*	Four palse in the rupee
41	Incorporeal goods or ii›langible p ods, that is to say , copyright, atent,Trade msrks, F'ranrl name, import Licence	Four paise in the e
42	Industrial cables (I-iir h voltage cables, XLPE Gab!es, jelly filled cables, optical fibers cables naö -pecialily comrr›unIcation cables).	Four paiss in Ihe rupee

43	Iron and steel, that Is to say - (i) pig **iron** and **cast *Iron* including** i«igot, **moulds,** bottom plates, iron 6Crap, **C8Bt** ifOri **Scf8p, rU»fl6f** 8CrBp {il)Steel semis (ingots, slabs, bboms and billets of all qualities, shapes **and sizes)** (lii) Skelp baæ, tin bai's, sheet baba, hoe bars and sleeper bars, (Iv)Steel bars (rounds, rods, equaæs,.flats octagons and hexagons, plan and ribbed or twisted„in coi(form as well as straight fenglhs). (v)Steel structuials, (angles, joints, channels, tees, sheet pilting sections/Z section9 or any other rolled sectio”n. (vi) She8ts, hoops, stripe, and skelp, bath black and galvanised, hot and cold rolled, plain or corrugated in all qualities in straight lsngths and in coil form *as* ro1led and i/2 fivetted conditions (vii) Plates both plain and chequerred in all qualitîas (viii)Discs, rings, forgings and stel castings (ix) Tool, alloy and special steefof any of the above categories (x) Steel melting scrap in all forms including steel skull, turnings and borings (xi) Steal tübes, both welded and seamless of all diameters and lsnglha, including tube fittings, (xii) Tin-plates both hot dipped an¢t electrolytic and tin freo plates, (xiii)Fish plate bars, bearing plate bars, crossing sleeper r«.is, lish plates, bearing plates.crcssing sleeper and pr›ssu°d *•!oel ixi'v) leepe:'• rail-hria'/y and I.gnt crane ‹cils (xv) \Vheels, fi,•res, axles and wheel seats (xvi) Wire rods and wire-rolled, drawn, gal?ànised, aluminised, tinned or coated such as by copper (xvii) Defective, rejects, cuttings or end pieces of any of the ubove cateçorfes	Four paise in the rupee
44	fron powder	Four peise in **the rupee**
45	IT products namely, computers, computer peripherals, digital electronic equipment, communication equipment arid *components* thereof.	Four paise in the rupee
46	Jute that is to say the fibre extracted from plants belonging to the species corcho•ous Capsularies and corchorous olitorous and the fibre known as mesta or bimli extracted from plants or the species hibiscus cannapif us and hibiscus sadarifavar altissima {and the fibre known as sunn, sunn-hemp extracted from plant9 of the species Crotalaria juncea) whether baled or otherwise.	Four paise in the rupee
47	Kerosene stoves and spare parts and accessories thereof	Four paise in the rupee

48	(i) *Itirana and* spices of all varieties and fofms, as may be specified by the notification, including *Afnohur, Ajma (Aj'iiva),* ésaf/g, **Coconut** copra, Dry fruits, *Isabgul, Kalingada* seeds, fDtas alias (red poppy *seeâsj, lie* (Cumin tseds), *Variall\anlseebaj,* f*ety(tengru* saeds), Swa, *Dhana, dhana del,* and Papper and spices, (ii) Foliowing go@s, when sold in sealed packages undsr a brend:- (a)Flours of cereals and pulses in all forms other than wheat flour (b) Powder of *chilllos,* tamarind of turmeric or powder of any other *c) Farsen that 'is to say* eatables {other than sweet preparations) (d) Meat. Fiah and all Sea toad (e) Processed vegetables,	Four paise in **the** ru*pee*
49	Linear Alkyl Benzene (L,A.B.)	Four paise in the rupee
50	Milk powder (those or skirnmed)	Four pâlse in the rupee
51	Minerals and Ores	FOUf £tise in **the rupee**
52	(i) Non-ferrous metals and alloys (ii} Rcfled and +xtrusion products, sheels, ods, bars, slabs, bloCks, ngots, circle ar'.d scraps (mode from non-Verrous metals and alloys)	Four paise in the rupee
S3	ii!. makes «›' ‹ oiled cakes oT all types inel ding cottonseed oilcake "	Four paise in the rupee
51	(i) Öilseeüs of al s (ii) Peanuts	Four paise in the rupee
5S	Oth teria s a ay s cthedby the Government.	Four paise in the rupee
56	(i) Papers of all types. {ii) Stationary articles such as — exercise books, graph book and laboratory nole book, drawing books, examination answer books, catalogues and publications to which entry 6 of Schedule I does not appty; Pre printed or Printed material, calendar or Calendar *Datta;* Charts, *mans* and globes for educational use.; Writing instrufi'ents such as Fountain pens, stylograph pens, ball-point pens, !.ead pencils and pencils of all types and spare parts and accessories cf pens and pencils; Slates and slates pencils and chalk sticks, crayons, foot iules, slide rules, geometrical ir.strun›ants, mathematical instruments or parts thereof or mathematical ' stfuments boxes, school colour boxes, black board, rubber erasers, pencil sharpners, dissection boxes, Audio picture cards, Priming *ink,* cartridges and toner, drawing pin, drawing brushes, rubber rings	Four paise in the rupee
57	*Pesticides,* weedicides and *tnsociiciöes*	Four paise in the rupee
58	Pipes of all varieties including G.I. Pipes, C.I. pipes, ductile pipes and PVC pipes .	Four paise in the rupee
59	Plastic footwear	Four paise in the rupee

60	Readymade garments arid articles prepared from any textile.	Four paise in
61	Renewable energy devices and epare parB thereof	Four paise In the rupee
62	Raw wool and wool tops	Four paise In the rupee
63	Safety matches.	Four paise in the rupee
64	Screen printing blocks meant for use in printing fabrics	Four paise in
6S	Sewing machines	Four paise in the rupee
66	Silk fabrics	Four paise in the rupee
67	Sim cards	Four paise in the rupee
68	Software	Four paise in the rupee
69	Soda ash	Four paise in the rupee
70	(i) Sport goods excluding footwear (ii) Equipment of physical exercise	Four paise in the rupee
71	Starches and maize flour and tapioca flour	Four paise in theeye
72	Steam.	Four paise in the rupee
73	Sugar	Four paise in the rupee
74	Sugarcane	Four paise in the rupee
75	(i) Threads, twines, strings or ropes prepared from any material or goods or waste lheraof. (ii) Sewing threads. *(iii) Varat* and V'aratdi	Four paise in the rupee
76	*Timru* leaves or *Beedi leavas.*	Four paise 1s the rupee
77	(i)Tractors of all types, Power tillers and trailer ol tractors- (ii)Tractor- trailors	Four paise in the rupee
78	(i)Transformers, switch gear9, Switch boards, and spares parts and accessories Iheraof (ii} Transformer towers and parts there of.	Four paise in the rupee
79	Umb ella ol all types	Four paise in the rupee
60	Utensils ol all types.	Four paise in the rupee
81	Vessels of every description to be used for plying on water.	Four paise in the rupee
82	(i) Water pumps and water pumping seD including Centrifugal, monobloc or submersible pumps and parts thereof. (ii) Hand pumps and parts and fittings thereof.	Four paise in the rupee

83	Wet dates known aa *khafur.*	Four palse in
aa	Winding wires including super enamelled copper winding Mre and plastic ooated winding wire.	Four paise in the rupee
85	Wires, naila and blue tacks	Four paise In the rupee
86	(i) Yam or yam waąte of all types (indudlng cotton yam) (ii) Fibres or fibrs **waste** of ali types.	Four paise in the rupee
87	AII goods other than those spamłied in ochedule I and in the preceding entries of this schedule.	Twefve and a hałl paise in ths rupee

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation

PART IV

her of the Gujarat **Legislature** and Ordinances promulgated
And Reguladons made by the Governor.

The following Act of be Gujarat Legislature. having been assented to by the Governor on the 2“ Match, 2006 is heteby published for general information.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 6 **OF 2i106.**

(First published, after having received the assent of the Governor in the “ Gujarat Government Gazette " on the 2“ March, 2006).

AN ACT

funher to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows -

1. This Act may be called the Gujarat **Vaiue** Added Tax (Amendment) Act, 2006. tb,p pg

Gej.1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as be principal Act”), in section 1, in sub-section (3), for the words “appoint, and different dates may be appointed for diifereni provisioos”, the word “appoint” shell be substituted. a a«»i a section 1 of GJ.1of2005.

Amendment of section 2 of Goj.IoC20•O8.

3. lv the principal Act, in suction 2--

(1) for clause (3), the *ollowing clause shell be substituted,

"(?) "appointed day" means the date on which the remaining provisions of this .4ct shsll come into force under sub-section (3) of section 1,",

(2) ion clause (5), the followFg clause sheil be substituted, **ncmely:--**

^(5) "capital goods" means plant and machines. (othet than second hand plant and machinery) meant for use in rnanufacmre of taxable goods arid accounted as capital assets in the books of accounts;";

(3) for clause (12), the following clause -shall be substituted,

"(12) "earlier lan"' means any of the following laws, that is to

(i) the Bombay Sales of Motor Spirit taxation Act, 1958, — Bom. LXVI of 1958.

(ii) the Crujarat Sales Tax Act, 1969, or — Guj. 1 of 1970.

(iii) the Gujarat Purchase Tax on Sugarcane Act, 1989, — Guj. 11 of 1989.

as amended from time to time and includes enactments which have validated anything done or omitted to be done under these laws;";

(4) afier clause (13), the following clause shall be inserted, namely :- "(13A) *HSN codc " means harmonized system of nomenclamre code assigned to the goods Specified in the Schedules;";

(5) for clause (36). ihe following clause shah be substituted, namely :- *(36) 'year" nieaiis a I*ancial year;".

Amendment of section 3 of Guj. 1 of 2005.

4. In the principal Act, in section 3, in suh-section (4), the portion beaming with words "and such further period" and ending with the words *his liability to pay tax *hall cease" sb !l be deleted.

Ariiea4mest of C•;. T pF20gg.

5. In the principal Act, in section 5,—

(1) for sub-sections (1) substituted, namely:—= and (2), tbe following sub-sections ‹ball be

(1 A) The State Government may, by notification in the *Oficial* Gm*ette*, add to, or enlarge, any entry in Schedule I, or relax or omit any conditions or exceptions specified therein, and thereupon the said Schedule shall be deemed to be amended accordingly.

(2) (a) Subject to such cooditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class of sales or purchases **or saies or** purchases of **goods by** any specified dealer or specified class of dealers fmm payment of the whole or any part of the tax payable under the provisions of this AcL

H) Where the State Government considers it necessary so io do in the public interest to continue tax exemption granted to the sales or purchases of **goods by** industrial units under sub-action (2) of section 49 of the Gujarat Sales Tax Act, 1969, it may, by nofilication in the *OffiGfal Gazette*, continue such exemption with such modificatioq subject to such conditions and for such period, as may be prescribed.";

Guj. 1 of 1970.

(2) in sub-section (3), for the words, brackets and figure "under sub-section (2)", the words, brackets, figures and letter "under sub-section (I A) and sub-section (2)" shall R substituted.

6. In the principal Act, in section 7,— Amen4urent of Guj. 1 of 2005.

t1) in sub-section (1),—

(a) for the word and figure "Schedule II", the words and figures "Schedule Il or SchedNe III" shrill be substituted;

Q) for the wotds" in the m d Schedule", the words and figures " in the said Schedule II or, as the case may be, Schedule IB" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The State Gore eirt may, by notification in the *Ofcial Gazette*, nduce any mte of tax specified in Schedule II or Schedule III in respect of any w t • thereof) in the said Schedule II or III and may, by like notification, omit or amend any entry (or part thereof) in the said Schedule II or III but not so as to enhance the rate of tax in any case and thereupon the Schedule I, II or III xhell be deemed to have been amended accordingly.".

Insertion of new section 7A in GJ.1o 1004.

7. In the principal Act, after section 7, the following section shall inserted, namely '-

°-•r'• z• *7A. For the purpose of proper identification of the goods, the State Government may by rules, assign the HSN code to each of the goodi specified in the Schedules and different codes may be assigned to different goods covered tinder the same entry in the Schedules.”.

Amendment of section 8 of Guj. 1 of 2005.

8. In the principal Act, in section 8, in sub-section t2), in the proviso to clause (b), for para (b), the following para shall 6e substituted, namely.—

“ A) IN the relevant event as described in sub-section (1) has occurred subsequent to such period as may be prescribed, from the d»*• of such sales made by the dealer.”.

ndment of section 9 of ñuj.id2005.

9. In the principal Act, in section 9,—

(I) in sub-section (1), for the word and figure “Schedule II”, the words and figures “Schedule II or Schedule III” shrill be substituted;

(2) in sub-section (3), for the words and figure *in SchedNe II of this Act or at the applicable mie of tax under the earlier law whichever is higher”, the z'ords and figures “in Schedule II or Schedule Ifl or at the applicable rate of tax under the earlier lav•, as the case may be” shrill be substi* ‹•8

Amendment of Rrti0n 11 e'f €uj.1d200S.

10. In the principal Act, in section 11, -

(1) in sub-section (1), in ctause (a),—

(a) for sub-clause (i), the following sub-clause shnll be substituted, namely:—

“(i) tax collected from the purchasing dealer by a registered dearer from whom he has purchased such goods or the tax payable by the purchasing dealet to a registered dealer who has sold such goods to him during the tax period, or ’,

(b) iri sub-clause (ii), for the word and figure “section 9”, the words or›d figure *section 9, or” shall be substituted;

(c) afier sub-clause (ii), the fol1o•ving sub-clause .shail be inserted namely:—

“(iii) tax paid by the purchasing dealer imder the Gujarat Tax or Entry of Specified Goods into Local Areas Act, 2001.”;

Goj.22of 2001.

(2) in sub-section (3),—

(a) in clause (a). after sub-clause (vi), the following sub-c! '›• shsll be inserted, namely .-

"**(vii)** use as capital goods **meant** for use in mmufactlner of **taxable** goods **intended** for (i) to **(Vi) above** subject to the **condition** that **such capital** goods are purchased after the appointed dayz";

(h) in **clause** (b), after **sub-clause** (ii), the **foliowing** sub-**018158** shafl be inserted, **namely** :-

"(iii) of **filels** used for the **manufacture** of goods.";

(3) in sub-section (5),-

(a) after clause (d), the following clause shall be inserted, namely :-

"(dd} made prior to the date of registl'atiom";

(b) in clause ,(3 for the words "of the **goods",** the words and bracket: f'of the **goods** (not being taxable goods diSpatched outside the State in the some of branch transfer or consignment)" shall be substituted;

(e) in clause (h), after the word and figure "Schedule I", the words, brackets and figures "or the **goods** exempt !?}נטס the whole of the tax by a notification under sub—section (2) of section 5" shall be added;

(d) for clause (i), the following clwse shall be substituted, namely:—

"{i) of capital goods used in the manufacture of goods specified in Schedule **I** or the goods exempt from the whole of the tax by a notification under sub-section (2) of section *5* 01" in generation of electrical energy including captive power;";

(e) in clause {k}, for the word "property", the words "ofthe property" shall be substituted;

(i) after the clause ,(1) the following clause shall be inserted, namely:—

"(1.1) of petrol, high speed diesel, crude oil and lignite unless such purchase is intended for resale;";

(g) after clause (In), the following clauses shall be inserted, namelyr :-"

"(n-m1) of capital goods used in transfer ofpropeity in goods (whether as goods or in some other form) involved in execution ofworks contract;

(mmm) of the goods for which right to use is transferred for any purpose (whether or not for a specified period), fñr cash, deferred payment or otiier valuable considerations,

fmmmm) made from a dealer after the name of such deafer has been published un6er sub—section (1 I) of scion 27 or section 97;";

(h) after clause (n), the following clause shrill be inserted, namely:—

"(nn) of the goods purchased during the period when the permission granted under clause (a) of sub-section (1) of section 14 has remained valid imder clause (b) of that sub-section;":

(i) in clause (p), after the word "invoice", the words "or duplicate thereof duty authenticated in accordance with the rules mane in is behalf' shall be inserted;

(4) sub-section (8) shall be renumbered as clause (a) of that subsection and after clause (a) as so numbered, the following clause shell be inserted, namely:—

"(b) Where the capital goods referred to in sub-clause (vii) of clause (a) of sub-section (3) are not used continuously for a full period of five years in the State, the amount of tax credit shall be reduced proportionately having regard to the period falling short of the period of five years.".

Amendment of section 12 of

11. In the principal Act, in Section 12,—

(1) in sub-scion (I),—

(a) for the portion beginning with the words "a statement oP' and ending with the words, figures and letters "held in stock on the 31" March, 2003", the words, figures and letters "a statement of such taxable goods under this Act held in stock on the 31st March, 2006 wkich arc purcbasea during the period commencing on the I" April, 2003 and ending on 31 March, 2006" shall be

(b) in the Explanation, for the figures, letters and word "31" March, 2003", the figures, letters and word "3l" March, 2006" shall be substituted;

(2) in sub-section (4),—

(a) in clause (c), for the figures, lbs and word "31st March, 2003 ', the figures, **letters** and word "31' March, 2006" .III be substituted,
(b) clause (e) shail be deleted.

Amendment of section 14 of Guj.1 of 2005.

12. In the principal Act, in section 14,—

(1) in sub-section (I),—

(a) in clause (a),—

(i) for the portion beginning with the words *who is cot engaged" and ending with the wotds 'Verity-five lakhs", the words "whose total turnover has not exceeded fifty lakhs" shall be substituted;

(ii) the following proviso and explanation shall be added at the end, namely:—

"Provided that the Commissioner shall not grant permission to pay *lump* sxri tax under sub-secfion (1) to a dealer who,—

(i) sells the goods in the course of inter- State trade and commerce or exports goods out of the territory of India,

tii) purchases the goods in the course of inter-State trade and commence or imports goods from a place out of the territory of India,

(iii) dispatches the goods to his brar consigning agent outside the State goods from his branch situate outside consigning agent outside the State,

(iv) engaged in the activity of the manufacture o0ier than such activity as State Government may, by ordet in writing specify,

(v) effects the **sales Jr purchases** through the commiSSiQfi agent,
(vi) effects the sales falling under sub-clause (b) or (d) of clause (23) of section 2, or

(vii) purchases goods from or sells goods to, the dealer who has been granted permission to pay *lump sum* tax under this section,";

frplanation.—For the purpose of permission undet this clause, for the year commencing on the 1" April, 2066 and ending on the 31“ Starch, 2007, the lotai turnover shall be calculated with reference tn the Gujarat Sales Tax Ac*, 1969.”; Go].1M

(b) for clause (b), the following clause shnlj be substituted, namely.—

*(b) The permission granted under clause (a) shall remain valid so long as the total tumov er of tire registered dealer does not exceed rupees fifty laLhs or the registered dealer does not undertake any of the activities mentioned in clauses (i) to (vii) of the proviso to clause (a). In case, where total turnover of a registered dealer exceeds rupees fifty, lakhs or the registered dealer undertakes any of the aforesaid acti•vities during the cnurse of the year, he shall be liable to pay tax under sections 7 and 9 for such tax penod as may be prescribed for this purpose.”,

(2) ter sub-section (4) and the Explanation thereunder, the folloufig sub-section shnil be substituted, namely:—

"(4) .A dealer who is permitted under sub-section (1) io pay *lump sum* tax shell be Table to pay purchase iax leviable undet sub-sections (1) and (3) of section 9, in addition tn the *lump sum* tax under this section.".

t.,,p p
section 14A in Guj. 1 of 2005.

13. In the principal Aci after section 14, the following section »h»Il be inserted, namely :-

ins»»re “•t“*

“l4A. (1) Notwithstanding an rig contained in this Act, the Commissioner rfiay, in such circumstances and subject to such conditions as may be prescribed, permit every dealer referred to in sub-clause (f) of clause (10) of section 2 to pay at his option in lieu of the amount of tax leviable from him under this Act in respect of any period, a. lump sum tax b way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette* braving regard to the incidence of tax on the nature of the goods involved in the execution of the tot value of the works contract.

(2) The pmvisions of sub-sections (3) and (4) of section 14 shall apply *mutatis imitandis* to a dealer who is permitted under sub-section (1) to pay *lump sum* tax by way of composition.

(3) Where any dealed has opted.for composition nf tax imder the earlier law and commenced the work in pursuance of

any specified works contract prior to the appointed day and such work is not comp]eted before the appointed day, such dsaier shall pay the tax for the remaining work in accordance with the provisions of ‹GIS III.".

14. In the principal .Act. in section 2i , afier sub-section (7), the follo wing sub-section shall be inserted, namely:-- Amendment of section 21 of Gu].lof2OQ?.

' (7 A) There ihc dealer changes the place ci his business situated in the jurisdiction of one authority to a ditTerent place falling under ltte jurisdiclion of another authority, such dealer shnll appl*' for cancellation of registration to that authority which has granted the registration and shall simultaneously apply for registration to another auihority within those jurisdiction the cliangc5 place of business is simated.".

15. In the principal Act, in section 27,-- Amendment of section 27 of 0 uj.I Of 200S.

(1) in sub-section (1), after clause (e), ihe following clause shall be inserts, name15 .-

"(ee) a ‹deeler changes his place of business situated within the jurisdiction of one ainhority to a different place falling under the jurisdiction of another authority.

Exylansfion. -- For be purpose of this clause. the 'authority' means the auAprii5' prescribed under suh-section (3) of section 2i;":

f2) in subsection (5).—

(a) in clause (a), the wurds "within the time prescribed" sbail be deieted;

@) in clause (b), be words "with a view to evade iax" shall be added at the end;

(c) in clause (c), for the words ' to pay tax due", the «'ords "to pay the tax due for three consecutive cx periods' shell be substituted;

(d) clause (fl shall be deleted;

(e) in clause (h), the word "or" shall be deleted;

(f) irr clause (i), the word "or" shall be added at the end;

(g) after clause (i), the following clause shall be inserted, name1y:—

(j) who has been found evading tax on account of variation in physical stock compared with his regular books of accounts;',

(3) after sub-section (5), the following sub-section shell be inserted, namely:—

"(5A) (I) If a 8• ler,—

(a) has failed to infomi changes as required under sub-section (I) of section 26;

(b) has failed to furnish remrn under section 29;

(c) bas failed to pay tax under scoion 30;

(d) has failed to file declaration or intirnue the changes as required under section 65 or 66; or

(e) has failed to produce the books of accounts required imder section 67,

the Commissioner may, at any tiirie, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, suspend his certificate of registration from such date riot earlier than the 8 *e of order of suspension, as may be specified by him in the order.

(2) where a deader, whose certificate of registration is suspended for the failure of any of the requirements specified in sub-section (i), fulfils the requirements, the Commissioner sheli, by an order in writing, v•âthdraw the suspension order from such date as may be specified therein.

(3) the dealer whose certifi••*• of registration is suspended undet sub-section (I) shall not be entitled to claim inpui tax credit during the period of suspension of iegisoation.";

(4) in sub-section (7) ,

(a) for the word "cancellation" , ihe **words** "suspension or cancellation" shall be substituted;

(b) for the word "cancelled", the words "suspended or cancelled" shall be substituted;

t5) in sub-section (10), for the word "cancellation", occurring at two places the words "suspension or cancellation" shnl l be substituted;

(6) in sub-section (l l), for the word "cancelled", the words "suspended or cancelled" shnfl be substituted;

t7) for the marginal **note,** the following marginal note .shell be substituted, namely :

"Suspension or cancellation of registration.".

Amendment of x*ñen39of

16. In the principal Act, in section 29, —

(l) in sub-section (1), after the words 'complete returns", the words "of the goods in respect of his business and the transactions thereof" shot] ij-t J;

(Z) in sub-section (4), for the words 'be months next following", the words "one month from" shell be substituted;

(3} in sub-section (3),-,-

(a) for the words, "any other dealer", the words, brackets and *hgure* "an othet dealer, not being a dealer referred to in sub-secfion (4)," shall be substituted;
@) fot the. words, brackets and figures "sub-section (1)", the words, brackets and fpeures "sub-sectIon (I) or, as th• case may be, sub-section (2)" shut I be substituted;
(c) for the words "any offence", the words "any ofi'ence or my other proceedings" shall be substituted.

Amtndm*nld section 30 of Guj.1 of 2005.

l7. In the principal Act, in section 30, after sub-section (5), the following sub-section shall bé added, namely :--

"!6) Where a deafer is liabte to pay interest under sub-section (i) or under sub-section (7) of section 42 and he makes payment of an amount which is less than the aggregate of the amount of tax, penalty and interest, the amount so paid shell be first applied towards the amount of interest, thereafter the balance, if any, towards ltte amount of penalty and thereafter tire balance, if any, towards the amount of

Amendment of Guj.1 of 2005.

18. In the principal Act, in section 33, for sub-section (3), the follower.g sub-section shall be substituted, namely :-

"{?) Wltere,--

(a) a ‹lealer has furnished all the returns, revised returns, if any, and annuai returns by the date prescribed therefor and paid the amount of tax due according to such returns, and

(b) the Commissioner is satisfied thai the returns or, as the case may be, revised remms and annual returns furnished by such dealer are correct and complete, and

(c) a notice for audit assessment under sub-section t2) of section 34 has not been served on such dealer within such period as may be prescribed,

such dealer shall be deemed to have been assessed for that year:

Provided that the Commissioner of his own motion within a period of three years from the end of the year in tespeCt of which or part of which the tax is assessable, may call for and examine the record of such dealer who has been deemed to have been assessed and after serving nofice an* si• 8 +e r an oppOrtunity of being heard, pass such order thereon in accordance with the provisions of section 34, as be +r›mints@oner may thinks just and proper.".

Amendment **of section 34**

19. ft the prmcipal Act, in section 34,—

(1) sub-section (2) shall be renumbeied as clause (a) of that sub-
SECbOD;

(a) in clause (a) as so renamed, clauses (a) and (bJ shalt be renumbered us sub-clauses (i) and (ii) respecti› el; .

(b) añer clause (a) so renumberfi, the following clause shall be insertcd, nair.ely:—

‘ (b) in respect of such class of dealers tlie State Governme.ct may, by rulers, speciJ;”:

(2) in sub-section (7), for the z'ords "twice the amount", the z ords "one and a balf rimes of the amc'unt" shall be substituted.

Insertion of new section 34A in Guj.1 of 280s.

2ti. In ihe principal Act, after section 34, the following section shall be inserted, ramelj :--

.Drumter»n sa•ii of r“”” t ’^" "34A. Notwithstanding anything cor.ta'med in this .\cC if the Commissioner is of the opinion that any mnsaciion by any dealer during any tax perioo or a sci of transactions by the dealer has been accounted in a manner so as tn pay iax tess than the tax otherwise payable on such sale or purchase, then the Commissioner shell calculate the tax liabiliU' as per fair market price of such transaction or transactions.

Explanation.--For the purpose of this section, “fair market price” means the value at which goods of like kind are sold or would be sold in the ope: market in the State.”.

Amendment of section 37 of Guj.1 of 2005.

21. In the principal .Act. in section 37, in sub-section (2), *or the n'otds "a Rsnk", the word "such" shall be substituted.

Araendueni of section 38 of Guj. 1 of 2005.

22. In the principal Act, in section 38.--

(1) in sub-section (1), for the words "to be 8•'• of order of assessment". 11ie words "till the date of payment of amount of such refund" shal i be substituted;

(2) in sub-section (2),--

(a) for the v ords "for the period commencing afier thirty days fro*m* ihe date of such order", the words "per annum on the arriount of such refund from the date immediately following the date of closer of the accounting year to z'hjch the said amount of refund relates™ shall be subStItutPd;

(b) the proviso and the Explanations thereunder shail be deleted.

Iexertion of new Chapter VIA in Guj. 1 oF 200A

23. In the principal Act, after Chapter VI, the following Chapter shall be inserted, narrie1y :-

"CHAPTER VIA

DEDUCTION AT SOURCE.

Definitions. f9A. For the purposes of this Chapter, unless the context otherwise requires;--

(B) "contractor" or "sub-contractor" means the dealer referred to in sub-clause (f) of clause (10) of section 2;

(o) "specified sale" means the sale referred to in subclause (b) of clause (23) of section 2;

(c) "specified sale price" in elation to the ester of property in geods (whether as goods or in some other form) involved in the execution of a works contract, inesns such amount as is arrived at by deducting from

course of import of goods into the territory of India for tire use in execution of such works contract; and

(d) "specified works contract" oceans a works contract, 1e speci6ecl sale price of witch exceed one care rupees.

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59B. (I) Notwithstanding that the assessment in respect of the specified sales is to be made for a year ot part of a year, the tax on such sales shrill be payable at son in accordance with the provisions of this section.

(2) Nothing in sub-section (1) shall prejudice the levy *a7* tax on the specified sales under section 7.

(3) (a) Any person responsible for paying specified sale price lo ñ Hfitr8ftor fOr ca4Tying Out an Work in pUrSuanGe of a specified works ‹x›ntract, shark at the time of payment of the whole or part of the specified sale price, deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(6) Any person being a contractor responsible for paying specified sale price to a sub-contractor in pursuance of a contract with the sub-contractor for carrying out the whole or pan of the work undertaken by the contractor in respect of a specified works contract, shail at the time of payment of the whole or part of the specified sale price deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(c) The contractor, or as the case may be, sub-contractor

(a) or (b) or the basis of such statemmt.

(4) If a peraon has entered into works contract with a contractor and the contractor has entered into a contract with a sub-contractor to the sub-contractor the carrying out of the whole or part of the work (hereinafier referred to as "the suHontract'9 relating to the said works contract and &e contractor has at the time of payment of the specified sale price in respect of the said sub-contract to the suh-contractor deducted an amount as a tax under clause tb) of sub-section (3) and has paid the same under sub-section t*). then notwithstanding anything contained in clause (a) of the said sub-section (3), the peraon ahatl not at the time of payment of the specihed sale price to the extractor deduct an amount under clause (a) of sub-section (3) equal to tire amount of taX paid by the contractor under sub-section (7).

(5) (a) Where the contractor or aub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, be sit m.«he aH ap lIcation to the Commissioner in this behalf.

(b) On receipt of the application under clause (a), if the Commissioner is satisfied that the contractor or sub-contactor is not liable to pay tax under this Act on specified sales involved in any specified worms contract, he shall give a certificate to that effect in such form as may be prescribed.

(c) Where any such certificate is given under clause (b), the person responsible for paying any specified sale prce under clause (a) or clause (b) of sub-Section (3) ahall not deduct any amount as tax in respect of the specified works contract mentioned in the certificate.

(6) Any amount deducted as iax in accordance with the provisions of sub-section (3), shall be deemed to be an amount iecei ed by the contractor or the sub-contractor as part of the specified safe price in pursuance of the specified works contract.

(7) Any person deducting the amount as tax in accordance with the provisions of sub-section (3) shall --

(a) pay such amount into Government treasury in such manner and within such period as may be prescribed,

(b) obtain a treasury receipt therefor, and

(c) furnish a copy of such receipt to the contractor or, as the case may be, the sub-contractor within thirty days from the date on which he obtains the receipt.

(8) svely pTrsnn deducting the amoimt as tax in accordance with the provisions of sub-section (3) shall, ai the time of payment of the whole or part of the specified sale price, furnish to th.- contractor or, as the caae may be, the sub-cc ntraetor a certificate specifyfig the amouni so deducted and such other particulars as may be ptmcribed.

(9) Any deduction made iii accordance with the prox'isions of sub-section (3) and paid into the Government treasury under sub-section (W shall be treated as a payment of tax or, o the case may be, of lmp sum by way of composition under section 14A on behalf of the contractor or, as the case may be, the sub-conDactor, and, on the production of a certificate furnished to him under sub-section (8) alongwith a copy of a treasmy receipt given to him under sub-section (7), credit shall be given to him for the amount so deducted in the assessment of tax, if any, made under this Act for ihe relevant year or, as the case may be, in the paymtmt of lump sum.

(l0) Where an amount as tax on specified saies has not been deducted in accordance with the provisions of this section, the tax on specified sales shrill be payable by the contractor or, as the case may be, the sub-contractor directly.

(11) Where any amount deducted under sub-section (3) iemams unpaid after expiry of the time specihed in sub-section (7), such amount shall be rnovetable as an arrear of land revenue and the Commercial Tax Authorities shal{ for the purpose of effecting recovery of the amoimt, exercise the powers conferred on them under section 4b.

(12) If any person does not deduct an amount under sub-section (3) or after deducting the amount under that suHsecñon, fails to pay the same into the Government treasury under sub-section (7), within ihe time specified tbeteiri, tire Commissioner may, after giving an opportunity of being heard to such person, impose, by way or penalty', a sum not exceeding twenty-five per cent. of the amount required to be deducted by him under sub-section (3).

(J3/ Where a person deducting fho amounf oil la accordaace ñA the proiisioni of sub-section (3) does not pay the amount so deductea into the Government treasury under sub-seciiOfi (7) within the time specified therem, there shall be paid by such person, in addition to M penalty imposed or him under sub-section (I 2), for the petiod commencing on the date of expiry of the time sp@fied in sub-section (7) and ending on the date of payment of the amount into the Government treasury, simple interest at the rate of eighteen per cent.

per .annum on the amount of tax not so paid into Government treasury or any less amnunt thereof remaining unpaid during such period.

(l4) Every person deducting tax under this section shrill furnish ot cause to be furnished returns in such form and within such peood as may be prescribéd, to the Commercial Tax Officer within whose jurisdiction the person resides or carries on his business.

(1 5) .Notv;thstanding anything contained in this section, tax she II not be ded ^•8 at source where payment is to be made by the State Government in case of the specified works contract of the State Government, at the rime of payment of all or part of the specified **Sale** price. '.

Amendment of section 60 of Guj.1 of 2005.

24. In the principal Act, in section 60,—

(1) in sub-section (1), for the words " shall, at the request of purchaser, provide to him", the words "shall provide him" shall be substituted;

(2) after sub-section (2), the following sub-section shell be added, namely:—

*(3) if am registered dealer contravenes the pnvisions of sub-section (1) or (2), the Commissioner may, after giving him an opportunity of being heard, direct him to pay by way of penalty a sum not exceeding ten p•r cent. of the alTtOMI 0f the irosaciion of sale in respect of which such contravention has been made.".

.xmsduient of ation 61 of Gun. I of 2tl0S.

25. In the principal Act, in section 61,--

(I) in clause (aj. for the words 'the purchaser with a credit note u4thL. three monihs", the words "wilhin such period as may be prescribed, the purchaser with a credit note" sb 11 be substituRd;

(2) for the existing proviso, the following proviso shall be substituted, namely:-

"Provided that not more than one credit note or, as a case may be. debit no*e shall be issued for the amount in excess. '.

Insertion of new section 62A in Guj. I of 2

26. In ihe print:rpm .Act, after section 62, the following section shall be rted, namely:-

*"to" °°' "62A. (1) The State Government may, by notification in the *Ofliciol* herr/fe, provide that be provisions contained in the Information Technology Act, 2000 and the rules made thereunder and directions given under that Act, including the provisions relating to digital signatures, electronic govcmance, attribution acknowledgement

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and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, in so far as they may as far as feasible, apply to the procedures under this Act.

(2) Where any notice or communication is prepared on any automated data processing system and is properly served on any dealer or person, then the said notice or communication shall not be required to be personally signed by any officer or person and the said notice or communication shall not be deemed to be invalid merely on the ground that it is not personally signed by any such officer.".

Amendment of section 63 of Guj.1 of 2005.

27. In the principal Act, in section 63, in sub-section (1),—

(1) for the words "dealer exceeds rupees one crore", the words "dealer exceeds such amount, not being less than one crore, as may be prescribed " shall be substituted,

(2) for the words "within one year", the words "within six months" shall be substituted.

Amendment of section 66 of Guj.1 of 2005.

28. In the principal Act, section 66 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

"(2) If the dealer fails to intimate to the authority the changes in the particulars in the declaration referred to sub-section (1), the Commissioner may, after giving an opportunity of being heard to such dealer, by order in writing, impose a penalty of a sum not exceeding rupees ten thousand.".

Insertion of new sections 66A in Guj.1 of 2005.

29. In the principal Act, after section 66, the following section shall be inserted, namely:--

Furnishing of specimen signature.

"66A. (1) Every registered dealer who is liable to pay tax under this Act shall furnish the specimen signature of himself or the person authorised to sign the cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* and any form prescribed or appended to the notification, within such period as may be prescribed.

(2) Any change in the particulars submitted under sub-section (1) shall be intimated to the registering authority within fifteen days of such change.

(3) If a registered dealer fails to submit particulars or intimate the change as required under this section, the Commissioner may, by order in writing and after giving opportunity of being heard to such dealer, impose by way of penalty a sum not exceeding the amount of tax payable on the transaction declared in the concerned cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* or any form prescribed or appended to the notification.

(4) there the signature sparing on any of the documents referred to in this section is not matching with the specimen signature furnished by the dealer under tfiis section, such document shall not be considered as a vaiid document fot the purposes of this Act or rules made thereunder .

Provided that where the specimen signature on any document is not matching with the specimen signatme furnished by the dealer, the signature may be authenticated by such dealer in accordance with the rules made in this behalf.".

s»a•e•° 30. In the principal Act, for section 67, the following section.shrill be substituted, namely:-

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'67. (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before fin any accoiinis or documents, or to fumish any infestation relating to stocks of goods of, or to sales, purchases and deEveries of goods by the deatet or any other information relating to his bminess, as may be necessary for the purposes or this Act.

(2) All accounts, registers and documents relating to siocks of goods of or to sales, purchases and dehveries of goods by, any dealer and all goods kept in any plane of business of any dea)er, shrill at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts therefrom or may place or cause to be placed such marks of identifications thereon, as appear to him necessary for the purposes of this Act.

(3) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of accounts or other documents produced before him iii any proceeding mder this Act.

(4) lf the Cominissioner has reason tu believe that any dealer has evaded or is attempting to evade the payment of any tax due from him he may, för ressens to be recorded in writing, seize such accourits, registers or documents of the dexter as may be neces ', and shall grant a receipt for the same, and shall retain the same for so long as may be necessary, in connection with any proceeding under this Oct or for a prosecution.

(3) For the purposes of sub-section (2) or sub-section (4), the Commissioner may enter and search any place of business of any dealer, or any otliet place where the Commissioner has reasons to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relatings to his business azid may make a note or an inventory of any articles or things found in the course of

my ooh which in his opinion will be useful for, or relevant to, any proceeding under tfiis Act, or for a prosecution.

(6) Where—

(a) a carrier or bailee or any person to whom goods were delivered for transport has kept the said goods in any vehicles, vessel or place; and

@) the Commissioner has terser to believe that iax on such **goods** is or is likely to be evaded,

the Commissioner may stop the vehicle or the veesel carrying such goods and enter and search the vehicle, vessel or place and inspect the goods and records relating to such goods and elicit such information from the carrier, bailee or any person as is relevant.

3oflT7g. (7) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply, so far as may be, tn a search made untler sub-sections (5) and (6)".

31. In the principal Act, in section 68,— Amendment of

(1) subsection (4) shnll be renumbered as clause (a) of that section, and—

(a) in clause (a) as so renumbered,—

(i) in sub-clause (iii), the word "or°' shall be •88 at the end;

(ii) after sub-clause (iii), the following sub-clause sheff be addeó, as neIy:—

"(iv) the signature appearing in any of the documents reféired to in clause (a) of sub-section (3) does not match with the signature furnished by the registered deafer under section 66A, ';

Q) afer clause (a), the following clause shah be inserted, name1y:—

"(b) if the driver or other person in charge of a vehicle, boat or animal canying gòods does not made a declaration or if he makes a declaration, he does not keep a copy thereof with him as required by clause U) **OM tub-MtiOn (3),";**

(c) for the words "and vehicle", the words "and detain the vehicle" shall be substituted;

(d) the words "or vehicles'' shall be deleted;

(2) in sub-sèction (5),--

(a) in cf (a), the wpids **"or vehicles"** shnf 1 be deleted;

(b) in claine (b),for the words “goods, vehicle”. the words "goods" shalI be substituted;

t3) after sub-section (6), Ltte following sub-section shall be added, namely:—

“(7) where the person from whose possession or control the goods are seized under sub-section (4) fails to establish the ownenhip or’ the goods so seized or the payment of Wx. interest or penalty is not made or security is nor fiimisbed, the Commissioner may direct that the goods so seized may be sold by public auction and sale proceeds thereof shall be deposited in the Government

Amendment of n‹be69 of G ui.1 of 200£

32. In the principal Act, in section 69, afier sub-section (1), the following sub-section shnli be inserted, namely:—

‘(lA) The driver or the person in-charge of such. vehicle, boat or enimnl fails to cup' with him such transit pass throughout the Slate, he shall be liable to pay such penalty not exceeding one and one-half times the amount of tax of goods carried by him, as may be determined, after giving a reasonable opportunity of being heard.’ .

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33. In the principal Act. after section 70, the following section shall be inserted, namely:-

Furnishing of information by others.

"70A. (1) The Commissioner may, for the purpose of this Act, by an order in wiring.-

(a) require any person including an officer of a Bank, Post Office or such other institution. to furnish intonation in relation to such matters which in his opinion is likely to be useful or relevant in proceedings under this Act;

(b) require any persnn,--

(i) who has custody of goods of a dealer for ihe purpose of delivery or transports, to furnish information in respect of such goods, or to permit inspection thereof,

(ii) who maintains or has in his possession any books of accounts, registers or documents relating to the business of a dealer, to produce such books of accounts, registers, or documents fot inipection.

(2) Where a person who is required to finnish infomiaiion or permit inspection of goods or to produce books of accounts, registers or documents for inspection under clause (a) or (b) of sub- section (I), fails to furnish information or to permit inspection or to produce books of accounts, registers or documents, the Commissioner may afier

giving the persno an opportunity of being beard, make an order of detention or seizure of the goods or, as the case may be, the books of accosts, registers or documents.

(3) The order of detention or seizure made under sub- section (2) shall remain in force SO lotlg a5 the per$ofl concemed dHe8 nnt furnish inform*aton* or permit inspection or, as the case may be, produce books of accounts, registers, or documents for inspection.

(4) Where for any reasnn it is not feasible to make an order of detention or seizure under sub- section t2), tire Commissioner may by an order direct the owner or the person whn is iB OBsession or control of the goods or the books of accounts, registers or documene, not to remos'e ot part with or otherwise deal witii the goods ot tise documents except with the previous permission of the Commissioner.

(5) Where a person fails to act as required under sub-section (1), the Commissioner may, without prejudice to any other action which is liable to be taken against such person under any other provision of this Act, afier giving an opportunity of being heard to such person, impose on him a penalty of a sum not exceeding rupms twenty- Ave thousand.

(6) The Commissioner may teleast the goods or documenie detained or seized uitder sub- section (2), if the person concerned pays by way of penalty such emu. not exceeding one end a half Annes the amount of tax levmble on such goods nuder this Act, as he may ditect.

(7) Where,-

(a) no claim is made by any arson in respect of the goods detained or seized under sub-section (2), witlun a period of one month from the date of such detention or seizure,

(b) the person fâils to pay penalty imposed on him under sub-section (5) or to pay a sum as directed under sub-section (6), within the prescribed period,

be Comrrtiesioner may, by an order m writing, direct that the goods may be sold by auction:

Provided that if thg goods detained or seized are of the perishable nature or subject to speedy or natural **decay** or if the expenses of keeping them in custody are likely to exceed their value, the same may be ordered to be sold by auction as soon as it is practicable after such detention or seizure and an amount reali2ed by sale by auction of the goods shall be remitted in the Government treasury.

(8) The auction of goods under the sub-section (7) ahall be made in such mamier as may be prescribed.

(9) Any person who is entitled to the proceeds of the sale **of goods** by auction under tire sub-section (7) ahall, on application made to the

Commissioner, be paid such proceeds of the goods so auctioned after deducting fiom them the expenses of the sale by auction or other incidental charges and the amount of tax, interest and penalty leviable under this Act.".

Amendment of section 73 of Guj.loI2O4S.

34. In the principal Act, in section 73, in ssh-section (4), for the existing proviso, the following proviso shall be substituted, namely:-

"Provided that an appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(a) without payment of tax with penalty (if any) or, as the case may be, of the penalty, or

tb) on ptoof of payment of such smaller sum as it may cmisider reasonable, or

(c) on the appellant furnishing in the prescribed manner, security for such amount as the appellate authority may direct.".

Amendment of section 74 of Guj. 1 of 2005.

35. In the principal Act, in section 74, for clauses (d) and (e), the following clause shall be substituted, namely:—

"(d) an order sanctioning prosecution under this Act.".

Amendment of section 75 of Guj.1 of 2005.

36. In the principal Act, in section 75, in sub-section (1) in clause (a), fot the words 'ithin two years from the date of service of notice for Revision'", the words and flys'ithin five years from the date of the said order of the officer appointed under section 16 to assist him" shall be substituted.

Amendment of section 76 of Guj.1 of 2005.

37. In the principal Act, m section 76, for th.e wotds and figures 'Bombay Court-fees Act, 1959", the words and figures "€lujarat Court-fees Act. 2004" shnl I be substituted.

Box Vl of IW.

Guj.4 of 2004.

Substitution of Goj.1of20D5.

38. In the prinGipal Act, for section 78, the following section shall be substituted, namely:—

All High Court.

"78. (I) An appeal shall lie to the High Court from every order passed in appeal by the Tribimal, if the High Court is satisfied that the case involves a substantial question of law.

(2) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeñ.

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

(4) The appeal sfiall he heard on the question so formulated end the respondent shall, in the hearing of the appeal, be allowed to argue that the case does not invols e such question:

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

(5) Tire I-figh Court, upon hearing of such case, shall decide the question so formulated or involved and deliver the judgment thereon containing the grounds on which such decision is founded.

(6) An appeal under this section may be filed within ninety days from the date of communication of the order of the Tribunal and shall be accompanied with a fee of nipees two hundred.

5 of 1908.

(7) In respect of such matters not pro›'ided in this section, the pmvisions of Code of Civil Procedure,1908, which applies io the second appeal to Ffigb Court imder section 100 of the said Code shall, so far as may be, apply to the ncond appeal under this section.'.

Amendment of section 80 of Guj.1 of 2005.

39. In the principal Act, in section 80,—

(1) in sub-sections (1) and (2), for the words 'be Commissioner", the words 'We Commissioner, Special Commissioner, Additional Commissioner or Joint **Commissioner"** shall be substituted,

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The Commissioner on his own motion may call for and examine the record of anv order passed by the Special Commissioner, Additional Commissioner or Joint Commissioner under sub-section (1) and pass such order thereon as he thinks just and proper within two years frooi the 8•*• of service of notice for revision of sucb order:

Provided that the order passed by the Commissioner under this sub-section shalt not affect the liability of any person under this Act, with respect to any sale or purchase effected prior to such order.".

section 85 of Gaj.1 ef2m.

40. In the principal Act, in section 85, -

(1) in sub-section (1), for the words "shall trot be less than six months but whicb may extend to three years and with fine of rupees twenty thousand", the following shall be substituted, namely :-

"may extend to six months ot ust fine not exceeding rupees twenty thoi'mnd or with both :

Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shell not be less than one month and such fine she!.1 not be less than rapees ten thousand.",

(2) in sub-section (2),--

(a) after clause (e), the following clause shell be inserted, namely :-

"(ee) contravenes the provisions of section 60; or";

A) for the woods "one year and with fine of rupees twenty thöosand", the following sball be substituted, namely :—

*six months or with fine not exceeding nipees twenty

Provided that in absence of special and adequate reasons tn the contrary to be mentioned in the judgment of the Court, such imprisonment she!! not be less than one month and such fine shail not be Jess than ten tho›'• 8.",

(3) for sub-section (4), the following sub-section sh«il be substituted, name!y.—

" (4) Whoever aids or ahets any person in commission of an offence specified in sub-section (1) or (2) shall, on conviction, be punished with imprisonment fot a term which may extend to six months or with fine not exceeding rupees twenty thousand or with both.",

(4) in subsection (5), for the words 'M'hich shnil not be less than rupees five hundred", the words "not exceeding rupees one hundred" shall be substimted.

Aæes'lment ni J}, In the principal Act, in section 97, --

(1) in sub-section (1), for the words "he ibinlrs fit"" the words *may be prescribed" shsll be substituted;

(2) sub-section (2) and the *Explaention* thereunder shall be deleted.

Amendment of n 100 of q.j. t "r , 42. lu the principal Act, in section 100, in sub-sections (1) and (2), for the woods and figures "Gujarat Sales Tax Act, 1969", the words and figures "Gujarat Sales Tax Act, t969, the Bombay Sales of Motor Spirit T»x t!on Act, 1958" shall be substituted. Guj.1 of 1970. Guj.1 of 1970. Bom.66 of 1958.

§•\ °i J3. In the principal Act, in Schcdule I, --

11) the entry at seriai No.4 shaft be deleted;

(2) in tire entry at serial No.7, for the words "WmHw or eider", the words " tttm, *sinful* and comb commonly known as *kanska, kanski*" shall be substituted;

(3) in the eniry at eerial No.9, in sub-entry (I), for the word "Bread", the words "Bread in any form" shall he substituted;

(4) after the entry at serial No.9, the following entry shall be insured, namely :-

1	2	3.
"9A	Brooms and broom sticks (unbranded)	

(5) in the entry at señal No.12, the condition in column 3 shrill be deleted;

{6) the entry at serial No.14 small be d•leted;

{7) entry at serial Nn.19 shall be deleted;

(8) after the entry at serial No. 21, the following entry shall be inserted, namely :-

1	2	3.
"21 A	Fabrics of ail types on whicb additional excise duty is levied and collected in lieu of sales tax nder the Additional Duties of Excise (Goods of Special Importance) Act, 1957.	

1957.

(9) after emry at serial No.3l, the following entry shall be inserted,

1	2	3.
"31A	Handicrafts articles as specified by the State Government by notification in the *Official Gazette.*	

(10) for entry at serial No.32, the following entry shall be substituted, namely:-

1	2	3.
"32	Handlooms, parts and accessories thereof.	—":

(1I) in the entry at setiai No. 35, for the words "and human blood plasma", the words "including blood component" shalt be substituted;

(12) after the curry at serial No. 36, the following entries shall be inserted, naniety:-

i	2	3.
"36A	Kerosene stove and spare parts and accessories thereof	—
36B	Khadi-gamients and goods or made-ups therenf as may be specified by the Stain Government by notification in the cial Creserle.	--";

(13) the errtry at serial No.42 shrill be deleted;

(14) after the entry at serial No. 50, the following entry shall be inserted, namely:-

1	2	3.
'50A	Slates and slate pencils rind ehnllr sticks and chalk lumps	--";

(15) after the entry at serial No. 51, the following entries shall be inserted, namely :-

1	2	3.
"51A	Sugn of all types on which «ddi tiona1 excise duty is levied and collected in lieu of sales tax imder the Additional Duties of Excise (Goods of Special Importance) Act, 1957,	-- LVIII of
5l B	t) s, twine, string or rope plated from coir or jute known as *Bhindi, Bhindiwan, {ii1 Varat and Zaraidi.*	
51C	Tobacco of all types on which additions excise duty is levied and collected in lieu of sales tax under the Additional Duties of Excite (Goods of Special importance) Act, 1957.	--"; LVIII of

(16) in the entry at setial No.52, for the words "Vaccines, Tozids", the word "Toxids" shell be substituted.

.x-••a-••t •r Schedule It of Guj.1 of 2005.

44. In the principal Act, in Schedule II,

(1) after the entry at serial No. 6, the following eñtry shall be inserted , riamely :-

1	2	3.
"6A	Biscuites (unbranded)	Four paise in the rupee";

(2) in the entry at serial No.7, for the words "and nuts", ihe words "nuts, screws and fastners" shnil be substituted;

(3) the entry ai serial No.12 shell be deleted;

(4) the entry at serial No. 15 shull be deleted;

(5) for ihe enoy 8i serial No. 18, the following entry shall be substituted, namel :-

1	2	3.
"18	(i) Chemicals of all types excluding those specified in any other entries in this Schedule (ii) Solvent	Four paise in the rupee";

(6) aftet the entry at serial No.28, the following entry shall be inserted, namely :-

1	2	3.
"28A	(i) Drugs, medicines and vaccines including Bulk dnigs	Four paise in the rupee";
	(ii) Medical equipments, devices and implants as may be specified by the State Government by notification In the riaf Gnza/te.	
	ii) Bandages, dressings, syringes, medicated ointments manufactured or imported into; India, stocked, distributed or sold under lbe licence granted under the Drugs and Cosmetics Act, 1940,	

1940.

(7) in the entry ai serial No. 32, for the words "which are not liable to Additional Excise duties", the words 'W which entry 21A in Schedule I does not apply" shall be substituted;

(8) after the entry at serial No.32, the following entries shall be inserted, namely :-

1	2	3.
"32A	Ghee	Four paise in the rupee
32B	(i) Granules and resing of plastic including HDPE, LDPE, LLDPE, PVC, PP (ii) PVC Stabilizer	Four paise in the rupee":

(9) aftet the entry at serial No.34, the following entry shall be inserted, nainely :-

1	2	3.
"34A	Honey	Four paise

(10) in the enny at serial No. 41, for the u'ords "Import Licence", the words "Import Licence, Goodwill, Teclmical know how, export permit or quota, DEPB," shell be substituted;

(11) after the entry at setial No.42, the following entry shall be inserted. namely :-

1	2	3.
"42A	Industrial inputs or agricultural inputs as may be specified by the State Government by notification in the *Official Gazette.*	Four paise in the rupee";

(12) after curry at serial No.43, the follDWing entry shall be inserted, namely :-

1	2	3.
"45A	(1) *Jari* thread and embroidery materials of gold, eilver and gilded metal including *badla, Lasab,champa,gota* and *fultliappa* (2) *Jan* materials that is to say *badla, kasab,e ampa,gota* and *fiilthappa* not containmg gold or silver metal	Four paise in the rupee";

(13) after the enoy at serial No.46, the following entries shall be inserted, namely :-

1	2	3.
"46A	Kerosene sold tbratigh the Public Distribution System	Four paise in the rupee
46B	Kerosene	Twenty-five in the rupee";

(14) the entry at serial No.47 nhnll be deleted;

(15) in the entry at serial No.48,-

(a) sub-entry (ii) shall be renumbeied as sub-entry (iii) and in the sub-entry (iii) as so renumbered, item (e) shall be deleted;

(b) before sub-entry (iii), the following aub-entry shall be inserted, namely :-

1	2	3.
	"(ii) Processed fruits, **proceued** vegetables including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice";	

(16) after the entry at serial No.48, the following entry shall be inserted, namely :-

"48A	Lignite	Twenty paise in the rupee";

(17) afier the entry at serial No.49, the following entries shall be inserted, namely :-

1	2	3.
"49A	Low Sulphur heavy stock (LSHS)	Fifteen paise in the rupee
49B	Lubricants	Fifteen paise in the rupee" ;

(18) after the entry at serial No.51, the following entry shall be inserted, namely :-

1	2	3.
" 51A	Naphtha	Sixteen paise in the rupee";

(19) k the curry at serial No. 56,-—

ti) in sub-entry (i), the words “including newsprint" shall be added at the end;

(ii) in sub-entry (ii), -

(a) fur the word and figure “entry 6”, the word and figure “entfy 8”, shall be substituted ;

(b) the words “Slates and slates pencils and chalk **StickS**” shall be deleted;

(c) afier the words “goomenical insnuments”, the words “scientific instruments” shall be inserted ;

(20) after the envy at serial No.58, the following entry aball be inserted, namel :-

I	2	3.
“58A	Plant and Macbmmy	Four paise in the rupee” ;

(21) in the entry at serial No.61, for the word "spare", the words ”components and" shall be substituted;

(22) for the entry at serial to. 65, the following entry sball be substituted, namely:-

1	2		3.
“65	(i)	Sewing machines	Four paise in the rupee”;
	(ii)	Needles of all types	

(23) after entry at serial No.67, the following entry shall be inserted, namely :-

1	2	3.
”67A	Soap (hand made)	Fowp se

(24) in the entry at serial No. 73, after thu word “Sugar", the words “of all typea to which entry 51A in Schedule I does nut apply” shrill be

(25) after the entry at serial No. 74, the following entries Al be inserted namely :-

1	2	3.
“74A	Sweets and sweetmeats	Four paise in the rupee
74B	Tea in leaf or powder form	Four paise in the rupee”;

(26) for entry at serial No.75, the following entry shall be ted, namely :-

1	2		3.
“75	(i)	Threads, twines, stings or roaps prepared from any materials or goods or waste thereof other than those specified in entry 51B in Schedule I	Four paise in the rupee” ;
	(ii)	Sewing threads	

(27) after the entry at señal No.76, the following entries shall be inserted, namely :-

1	2	3.
"76A.	Tobacco of all types to which entry 5l C in SchodNe I does not apply	Four paise in the rupee
76B	Tools meant for use by carpenters and blacksmith	Four paise in the rupee
76C	Toys other then electronic toys	Four paise in the rupee";

(28) in the entry at serial to.78, in sub-entry (ii), fot the word 'transformer", the word "Transmission" shell be substituted;

(29) in the entry at serial No.79, the words "and parts and accessories thereof' shrill be added at the end;

(30) after entry at serial No. 82, the following entry shall be inserted, namely :-

1	2	3.
"82A	Weighing scales of ali types other than electronic weighing scales	Four paise in the rupee";

Schedule In oi new Guj. 1 of 2005.

45. In the principal Act, after SchedNe IL the following SchedNe shall be added, oBmeTy :-

"SCHEDULE III

thee **sections 7 and** 9)

GOODS, THE SALES OR PURCHASE OF WHICH IS SUBJECT TO TAX AND THE RATE OF TAX.

Sr. ho.	**Description of goods** (2)	**Retm of Tax** (3)
1.	High speed diesel oil	Twenty-four paise in ihe urge
2.	Aviation Gasoline (Duty paid)	Thirteen paise in tire rupee
3.	Aviation Gasoline (Bonded)	Tn'eoty-six paise in the ruJ›ee
4.	A•ianon turbine fuel (Dury paid)	Thirty paise in the rupee
5.	Aviation mrbine fuel (Bonded)	Thirty-eight paise in the r'-Ree
6.	Any other Ymri of motor spirit	Twenty-six paise in the rupee

Explanation. -- For the purpose of this Schedule,--

(a) "motor spirit" means,-

(i) guy inflnmmsh ie hydro-carbon (including any mixture of hydro-carbons or any liquid containing hvdro-carbons) which is capable of being used for providing reasonable efficient motive power for any form oi motor vehicle or vessel of any kind of aircrafi. and

(ii) power alcohol, that is, ethyl alcohol ot any grade t eluding such alcohol when denatured or otherwis•. treated), which is either by itself or in admixmre with any such hydro-carbon, is capable of being used as aforesaid but does not include rich form of inns m°t'1e hydrocarbon as the state Government may, by notification m the cm/ *Gazette*, specify in tkis behalf;

(b) the rate of tax in column 3 indicates that the tax on goods to which entry relates shrill be charged on the basis of sale price of the respective goods.".

Government Central **Press.** Gandhinagar.

Extra No. 28 **REGISTERED ho.** G/GñW2

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The Gujarat Government Gazette

EXTRAORDINARY

PL'BLISRED BY AUTHORITY

Vol. ML VII] FRIDAY, SEPTEñJBER 22, **2006/BTL4I1RA 31,** 1928

Sega **rate paping is** p;iyea to tbis **Part ia order** tbat it ioev **be ffIed as a** fieparare Coiopi\ation.

PART IN

lets of the Gujatet Legislature and Ordinances promulgated end regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 21st September, 2006 is hereby published for general information.

TT. D. V¥'AS,
Secfetaq' to the Government of Gujamt.
Legislative and Parliamentan Affairs Department.

OUJARAT ACT NO. **25 OF 2006.**

iTirst published. attr ha ing received the assent of the Governor in the *'Gujarat Governme ni* Gaze/fe". on the 22" September, 2006.)

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is herebj enacted in the Fifiy-seventh Year of the Republic of India as follows:-

1. (1) This .Act may be called the Gujarat Value Added Tax (Second Wendment) Act, 2006. **5berl tit}g and** °° •^°• •°

( ) The provisions of Part I of this Act shall be deemed to have come inio ft›tcc on the 10th May, 2006; the provisions of Part II shall be deemed to have come into force on the 4th Angst. 2006 and the provisions of Part III ot this Act shall come into force at once.

PART1

.Amenduient of section 2 of Guj.1 of 2005.

2. In the Gujarat \'aIue Added Tax Act, 200_, (hereinafter referred to as *the principal Act"), in section 2. in clause (27), for the record and figures "section 14", the words. figures and letters "section 14, l4A, l4B or l4C shall be substituted. Guj.1 of 2005.

.4mendment of se tico s **of Guj. 1 of** 20Q5.

3. In the principal Act, in section 9, afier sub-section (3), the í'ollowing sub-section shall be added, namely:-

" (4) there a dealer or a Commission .Agent who is liable to pay tax ur.der this Act purchases taxabl• goods from a Commission Agent to whom permission to pay *lump svm* tax is granted under section HB and the goods so purchased by' him are not resold within the Stare, then seen dealer or the Commission Ajent shall be liable to pay purchase tax on the tumor er of such purchases at the rate set out against each of such goods in Schedule II. '.

Amendment of sectiOo T I of Cuj.T OF 200S.

4 In the principal Act. in section 11. in sub-section (â), in. c!ause (c). for the w'ord and figures "settion 14". the words, figures and letters "section i 4, 14.A, l4B or I4C " shall be substituted.

.Smendmeot oF serian T# 0f Guj . i of 200S.

S. La the principal .Oct, in section lJ, in sub-section (1),-

(1) in clause fa). in th• proviso, clause (vii) shal' br dc1ct<d:

t?1 in clause (b), ter ltte w'ords, bracket and figures 'clauses (i) to (vti)," the n'ords, brackets and figures *clauses (i) to (viJ" shaI1 be subsitute*.

Insertion of se'ztio ns I4C in 200S.

6- In the principal Act. after section I 4A, the follow sections shall be inserted, namely:-

Coai posicion of taz on **agricultural produce.**

'14B. (I) onvithstanding anything contained in ihIs Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permii a Commission Agent engag•d in the bminess of agricultural produce, to pay at his option in lieu of ihe amount or tax leviable from him under this Act. /«ea *sum* tax by zoj of composition at such rate as may be fixed by the State Go 'emmeni by notification in the *O@cioi* Goze/ie.

( ) The permission to pay *iump .sum* tax under sub-section (1) shall be granted fly ihe Commissioner Io a Commission Agent who, -

(a) exclvsive!y carries on a business of agricultura! prod ace. and

(b) is licensed as general Commission Agent w itfi a maAet correitte• established unóer the Gujarat A griculturai Produce Markets PCI 1963 . Guj. 20 of 1964.

(3) The Commissioner shall not grant permission to pay *lump sum* tax under sub-section (1) to a Commission Agent who,-

(a) sells the goods in the course of inter-State trade and commerce or exports goods out of the territory of India,

(b) purchases the goods in the course of inter-State trade and commerce or imports goods from a place out of the territory of India,

(c) dispatches the goods to his branch or his consigning agent out side the State or receives the goods from his branch situated out side the State or from his consigning agent out side the State,

(d) sells the goods to a dealer who is permitted to pay *lump sum* tax under section 14.

(4) The Commission Agent who is permitted under sub-section (1) to pay *lump sum* tax shall not,-

(a) be entitled to any deduction or rebate in his sales bill or sales invoices in respect of the sales on which *lump sum* tax is payable, and

(b) charge any tax under this Act in his sales bill or sales invoices in respect of the sales on which *lump sum* tax is payable, and

(c) issue tax invoice to any dealer who has purchased the goods from

(5) The Commission Agent who is permitted to pay *lump sum* tax under sub-section (1) shall be liable to pay purchase tax leviable under sub-sections (1), (3) and (4) of section 9 in addition to the *lump sum* tax under this section.

(6) The permission granted under sub- section (1) shall remain valid so long as the provisions of this section and rules made in this behalf are complied with; and in case of breach of any of the provisions of this section or the rules, the Commission Agent shall be liable to pay tax under sections 7 and 9 for the entire turnover during the period for which permission was granted.

Composition turnover of right to use goods.

14C. (1) The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit a dealer referred to in sub-clause (h) of clause (10) of section 2, to pay at his option in lieu of amount of tax leviable from him under this Act, *lump sum* tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official*

(2) The provisions of Sub-sections (3) and (4) of section l4 shall apply *miitctis mutandis* to a dealer who is permitted nder sub-section (1) to pay *lv mp swim* mx by 'ay of composition.

(3) The permission Granted under sub-section (1) shall remain -alid so long as the provisions of this section and rules made in this behmf are complied wiih, and in case of breach of any of the provisions of this section or the rules, the dealer shall be liable to pay iax under sections 7 and 9 ior such tax period as may be prescribed.".

Aeiendnaenl of section 3i ct Guj. 1 0* 2005.

7. In the principal Act, in section SI. in sub-section (2), for the • ord and figures "section 14", the words, figures and levers "section 14, l4A, 14B or l4C" shail be substituted.

Amendment of section 41 of Guj.1 of 2005.

8. In ihe principal .Wci. in section 4l. in sub-section (I). for the words "inequitai›le situation", the words "inequitable situation or tor sufficient and reasonable cause" shall be substituted.

zmendrueni of Guj.1 of 2003.

9. In the principal Act, in section 60, in sub-section (1), in ihe proviso-

(i) in clause (b), for ihe word and figures "section 14", the v ords. fgures and levers "section 14, l4A, 14B or l4C ' shall be substituted;

(ii) in clause (c), the word "or" appearing at the •nd shall be deleted:

(iii) in clause (d). ihe word " or" shall be added at the end,

(ii) añer clause (d), the following clause shall be added, namely.-

" (e) in such other cases as the 3tate Government may. by notification in the *Official Ga•ette,* specify.".

amendment ofsectiou64 2005.

10. In the principal Act, in section 64,-

(1) for if e words "eight years", the ords "six years" shalt be substituted:

(2) the following proviso shall be added namely.

" Prosided that where the dealer is a part' to an appeal or rev ision under this Act, h• shall prcser›'e the books Of accounli and the records pertainim to the subject maiier ct suein appeal or rev'ision uniil the appeal or re ision is finall* dispersed of.".

J1. In the pr ncipal .Oct, in section 98, afier sub-S*CI:On t2). Ih• fol1on •s sub-section shaft be inserted. namely. **Aa'iendment of section** 98 of Guj. l of **200ñ.**

" (2A4 Ant rule made under this .Oct, may be .aöe io as to hai e retrospective effect.".

PART II

12. In Re principal .Act, in Deci.on 2. in. clause i2ï), for the figur•s. letters and nord '14B or l4C ', th.• figures, lema and v-or4 ' UB, 14C or I 4D ' shail be subsiioated. Amendmentof **S@ÙOn** 2 of **Guj. 1 of 2005.**

13. In tñ• F •cipaI Act. in section l ! , in sub-section (5), in clause (c), for the figure. letters n.d word '14B or 14C", the *se^es. letters and word "14B, 14C or
14D" shall be Substituted. .4men dment of **section 11 of** Guj. 1 of 200i.

l4. Ln tbe principal .Act, after section 14C. the folio and section shall be inserted, namely :- **Iosertion of new section** 14D ia Guj. I of 2005.

Co si posltlo Ft of taa on **sales of** earables by botels, resta arants, eaterers, etc.

"14D. (1) otn'ithstanding= anything con:ained in this Aci. ihe Commissioner may, in such circumstances an5 ;u*ject to such conditions as may be prescribed. permit a Sealer › ho is enraged in the business of sa‹e of eatables in an ' form (v:hether processed or unprocessed) served. delivered or giv en in package from the place of business of the dealer or any other place, to pay at his option in lieu of the amount of tax leviable from him under ihis .Act in respect of sales of eatables, *funny sum* tax by waj of composition at such rate as may be feed by the State Government by notification in ihc *Official*bra.-rtle.

Provided that the Commissioner shall not grant permission to pay *lump sum Wr to* a dealer who is engaged in the activity **of manufacture of** such goods as the State Goverrirnent may. by notification in the *O icia‹'* GoJ9f/e, SpeC1 *.

(*, T*c proc isions of sub-securer.s (3) arid (4) o*s.•ct1or 14 s*ali app!y *mutatis mutandis* to a dealer who is permitte‹i under sub-section (1) to pay *lump sum* tax by v•ay of composition.

(3) The permii›ion granted under tub-section. (l, sha:n remain valid so long as ihe provisions of this section and rel°s made in this behalf in complied wi:h; and in case of brenh of a.nj of th..• provisions of this section or the rules. the dealer sha'l bC]iable to paj tax cds sections 7 and 9 for such in period as may be prescribed.

Explanafion. - For the purpose of ihis section, the word ea1ab!es" w*eans* ail kind of foods for the pum,ose of° consumption including all npes of alcoholic an5 non-alcoholic beverages. ater (mineral, purified or aerated) and .SOda w'ater, ice-cream and W/Ji, Sneers and sweeimeats. fruits and fruit juice. al. ty pes of milk prepamtiom, bakery products and such other goods as the State Go .: ent maj, bj order. specify.".

:i «a ‹ of * "°• ** °* Guj.1 of 2005.

Is. In the principal Ac'. in seciion 31. in sub-section (2). for th.e ii¿•ures. letters md word " 14B or l4C . the figures. letters and u ord I4B, ! 4C or l'4D siiall be substituted.

Amendment of $6fitfQn dO Of G °"'"'

16. In ihe principal Act. in section 60. in sub-sect:on (1), in the proviso. in clans.• th). for the figores, levers ar.d word 1 4B or 1†C . the figures. letters and z'ord " 14B. 14C cr I'4D sha'I be substituted-

PART III

Amendment of section 11 of Guj.1 of 2005.

17. In the pt ncipel Act. m section 1 1. in sub-Section (3). lo clause (o). the iollosv'nd pray.so shall be inserted. namely :-

"Proi'iñed thai wh•re the ra*e of tax of the taxable tooss consigned or dispatched by a dealer fo i›rancb iranster or to his a ent outs*dc the State is less t'oan four per cent.. then tire amount of tax credit in respect ot *4utY* dealer shia'l be reduced by th.e amount of tax calculated at the rate or cx sei out in the 8cheñul• on such goods on the turnover OI li£chases.".

.Amendment of 9 of Guj.1 of 2005.

18. In the principal Act in sec'ion 29, acer sub-s-•ctioi] (2). the Carlo wing sub-section sñali be inserted, namely :-

(iA) The Commissioner may. in such circumstances and on such terms an5 condiiIo£ls as may be prescribed. extend the date of furnishing t;ne rem bi and dearer or class of dealers.' .

.tin admert of section 30 of Guj.1 of 208S.

19. Ia the principal .Ac*, in section o0, after snub-section (2), be Foi'ovs ing sub-section snal! be inserted, namelj' -

i2A1 The Commissioner may, in such Circitmstances and on such terms and condition as may be prescribed, extend in respect of any dealer or cPass of dealers, the date of payment of tax payable by' the dealer according to his return.' .

p•• ••8 "'°•'

211. (1) The Gujarat \"a1ue Adñe4 Tax (Second Amendment) Ordinance. 2006 and the Gujarat Value .Added Tax (Third .Ymendmeni) Ordirnce. ?006 are hsr+bj repealed.

Gq.O .1o I0Od, CQ.OF2Oi

(2) Serv."'hstm•.*!*g such repes!. znyt.h'ng done cr and action taken Ser tii• principal Act, as amended bi ihe said Ordinances shall be deemed to have been done or taken tinde= the principal .Act. as amended by this Act.

Governm€nt enlral Press, Gandbinagar.

Extra No, 11 **REGISTERED No. G/GNR/2**





The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLVIII] FRIDAY, MARCH 30, 2007/CAITRA 9, 1 29

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

Acts of the **Gujarat** Legislature **and Ordinances** promulgated
and Regulations made by the Governor.

Thc following Act of the Gujarat Legislature, having been assented to by the Governor on the 3O[th] March, 2007 is hereby published for general information.

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 10 OF 2007.

(First published, after having received the assent of the Governor in the *"Gujarat Governmeat I Gazette",* on the 30[th] March, 2007).

AN ACT

fiirther to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows:-

1. (1) This Act may bc called the Gujarat Value Added Tax (Amendment) Act, 2007. **Sbort title aad commeocezaegt.**

(2) This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification in the *Official Gazette,* appoint,

€iuj.1 or Z00S.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred < to as "the principal Act"), in Schedule I, the entry at serial No.51C shall be deleted. **Schedule I to** GujJ of 200

3. In the principal Act, in Schedule II, the entry at serial No.76A shall be deleted. Amendment of **Schedule** O to Gu].1 of 2005.

Government Central Press, Gandhinagar.

Extra No. 9 R$?GISTERED No. G/Ghz

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EXTRAOROINAItY

PUBLISHED BY AUTHORITY

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PART IV

AcLs ‹›ltüc €?ujarct Le Lsleterc und Ordiaan-es promulgated

C fotI•›\'in Act nf the Gujarat Legislature, hn\'ing been assented tn b}' the €iovcrnur on thc 2'J™ lsrch. 2008 is hcrub\ puhli.shcd I‹›r general information.

H. D. SN'.4S,
Secretary to lhc Government of €iujaral,
I,epis1ative und Parliamentary At'fair';

€iLJ.IT ACT hO. 9 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is he-tcbj cI\aCtcd in rhc £ift¿-ninth Year uF the Rcpub!ic of lndi as follows:-

1. (I) This .\ct n at be called the Gujarat \' Luc 'Added 'Fax (.'\mendmLnt) Séort uiA aed Ac1. 2008.

(2) It shal1 come into forcc on the 1" Apri1, 2008.

Amendment of Section 2 of Guj.

2. In the Gujarat Value Added Tax Act, 2003 (hereinaflcr referred tn as 'be principal Act"), in section 2, - **Wuj. T oF 2005.**

(1) before **clause** (1), the following **clmise** shall be inserted. namely

(I.a) additional ta.x" means the aridditionai tax leviabic and payable under sufiiotlion (lA) of section 7 or sub-section (6) of section

(2) after clause (36), the following clause shall be inserted, namely :-

"(3†) "zern raiod sale" means a sale of goals by a rcgistcmd dealer to an‹;›tiiet registered dealer on which tJte rate of tax levaable shall be Zf•m bu1 tax Gredil OD life plliVhfi5c related 10 lhat sale iS admissibk."

Insertion of new section 5A in Guj. 1 of 2005.

3. In the principal Act after section S, the God(owin• ac\ion shall he inserted, namely:-

Zero rated sale.

3A. The following sale shall bc zero ratod saJo for the purpose of thus .act and tax cmdit on the purchase related 1o such saie shall be allowed subjec: to such eruditions as may be prescribed:-

(1) Saie of govxls io the Develop or Co-developer uf Special Economic done as ‹kfincd in the Gujarui Special Economic Zone Act. 2004. or G@ 1 of **2004.**

(2) mlc of goods to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone md approved as such by the Appreval Committee as defined in the tiujarai Special Economic Zone Act, 2004: **Guj. 11 of** 2004.

Provided rhat dae ssle o£ goods spcciGod in Schedule III **shall n6t be zero rated sale:**

Provided further tiiat the sale of certain goods or sale of goods by any dealer or class ot' dealers as may A specified hy the State I ovemment by notification in ihe *Official Gaz«ii«,* shall not be zero raied sale.".

Amendment of section 7 of Guj.

J. In tic pñncips! 7tc\ in s#dion 7. pRer subs#cGon (1), the foHovWMg suMiiocsbalMinxded,namW?:-

"(I A) subject to the pax isieris of lltis Act, they shall be further levied an additional tax os the unmoved of sales of goods liable to be la.xed under suhsociion (I), ai the rate of-

(i) two and haif prise in the rupee on the goods specified iâ the courtes at serial numberi 25, 4bB, 48A; 49A, 49B, 51A and 87 in ScheduJe

(ii) one paisa in the rupee on the goods specifieô in the entrées in Schedule II other than 'the entrées mentioned in clause (i) above :

Provided that the additinnal iax'shall not be levied on the sale c'f, -

(a) goods declared to 'be of special impouancc in section 14 of the Central **Sales Tax** Act, 1956;
7a ef 1g56.
(b) goods specified in eiitry ât serial iiurfiber l3 in Schedule II; and
(c) such goods as the State Government may, by notification in the *Oficial* Gazeife, specify.".

Aoiendæmt af section 9 of Guj. l of 20H

5. lv the principal Act, in section 9, afler sub-section (4), the following subsections shall be inserted, namely:-

"(i) Where a dealer liable to pay tax under this Act purchases taxable goods sale of which is zero mted undet section SA and the go'ods 9o purchased by him am -

(i) consigned or dispatched for branch transfer or to his agent outsidc the State,
(ii) usgd as raw materials. in the manufacture or in the packing of goods so dispatched outside the State in the. course of branch transfer or consignment or to his agent outside the State,
(iii) itsed as Tel for the inanufectuâ of goods,
(iv) used as raw mâteriñle or capital goods in manufacture of goods specified in Schedüle l or'goods exempt ftom the whole of the tax by a notification under sub-section (2) of section 5 or in the piling öfgoods so'manufactured,
(v) H @ fugl OU cfl ftal gOOds i• 8 DràÛon of electrical energy including captive power,
(vi) not connecteö with hip business,
(vii) used as fiieÏ in mötor'vehic1ês,
(viii) usod as capital goods in transfér of property in goods *{whethu* es goods ot in some other form) involved in execulion of works contract,
(x) useö lot transferfing the right to se fot any purpose (whether or not for a specified perioö), lot cash, deferred payment or othcr valuable considerations, or
(x) used for any otber purpoœ as may be specified by the State Govemm'ent by notificatioù' in the 0 ciel üaaei/a,

then such dealer shall be liable tu pay purchase tax on the tumover of such purchases at the ratc set out against each of such goods specified in Schedute II.

(6) Subject to the provisions of this Act, thcru shall be f» thur denied an additional tax on rhs tuznovcr of purchases of goods liable tu be taxed under sub-section (I). (2). ‹3}, (4} or (S}, at the zate of -

(i) two and half paise in the nipoe on die goods specified in the curries at serial numbers 25, 46B, 48A, 49A, 4')B, 5.1A and 67 in Schedule *II,* and

ii) cone paisa in the rupee on the gocds s ificcl in rhc entries m Scfic^dule II c›thcr rlzan dic **cnwics** mezztioncd io clause (i) abo\'c :

Pfovidcd tluit the additional tax shall not be levied on the purchase of. -

(a) goods declared to be of spccinl importance under s<viion 14 of "the *C nool* SaItrs 'tax AcL *! 9Sb:* 74 eJ' IS5¥.

(b) guuds cpccifioJ in cutry at setiap numbs T* in Schedule II: and

(c) sHch gooJs as the State C}ovcrument n›ay, by notification in the G@rio/ Cozs7fe, specify.".

Amendment of 1 of 2005.

6. In the principal Aci. in section 1.1, -

(I) in sub-section (1), in clause (a), in sub-clause (ii), loi the words, brackets and figures "sub-section (I) or {2)", ihe words, bracficis end figutm "suh-section (1 j, t2). (5) or f6l" shall be sufititutcE:

(2) in sub-section (3) in clause {b) and in the pros4so to clause tb1, for ihc words '3umo• er of purchases", the words "taxable tumor cr of purchases within the Siate" shall be substituted;

(3) in sub-section (S), the existing paragraph below clause (p) shall be numbcn.fi as paragraph (I) and after pamgraph (I i as so numf›<rcd, the foliowirtg parasmphs shall be inserted. namely:-

"(II) Notwithstanding anythi rig contained in clause (d) or (dd) in this sub-section and subject in such coedilions and in 'rocb manner as may be prescri *s* rcgisicred 0ea]er shall be allowed to claim tax crvdit ter the taxable goi›ds held in siock c•n the datn of ic@strntion v hich arc purchased ofier 1" April. 2008 auto during the ptriod of nnc year ending on 11ic date of registration.

HH) hote:thstanding anything contained in clan (rim) in ihis siih-a*tion and subject to such conditimis arid in such manner as mny t›c prescribed, a r yistere4 dealer, whose permission to pay lump .scsi tax under section 14, -

(a) ts no longer s alid on account of iotal turnover exceeding nipecs fifiv fat.b or

(b) is cancelled on rcqu‹;s1 by sucll dealer,

and becomes liable to pøy tax undct section 7, shall be allowed to claim tax c xiii for the **able goods** held in s•mk which xre purchased after ‹" April. 2Œi8 and timing LV pØiod of one year ending on the dale of liability in pay ux under Section 7.".

'7. h1 the prim\cipaI Act, in sccrton 14,- of cccdea IN eFCuj- of 2005.

(u) in sub-section (I), in claase (a), in c^:e proviso, -

(i} b«tõre ihc worts @ xhBs•s &c goods", Ac wnrds "kas purckas‹xI iø ótc previous year or" shall be insett

(ii) before the words "imports", the words "ftar iW OIIØÕ LV the previous ycar or" ?•haIi be melted;

j2) in c}nuse (iii), before the xvords '4ccgives ike goo4x". kic worAs "has wisved in thc prev'ious)'ear or" Shall ill Inseire‹l;

(3I in clause {iv), before the words "‹r.igaSed in rhc", the words 'has engaged in the previous 3'ear or" shall i•c inserted:

(4) ir1 clausg {v). bcfore the words "effects the sales", the woràs "has effccued in the previous yeat ot" *shall* br inserted,

(b) m **sub-scction** t4), for the ø , brackets and figures purchase tae lcviable under sub sœtions (1) and (3 j", be words, brackets and figures "tax łeviable under sub-stctioøs t1). (3) and i6)" shall be substituted.

8. L be principal bet, in scstiun i4B, in sub-scction (ñ). for thc words, brackets an¢I fibuzes "sub-sectiDns (I), (3} ark (4) of section 9", thu words, brzckccs and Ggurcs "sub-secrioos (I), (3), (4) and (6) of s<crion 9" sball be substituted. Amendment of jetties l4 B ct **Guj. 1 of 2005.**

9 1nMcpúnbpa|Am1nsocdon69B,- **Amendment of sørt&ø S9B ef** Gu}. I of zØt5.

(J} in sub-section {3), in cÏauSeS (a) 8rtd (b), ft›r Lhc vmds "equal to two paisc in a nipec", the wonJs "at tbe date as may be specified by the State Govemm iI by r+ottficaóon in tI+c *icial Ameue"* shell

‹2j su&s<c‹iœ(t3) shall b«dd«tot

lfi. In ihc principal Act, in Schedule I, in the entry at serial No. 23, the suh- eøøy (ü) shall be deleted. **Amendment of Schedule I to Guj. 1 of 2005.**

in the brins *Game.* spccify undci'su section (IAM of section à". sliall be add‹xl. .*ÿ..

yqt qt sert:«ri 3 et Guj. 21 of **2001.**

3. in the principal Aci, in section 3, after sub-sœmori 111. ue follo iny - sub-union shaft bc inscrtcd, namcly:-

"(I .'\) Subject **to such** conditiœzs as ii **msy impose. rhc State** €iov'cnmcni may. if ii is necessary so to do in the public interest io redrcss an inoquitablc siniatipn or for suflicieiii and reasonablc causc for rcmov ing discFfiltf naÎ iOn bclv''eef\ gO0dS entcffnŞ lnto tale l0Cal **lift** ffom any p laCc ouisidc the State but noi being a place ouiside the tcrriu»y of the Uninn of India, for cnnsumption, use nr sale themin and gpmis irianufaciuted or produced in the Siatc, xpecify by notification in ihc OJcioJ G«rene, siich other goods as the spccificfi gpods.".

Subttimiiea of EchedaJe to Guj. 22 of **2001.**

4. In the principal Act, for the exisling Schcdule, thc followiiig schedule shall bg Substituted, nazneIv:- "

"SCHEDULE

(.See sections 2(£) and 3)

Sr. No.	Specified Üœds.	Maxi rale pFTax.
1	2	3
1.	for › chicln mcludingchassis of Quoi vehiclm anü the bnüy which is buiTt on ch_assisof motos vchiclcs.	Twenty per cent.
2.	Comcnt.	Twenty per cent.
3.	Marbles orGramte(raw or pol cd).	Twcniy phr cent.
4.	*Kota* stones.	Twenty per cent.
5.	Naphtha.	Twenty per cent.
6.	Light Diesel Oil.	Twenty per cent.
7.	High Speed Diesel Oıl.	Twenty-five per cent.
8.	Y of all types ÎÉctpt Nylon Yann, Polyester Viscose Yaru and Cniton Yann.	Twenty per cent.
9.	Such other goods as may be specified by the State Government by notification in the *Official Gazette.*	Twenty per cent.".

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

Extra No. 13 REGISTPIRED No. £i/GNR/2

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सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PL&LISltED BY . UTHORJTY

Vol. L] J'tIUiISDAY. IU cY 30, 2009/SRAVANA 8, 1931

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IN'

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the (iormor on the 29" July, 2009 is hereby pubiUcd for pencrai iaformat•on.

Secretary to the Government of Cñijarat.
Legislative and Parliamentary Affairs Department.

€IUAAAT *IT NO. 12 OF2RN.

(First publish L afier haxfig n.*ei* ed the assmi of the Cios wrior. in the *"Gujarat* Gov*t ment* Un#ette." oe the 3H hily, 2009).

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Sixticih Year of the Republic of India as follows:-

I (I) Tims **Act may be catI<d 0x• Gujamt Yâluc Added** Tax (Amendment) Act, 2009. ^ •W ”'^' ”*

(2) Ii sha)l inio home on ibe I' August. 2009.

* •• ^ t °* section 29 of Guj. 1 of 2005

2. in the Gujamt Value Added Tax Act, 2003 (hemirud'u•r refered to as 'the principal .Act"). in section 29, in sub-section l5 .- Guj. 1 of 2005.

(iJ for the v•'vrAs a sum of ntpees one hundred per mnnth or pan thereof for the default period", the words "such sum as may he prcscrif<d but not c xccedin* rugs ten thud per iuium" shall be substituted;

‹ n) lor the words The penalties specified", the »'ords The penalties prescribed" shall be substituteci.

Amendment of Hi u.I of 20 IS.

s ". A ds ». ‹ e› c‹ ec nj shall be subst .c fnr Elj€

amendment ct 4. In it principal .dcl. in section s9B, añcr sub-section {4 . the '° '9B o' IoTlnwiny Huh-auctions shall be inserts namely:- fiuj. I pf 20QS.

(J,\) 1.very' person referred to in close (a) or, as the case may lx . clause ib) ot' sub-section (S) tcsponsi ble for peeing specified sale price, shall within the prescribed time limit ‹type in the Form as may bc prcscñbtW, lm the Vummissi‹ncforafotmtnfofaTaxUrducflon/Wrutm{ Kumbcr (TDN). Tbc Tax Ooctumioo Account humbcz haj] Inc quoted ‹n such documents, stattmenrs wjd rctums

(4B) If the Commissioner is satisfied thai a person v•ho is liable to obuiin Tax Deduction Account Number under sub-section (4A) has failed to obtain To tlfiuction .Account Number without reasonable cause, he shall direct the person to pay, by way of penalty, a sum not cxcce&ng rupees tcn tbousaod aftei giving the perso t an t›ppormnity of being head.".

*^ ** section 63 of Guj. 1 of 2005.

5. In the principal Act, in section 63, in sub-section (1), for the w'ords six months", the costs "nice months" shall be substituted.

A• •a4-•°' 1 Scbtd•l< u ie

6. In the principal Act, in Schedule IJ, -

(l) ttte entry at serial to. 9 sbatf be deleted;

(2) the entry ai serial No. 18 shall be deleted;

(3) in the entry at serial No- 28A, for the sub-entry (i), the following sub-entry shail be substituted, nam -

1.	2.	3.
28A.	(i) Drugs, medicines and vaccines including bulk drugs but excluding- iJ i food and dietary suppiemcnts inc hiding ftit4(IS tOF spec ihl dietary (ni cosmetic› and toi let jrtparotions including tt›oih pa*c. :r›oih po vdcv, fair oii. lice and b‹›ij It iioas xnd Grvarn. erms.	Four paise ii rupee";

(4) for the entry at serial No.45, the following entry shall be substituted, namely:-

1	2	3
"45.	IT products as may be specified by the State Government by notification in the *Official Gazette.*	Four paise in the rupee";

(5) in the entry at serial No. 61, the following *Explanation* shall be added a1 the vod. namely:-

'Exptonarion.- Fur the remoi'ai of doubt ii is clarified that 'tie rcmcv. able energy devices and comjx nents and pans Wreof 3o nt›t inclMc batlv cpDWl vchicle nnd equipmcnl-S ot

7. In ihc principal Aci, in Schedule HI, in the entry at serial No,6, in colnmn 2, ufter the words "Any other kind of moior spirit", Lhe words "rxcJuLiinjz na«al gas and liquefied pc\zoleum gas" shall b-e •d.

Amendment of Schcauie iI I to Guj•I of 20£fS.

Extra No. 4 REGISTERED No. G/GNR/2

सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LI] WEDNESDAY, MARCR 31, 2010/CAITRA 10, 1932

Separate paging is given to this Part in order that it orgy be filed ma a Separate Compilation.

PART IV

Acts of **Gujarat Legislature and Ordinances** promulgated **and Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the **31'March,** 2010 is hereby published for geneml information.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 4 OF 2010.

(First published, after having received the assent of the Governor, in the *"Gujarat Governmem Gazette, "on* the 31'March, 2010).

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Sixty-first Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Value Added Tax Short title (Amendment) Act, 201'.

commence-ment.

(2) It shall come into force on the 1st April, 2010.

<• - »* mk 2. hi the Gujarat Value Added Tax Act, 2003 (hereinafter referred Amesd»i•ut to as the principal Acts, in section 7, in sub-section (IA), in clause (i), for the figures, letter and word "51A and 87", the figures, letters and word "5lA, 76A and 87" shall be substituted.

of section 7 of Guj. 1 of 2005.

Amendment of section 9 of Guj. 1 of 20tl5.

3. In the principal Act, in section 9, in sub-section (6), in clause (i), for the figures, letter and word "51A and 87", the figm•es, letters and word "51A, 76A and 87" shall be substituted..

Amendment of Schedule M to Guj. 1 of 2,,,

4. In the principal Act, ix Schedule II, after the entry at serial No. 76, the following entry shall be inserted, namely :-

1	2	3
"76A.	Tobacco of all types and tobacco products such as ***bidi,*** cigarette, *gutkha, pan masala,* snu@contai.ring tobacco.	"Seventeen and a half *paise* in the rupee.".

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

Extra No. 4 REGISTERED No. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LII] WEDNESDAY, MARCH 30, 2011/CAITRA 9, 1933

Separate pagiag is given to tbis Part ia order tbat It ittay be filed es a Sepsi ate Compilotioa.

PART IV

Acts of **Gujarat** Legislature and **Ordinances** promulgated and Regulations made by the Governor.

'the following Aci of the Gujarat Legislature, having been assented to by the Governor on the 30° March, 2011, is hemby published for general information.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 4 OF 2011.

(First published, after having received the assent of the Governor, in the *"Gujarat Government* Galerie."on the 30' March, 2011).

AN ACY

further to amend the €ujorof *Vatue Added Tox Acl, 2003.*

It is hereby enacted in the Sixty-second Year of ltte Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added Tax 5hort title dna (Amendmeni) Act, 2011. €°°'°●°●●^°^

(2) It shall come into force on the 1st April, 201 I.

»«‹»a«» °• 2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred c•i. i »rres.
section 7 Of G uj. to as "the principal Act'3, in section 7, in sub-section (1 A), in the
1 of 2005. proviso, item (a), shall be deleted.

Amendnieni of 3. In the principal Act, in section 9, in sub-section (6), in the
SnCtion 9 ° proviso, item (a), shall be deleted.
Gu.1 of 2005.

Amendment of 4. In the Ciujarat Value Added Tax Act, 2003, in Schedule II, in the Cuj.1 ef 2nflS.
>*<*e* °* entry at serial No. 76A, in column 3, for the words “Seventeen and a half
G , ' 8'"5, paise in the rupee”, the word "Twenty-two and a half paise in the rupee”
shall be substituted.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.

Extra No. 9 EGISTERED No. G/GNR/2

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The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LIV]_ SATURDAY, MARCH 30, 2013/CAITRA 9, 1935

Separate paging is given to this **Part in** order **that it may** be filed as a Separate **Compilation.**

PART IV

Acts **of Gujarat Legislature and Ordinances promulgated and** Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 30t'' March, 2013, is hereby published for general information.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 9 OF 2013.

(First published, after having received the assent of the Governor, in the *"Gujarat Government Gazette"*, on the 30° March, 2013).

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Sixty-fourth Year of the Republic of India as follows:-

short title and commencement.

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2013.

(2) It shall come into force on the 1st April, 2013.

Amendment of section 7 of Guj.1 of 2005.

Guj.1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in section 7, in sub-section *(IA)*, in clause (i), after the words "serial numbers", the figures and letter "19A," shall be inserted.

Amendment of section 9 of Guj.1 of 2005.

3. In the principal Act, in section 9, in sub-section d , in clause *(i)*, after the words "serial numbers", the figures and letter "19A," shall be inserted.

Amendment of section 11 of Guj. 1 of 2005.

4. In the principal Act, in section 11, after sub-section *(7)*, the following sub-section shall be inserted, namely:-

"(7A) Notwithstanding anything contained in this section, in no case the amount of tax credit on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into Government treasury:

Provided that, where purchase tax is shown as payable in the return by the claimant dealer on the purchase of the said goods effected by him, it shall be deemed to have been paid into Government treasury for the purpose of this sub-section:

Provided further that, where the tax levied or leviable under this Act or any earlier law is remitted or to be remitted or, deferred or is deferrable under any tax incentive scheme granted by the Government of Gujarat, then the tax shall be deemed to have been paid into the Government treasury for the purpose of this sub-section.".

Amendment of section 14 of Guj.1 of 2005.

5. In the principal Act, in section 14, in sub-section (1),-

(i) in clause (a), for the words "fifty lakhs", the words "seventy- five lakhs" shall be substituted;

(ii) in clause (b), for the words "fifty lakhs", occurring at two places, the words "seventy-five lakhs" shall be substituted.

Amendment of section 34 of Guj.1 of 2005.

6 In the principal Act, in section 34, after sub-section (8), the following sub-section shall be inserted, namely:-

"(8A)(a) During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess tax credit has been claimed by any dealer in respect of any period or periods by not recording or recording in an incorrect manner, any transaction of sale or purchase, or that any claim has been incorrectly made, then in such a case notwithstanding any notice for assessment has been issued under other provisions of this section or any other section of this Act, the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, initiate assessment of the dealer in respect of such transaction or claim:

Provided that where such proceedings are under section 73 or section 75, the prescribed authority shall transfer the proceedings relating to such transaction or claim directing the concerned assessing authority to assess the dealer in respect of such transaction or claim:

Provided further that the prescribed authority shall, notwithstanding anything contained in section 17, be deemed to have the requisite jurisdiction and power to assess such dealer in respect of such transaction of sale or purchase or claim, covered by clause (a) and such assessment proceedings shall, for all purposes of this Act, be deemed to have been transferred to such authority.

(b) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings in respect of the said period or periods under any other provisions of this Act by any authority who otherwise has the jurisdiction to assess such dealer in respect of other transactions of sale or purchase or any other claim.

(c) The assessment under this sub-section shall be made separately in respect of the transaction or claim relating to the said period or periods to the best of the judgment of the prescribed authority where necessary and irrespective of any assessment made under this sub-section, the dealer may be assessed separately under the other provisions of this section in respect of the said period or periods:

Provided that, once the dealer is assessed under this sub-section, no tax from such transaction or claim and penalty and interest, if any, shall be levied or demanded from such dealer, at the time of assessment to tax under the other provisions of this section in respect of the said period or periods relating to such transaction or claim.

Explanation.- For the purpose of this sub-section, "prescribed authority", "the said authority", "such authority" and "any authority" shall mean, the Commissioner or, as the case may be, the authorities appointed under section 16 and other officers or persons to whom the Commissioner has delegated his power in this behalf.".

Amendment of Schedule II to Guj.1 of 2005.

7. In the principal Act, in Schedule II, -

(1) after the entry at serial No. 19, the following entry shall be inserted, namely:-

1	2	3
"19A	Cigarette made from tobacco.	Twenty-seven and a half paise in the rupee";

(2) in the entry at serial No. 41, after the word "DEPB", the words "carbon credit" shall be added;

(3) in the entry at serial No. 76A, the word "cigarette" shall be deleted.

Government Central Press, Gandhinagar.

Extra No. 5

વાર્ષિક લવાજમનો દર રૂા. ૩૫૦૦/-

सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. LVII] THURSDAY, MARCH 31, 2016/CAITRA 11, 1938

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 31 March, 2016 is hereby published for general information.

C. J. GOTHI,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 5 OF 2016.

(First published, after having received the assent of the Governor, in the *"Gujarat Government Gazette",* on the 31st March, 2016.)

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Sixty-seventh Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added TaX (Amendment) Act, 2016. short title and commencement.

(2) It shall come into force on the 1st April, 2016.

Amendment of section 7 of Guj.1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafier referred to as "the principal Act"), in section 7,- **Guj.1 of 2005.**

(l) in sub-section (IA), in clause (i), for the figures, letters and word “l9A, 25, 46B, 48A, 49A, 49B, 5lA, 76A and 87”, the figures, letters and word “19A, 25, 46B, 48A, 49A, 49B, 49C, 51A, 55A, 76A, 80A and 87” shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) The State Government may, by notification in the *Official Gazette*,-

(i) reduce the rate of tax specified in Schedule II in respect of any entry (or part thereof) of the said Schedule II and may, by like notification, omit or amend any entry (or part thereof) of the said Schedule II but not so as to enhance the rate of tax in any case and thereupon Schedule II shall be deemed to have been amended accordingly;

(iij add to or omit from, or otherwise amend or modify Schedule III so as to levy tax on the basis of price, weight, volume, measurement or unit, or reduce or enhance the rate of tax payable in respect of any goods specified in Schedule III and thereupon Schedule III shall be deemed to have been amended accordingly.”.

3. In the principal Act, in section 9, in sub-section (6), in clause (i), for the figures, letters and word "19A, 25, 46B, 48A, 49A, 49B, 51A, 76A and 87", the figures, letters and word "19A, 25, 46B, 48A, 49A, 49B, 49C, 5lA, 55A, 76A, 80A and 87" shall be substituted.

A»endmen‹ of **section** 9 of Guj.1 of 2005.

4. In the principal Act, in Schedule I, for the entry at serial No. 50, the following entry shall be substituted, name1y:-

Aai‹ndment «r **Schedule** I to Guj. 1 of 2005.

Sr. No.	**Description of goods.**	**Conditions and exceptions subject to which exemption is** granted.
1	2	3
"50	Salt other than salt specified under entry 42A of Schedule II.	The purchaser shall give a declaration that the salt purchased by him covered under this entry shall not be used for the purpose as specified under entry 42A of Schedule II.".

5. In the principal Act, in Schedule II, -

Amendment of Schedule O to Guj. 1 of 2005.

(I) after the entry at serial No.49B, the following entry shall be inserted, namely:-

Sr. No.	**Description of goods.**	**Rate of tax.**
1	2	3
"49C	Luxury cars, luxury SUVs and luxury two wheelers.	Seventeen and a half paise in the rupee.";

	Explanation.- For the purpose of this entry, "luxury car or luxury SUV" means a car or a SUV with price more than rupees fifteen lakhs and luxury two wheeler means a two wheeler with price more than rupees two and a half lakhs.	

(2) after the entry at serial No.55, the following entry shall be inserted, namely:-

Sr. No.	**Description of goods.**	Rate of tax.
i	2	3
"55A	*Pan masala.*	Twenty-two and a half paise in the rupee.";

(3) after the entry at serial No.80, the following entry shall be inserted, namely:-

Sr. No.	**Description of goods.**	Rate of tax.
1	2	3
"80A	Motor vehicles (except school buses, college buses, passenger buses and goods carrier trucks) sold to companies, firms, HUFs, Societies, institutes, associations of persons or bodies of individuals whether incorporated or not, clubs, trusts, Government departments, Government undertakings Boards-Corporations, local self-Government bodies and artificial juridical person.	Seventeen and a half paise in the rupee.".

Government Central Press, Gandhinagar.

Extra No. 26

વાર્ષિક લવાજમનો દર રૂા. ૩૫૦૦/-



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PART IV

Acts of Gujarat Legislature and Or‹linances promulgated and Regulations made by the Go› crnoi .

The follow'inp Act of the Gujarat Le*islature. ha› in‹_ been assented to by the Governor on the 17" S(ay'. 20.1.7 is her ebj published for ucneral information.

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Secrctary to the Go ernmeni of G ujai at,
Legislatin e and Parli-umentarj A ffaii-s Dcpartnient

€iU.IARAT ACT NO. 26 OF 2017.

(First piibl ished, after ha› irish receivecl the ass-.nt of thc Gene cm or. in the *"Giijai cit* Goi'eruineui *Gem-e tte".* on the 9"l June. 2G1 7).

AN ACT

further to amend tire Gujarat Value .(dded ha›. Act, 20G3

It is hereby enacted in the Sixty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2017. **Short title and commencement.**

(2) It shall come into force on such datc as the Sta:e Cove rnnicnl may, by notification in they (9 /c/ // (iri c //r . appoint.

Amendment of long title of Guj.1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in the long title, the words "or purchases" shall be deleted. Guj. 1 of 2005.

Amendment of section 2 of Guj.1 of 2005.

3. In the principal Act, in section 2,-

(1) clauses (1), (l A) and (2) shall be deleted;

(2) in clause (4), in sub-clause (ii), for the words "plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste products, or such other goods, or waste or scrap of any of them", the words "raw materials, processing materials, consumable stores, waste products or such other goods" shall be substituted;

(3) clauses (5) and (9) shall be deleted;

(4) in clause (10), Exceptions (i) to (iii) shall be deleted;

(5) clause (11) shall be deleted;

(6) for clause (13), the following clause shall be substituted, namely:-

"(13) "goods" means goods as covered under entry 54 of List II of the Seventh Schedule to the Constitution of India;";

(7) in clause (19), the words "material used in the packing of the goods" shall be deleted;

(8) in clause (27), for the words, figures and letters "on sales or purchase of goods and includes *lump sum* tax leviable or payable under Section 14, 14A, 14B, 14C or 14D", the words "on sales of goods" shall be substituted;

(9) for clause (29), the following clause shall be substituted, namely:-

"(29) "taxable goods" means goods liable to tax under section 7 excluding the goods on which no tax is payable under section 5;";

(10) in clause (30), -

(i) the words "or purchases" shall be deleted;

(ii) in sub-clause (b), the words, brackets and figures "under sub-section (1) of section 5 or" shall be deleted;

(11) in clause (34), in sub-clause (a) the words "or purchases", occurring at two places, shall be deleted;

(12) clause (37) shall be deleted.

Amendment of section 5 of Guj. 1 of 2005.

4. In the principal Act, in section 5, -

(1) sub-sections (I) and (IA) shall be deleted;
(2) in sub-section (2), the words "or purchases" wherever they occur, shall be deleted;
(3) in sub-section (3), the words, brackets, figure and letter "under sub-section (IA) and" shall be deleted.

Deletion of section 5A of Guj. 1 of 2005.

5. In the principal Act, section 5A shall be deleted.

Amendment of section 7 of Guj. 1 of 2005.

6. In the principal Act, in section 7, -

(l) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) Subject to the provisions of this Act, there shall be levied a tax on the turnover of sale of Motor spirit commonly known as Petrol, High Speed Diesel, Aviation Turbine Fuel, Petroleum Crude, Natural Gas and Alcoholic Liquor for human consumption specified in Schedule III at the rate set out against each of them:

Provided that the Government may levy, from importer *or* manufacturer or oil marketing companies, a tax at full rate on the retail price in such manner as may be notified by the Government.";

(2) sub-section (IA) shall be deleted;

(3) in sub-section (2), clause (i) shall be deleted.

Deletion of section 9 of Guj. 1 of 2005.

7. In the principal Act, section 9 shall be deleted.

Substitution of section 10 of Guj. 1 of 2005.

8. In the principal Act, for section 10, the following section shall be substituted, namely:-

Deeming provision for packing material.

") 0. NOtWithstanding anything contained in this Act, the value of goods shall be inclusive of value of packing material unless value of packing material is separately charged and tax is collected under the Gujarat Goods and Services Tax Act, 2017.".

Guj. 25 of 2017.

Amendment of section 11 of Guj.1 of 2005.

9. In the principal Act, in section 11,-

(1) in sub-section (1), in clause (a), sub-clauses (ii) and (iii) shall be deleted;

(2) in sub-section (3), -

(i) in clause (a),-

(a) in sub-clause (vi), the words "or in the packing of goods so manufactured" shall be deleted;
(b) sub-clause (vii) shall be deleted;

(ii) in clause (b), -

(a) in sub-clause (ii), the words "or in the packing of the goods" shall be deleted;
(b) in sub-clause (iii), for the words "manufacture of goods", the words "manufacture of taxable goods" shall be substituted;

(3) in sub-section (5),-

(i) clause (c) shall be deleted;

(ii) in clause (g), the words "the goods specified in the Schedule I or" shall be deleted;
(iii) in clause (h),-

(a) the words "goods specified in the Schedule I or" shall be deleted;
(b) the words "or in the packing of goods so manufactured" shall be deleted;
(iv) clauses (i) and (j) shall be deleted;

(v) in clause (11), for the words "crude oil and lignite", the words "and petroleum crude" shall be substituted.
(vi) clauses (mm) and (nn) shall be deleted;
(vii) non-obstante clause (I) and (III) shall be deleted;

(4) in sub-section (7A), the first and second provisos thereunder shall be deleted;

(5) to sub-section (8), the following proviso shall be added, namely:-

"provided that when a dealer migrating to the Cii/iarat Goods and Services Tax Act,2017 uses the capital goods till completion of remaining period of limit of 5 years continuously under the Gujarat Goods and Services Tax Act, 2017, the tax credit shall not be reduced for such period.".

Guj. 25 of 2017.

Guj. 25 of 2017.

(6) after sub-section (8), the following sub-section shall be inserted, namely:-

"(8A) (1) When a dealer has availed the tax credit for tax paid on purchases of goods in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and he opts for composition under section 10 of the Gujarat Goods and Services Tax Act, 2017, such tax credit shall stand reversed. Such amount of reversed tax credit shall be adjusted from the present balance of tax credit available. If such dealer does not have in balance the tax credit available for adjustment of reversed tax credit, he shall pay into Government treasury, a sum equal to the amount of unadjusted reversed tax credit.

Guj. 26 of 2017.

Guj. 25 of 2017.

(2) When a dealer has availed the tax credit for tax paid on purchases of capital goods on the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and he opts for composition under section 10 of the Gujarat Goods and Services Tax Act, 2017, but period of five year has not completed, such tax credit shall stand reversed. Such amount of reversed tax credit shall be adjusted from the present balance of tax credit available. If such dealer does not have in balance the tax credit available for adjustment of reversed tax credit, he shall pay into Government treasury, a sum equal to the amount of unadjusted reversed tax credit.".

Guj. 26 of 2017.

Guj. 25 of 2017.

10. In the principal Act, section 12 shall be deleted.

Deletion of section 12 of Guj.1 of 2005.

11. In the principal Act, sections 14, 14A, 14B, 14C and 14D shall be deleted.

Deletioii of sections 14 to 14D of Guj.1 of **2005.**

Amendment of section 16 of Guj.1 of 2005.

12. In the principal Act, in section 16,-

(1) to sub-section (1), the following proviso shall be added, namely:-

"Provided that, the officers appointed under the Gujarat Goods and Services Tax Act, 2017 shall be deemed to be the officers appointed under the provisions of this Act.". Guj. 25 of 2017.

(2) to sub-section (2), the following proviso shall be added, namely:-

"Provided that, the officers appointed under the Gujarat Goods and Services Tax Act, 2017 shall be deemed to be the officers appointed under the provisions of this Act to assist the Commissioner in the executions under this sub- section.". Guj. 25 of 2017.

Amendment of section 21 of Guj. 1 of 2005.

13. In the principal Act, in section 21, sub-section (2) shall be deleted.

Deletion of section 23 of Guj. 1 of 2005.

14. In the principal Act, section 23 shall be deleted.

Insertion of new section 27A in Guj. 1 of 2005.

15. After section 27, the following section shall be inserted, namely:-

"27A. All registered dealers not dealing with goods defined under clause (13) of section 2 shall be deemed to be deregistered from the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and their registration certificates shall stand cancelled. " Guj. 26 of 2017.

Amendment of section 60 of Guj.1 of 2005.

16. In the principal Act, in section 60, in sub-section (1), in the proviso,-

(i) in clause (a), the words "specified in Schedule 1 or" shall be deleted;
(ii) clause (b) shall be deleted.

Amendment of section 63 of Guj.1 of 2005.

17. In the principal Act, in section 63, to sub-section (1), the following provisos shall be inserted, namely:-

"Provided that registered dealer whose taxable turnover is more than twenty five lakh shall file a final return for the p•ri 0 %nd1n* or the. last day b•.for.• th.• nppo*r*c0 .e.y of the coming into force of the Gujarat Goods and Services Tax Act, 2017 in such manner as may be prescribed, reflecting such details as may be prescribed from the books of Account: Guj. 25 of 2017.

Provided further that where the amount of tax credit is carried forward for more than rupees five lakhs, the books of accounts related to such final return shall have to be duly audited by a chartered Accountant or cost accountant.".

Amendment of section 100 of Guj. 1 of 2005.

18. In section 100, after sub-section (2), the following sub-section shall be added, namely:-

"(2A) The amendment of the Gujarat Value Added Tax (Amendment) Act, 2017 shall not— Guj. 26 of 2017.

(a) revive anything not in force or existing at the time of such amendment or repeal; or

(b) affect the previous operation of this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and orders or anything duly done or suffered thereunder; or Guj. 26 of 2017.

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 or orders made thereunder:

Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017; or Guj. 26 of 2017.

(d) affect any tax, surcharge, penalty, fine, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017; or Guj. 26 of 2017.

(e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such tax, surcharge, penalty, fine, interest, right, privilege, obligation, Guj. 26 of 2017.

liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scnitiny and a›irl)t), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed; or

(f) affect any proceedings including that relating to an appeal, revision, review or reference, instituted under this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and such proceedings shall be continued under the said amending Act.". Guj. 26 of 2017.

Deletion of Schedules I and II of Guj.1 of **2005.**

19. In the principal Act, Schedule I and Schedule II shall be deleted.

Substitution of Schedule III to

Guj.1 of 2005.

20. In the principal Act, for Schedule III, the following Schedule shall be substituted, namely:-

"SCHEDULE III

(see section 7)

GOODS, THE SALE OF WHICH IS SUBJECT TO TAX AND RATE OF TAX

Sr.No.	Description of goods	Rate of Tax
1	High Speed Diesel	Twenty-four paise in the rupee
2	Motor spirit(commonly known as petrol)	Twenty-six paise in the rupee
3	Petroleum Crude	Five paise in the rupee
4	Aviation Turbine Fuel (Duty Paid)	Thirty paise in the rupee
5	Aviation Turbine Fuel (Bonded)	Thirty-eight paise in the rupee
6	Natural Gas	Fifteen paise in the rupee
7	Alcoholic Liquor for human consumption	Sixty-five paise in the rupee.".

Government Central Press, Gandhinagar

Extra No. 10

વાર્ષિક લવાજમનો દર રૂા. ૪૦૦૦/-

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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 3" April, 2018 is hereby published for general information.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 10 OF 2018.

(First published, after having received the assent of the Governor, in the *"Gujarat Government Gazette",* on the 6° April, 2018).

AN ACT

Further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows

Short title end commencement.

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2018.

(2) It shall come into force at once.

Insertion of new section 84Ain Guj. I of 2005.

2. In the Gujarat Value Added Tax Act, 2003, after section 84, the following section shall be deemed to have been inserted with effect from the 1st day of April, 2006, namely:- **Guj.1** of 2005.

Exclusion of period in some

"84A.(l) Notwithstanding anything contained in this Act, an issue on which the Appellate Authority or the Appellate Tribunal or the High

 Court has given its decision which is prejudicial to the interest of revenue

in some other proceedings and an appeal to the Appellate Tribunal or the

High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in section 34 or section 35.

(2) Notwithstanding anything contained in this Act, if any decision or order under section 73 or section 75 involves an issue on which the Revision Authority or Appellate Authority or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in section 73 or section 75."

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