THE BIHAR VALUE ADDED TAX ACT, 2005

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THE BIHAR VALUE ADDED TAX ACT, 2005

ACT NO. 27 OF 2005

[23*rd June,* 2005.]

An Act to consolidate and amend the law relating to levy of tax on sales or purchases of goods in the State of Bihar and to provide for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Bihar Value Added Tax Act, 2005.

(*2*) It shall extend to the whole of the State of Bihar.

(*3*) It shall be deemed to have come into force on the 1st day of April, 2005.

2. Definitions.–In this Act, unless the context otherwise requires,—

(*a*) "Assessing Authority" means any of the authorities referred to in section 10 who is directed under sub-section (*2*) of that section to exercise or perform all or any of the powers and functions conferred on an Assessing Authority under this Act;

(*b*) "Assistant Commercial Taxes Officer" means an Assistant Commercial Taxes Officer appointed under sub-section (*1*) of section 10;

(*c*) "Assistant Commissioner of Commercial Taxes" means an Assistant Commissioner of Commercial Taxes and Additional Assistant Commissioner of Commercial Taxes appointed under sub-section (*1*) of section 10;

(*d*) "business" includes,—

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

(*ii*) any transaction of sale or purchase in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern; and

(*iii*) any transaction in connection with, or incidental or ancillary to, the commencement or closure of such business;

(*e*) "capital goods" means plant, machinery and equipment used in trade or manufacturing of goods; (*f*) "casual trader" means a person, who, whether as principal, agent or in any other capacity undertakes occasional transactions in the nature of business involving buying, selling, supply or distribution of goods or conducting any exhibition-cum-sale in the State of Bihar, whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(*g*) "Commercial Taxes Officer" means a Commercial Taxes Officer appointed under sub-section (*1*) of section 10;

(*h*) "Commissioner" means the Commissioner of Commercial Taxes appointed under sub-section (*1*) of section 10 or Additional Commissioner of Commercial Taxes and any other officer upon whom the State Government may, by notification, confer all or any of the powers and duties of the Commissioner under this Act;

(*i*) "dealer" means any person who, whether regularly or otherwise, in the course of business, buys, sells, supplies, distributes or does anything incidental to such buying, selling, supplying or distributing of goods, directly or indirectly, whether for cash, or for deferred payment or for commission, remuneration or other valuable consideration and includes—

(*A*) a local authority;

(*B*) a Hindu undivided family;

(*C*) a company, or any society (including a co-operative society), club, firm, association of persons or body of individuals, whether incorporated or not, which carries on such business;

(*D*) a society (including a co-op r association which buys goods

from, or sells, supplies or distributes goods to its members;

(*E*) an industrial, commercial, banking or trading undertaking, whether or not, of the Central Government or of any of the State Governments or of a local authority;

(*F*) a casual trader;

(*G*) a commission agent, broker, factor, a *del credere* agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of the principal.

Explanation.—Every person who acts as an agent on behalf of a dealer residing outside the State of Bihar and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer as—

(*a*) a commission agent, broker, factor, a *del credere* agent, an auctioneer or any other mercantile agent, by whatever name called; or

(*b*) an agent for handling goods or documents of title to goods; or

(*c*) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment; or

(*d*) a local branch of a firm or company situated outside the State, shall be deemed to be a dealer for the purposes of this Act;

(*j*) "declared goods" means goods declared under section 14 of the Central Sales Tax Act, 1956 (74 of 1956) to be of special importance in inter-State trade or commerce;

(*k*) "Deputy Commissioner of Commercial Taxes" means the Deputy Commissioner of Commercial Taxes or Additional Deputy Commissioner of Commercial Taxes appointed under sub-section (*1*) of section 10;

(*l*) "goods" means all kinds of movable property including livestock, computer software, any electronic chip used for the purpose of storing or transmitting data or voice and all materials, commodities and articles (as such or in some other form) but excluding newspapers, electricity, actionable claims, stocks, shares or security.

Explanation.—For the purposes of this clause, materials, commodities and articles,–
(*i*) attached to or

forming part of an immovable property which are agreed to be severed under the contract of sale; or

(*ii*) sold or supplied as such or in some other form in the execution of works contract, lease or hire purchase, shall be deemed to be goods within the meaning of this clause;

(*m*) "goods carrier" means a motor vehicle, vessel, boat, animal and any form of conveyance used for carrying goods;

(*n*) "Government" means the Government of the State of Bihar;

(*o*) "gross turnover" means,—

(*i*) for the purposes of levy of tax on sales, in respect of sale of goods, aggregate of sale prices received or receivable by a dealer on sales and includes sale of goods made outside the State of Bihar or in the course of inter-State trade or commerce or export but does not include sale price of goods which have borne the incidence of tax on purchases under sections 4 and 5;

(*ii*) for the purposes of levy of tax on purchase, aggregate of purchase prices paid or payable by a dealer during any given period in respect of purchase of goods or class or description of goods which are liable to tax under sections 4 and 5; and

(*iii*) for the purposes of section 3, the aggregate of the amounts under sub-clauses (*i*) and (*ii*) above.

Explanation.—For the purposes of this clause, the amount received by a dealer on account of price variation or price escalation in respect of sale or supply of goods shall be deemed to form part of gross turnover of the financial year during which it is actually received;

(*p*) "importer" means a dealer who brings any goods into the State of Bihar or to whom any goods are despatched from any place outside the State of Bihar;

(*q*) "input" means goods (excluding goods specified in Schedule IV) purchased in the course of business—

(*a*) for re-sale;

(*b*) for use in manufacture of goods including packing materials;

(*c*) for use as capital goods as defined in clause (*e*);

(*r*) "input tax" means the amount paid or payable by a registered dealer, by way of tax under this Act, in respect of purchase of any taxable goods;

(*s*) "Inspector" means an Inspector of Commercial Taxes appointed under sub-section (*3*) of section 10;

(*t*) "month" means a calendar month;

(*v*) "output tax" means the tax charged or chargeable in respect of sale or supply of goods made by a registered dealer;

(*w*) "place of business" means any place where a dealer, either usually or for the time being, manufactures, sells or purchases goods or keeps accounts of stocks, manufactures, sales or purchases, execution of works contracts, hire purchase contracts and lease contracts or any other place where business activity takes place and includes—

(*i*) the place of business of an agent, in case of a dealer carrying on business through an agent; or

(*ii*) any place or building in which a person carrying on a business, keeps any of his books of account, documents, stocks or other things, relating to his business;

(*x*) "prescribed authority" means the authority prescribed by the rules made under this Act to exercise powers conferred under different provisions and perform such functions as may be conferred by or under this Act;

(*y*) "prescribed" means prescribed under the rules made under this Act;

(*z*) "purchase price" means the amount paid or payable by a dealer as a valuable consideration in respect of purchase of goods and includes—

(*i*) any amount charged for anything done by the vendor in respect of the goods at the time of, or before, the delivery thereof;

(*ii*) transport costs or freight, if any;

(*iii*) trade commission, if any, by whatever name called;

(*iv*) clearing, forwarding and handling charges, if any;

(*v*) insurance charges, if any;

(*vi*) taxes or duties under any law for the time being in force (other than tax paid or payable under this Act) by whatever name called, if any;

(*vii*) cost of packing, if any; and

(*viii*) the amount paid or payable by the purchaser by way of non-refundable deposit, whether by way of a separate agreement or not, in connection with or incidental or ancillary to, the said purchase of goods;

(*za*) "quarter" means the quarter ending on the 30th June, 30th September, 31st December and 31st March and the expression "quarterly" shall be construed accordingly;

(*zb*) "registered dealer" means a dealer in possession of a valid certificate of registration granted to him under section 19 or under the provisions of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94;

(*zc*) "sale" with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or for other valuable consideration and includes—

(*i*) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(*ii*) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(*iii*) a delivery of goods on hire purchase or any system of payment by instalments;

(*iv*) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

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

(*vi*) a supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration,

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

(*zd*) "sale price" means the amount payable to a dealer as valuable consideration for the sale or supply of any goods and includes—

(*i*) any amount charged for anything done by the vendor in respect of the goods at the time of, or before, the delivery thereof;

(*ii*) transport costs or freight, if any;

(*iii*) trade commission, if any, by whatever name called;

(*iv*) clearing, forwarding and handling charges, if any;

(*v*) insurance charges, if any

(*vi*) taxes or duties levied under any law for the time being in force (other than tax paid or payable under this Act) by whatever name called, if any;

(*vii*) cost of packing, if any; and

(*viii*) the amount received or receivable by the seller by way of non-refundable deposit, whether by way of a separate agreement or not, in connection with or incidental to or ancillary to, the said sale of goods;

Explanation I.—Where goods are sold on hire purchase or any system of payment by instalments, the sale price of such goods shall be inclusive of insurance charges, interest and hire charges and such other charges related to hire purchase or any system of payment by instalments.

Explanation II.—Where goods are sold by way of transfer of right to use such goods, the sale price thereof shall be the amount of valuable consideration received or receivable by the transferor for such transfer;

(*ze*) "tax" means the tax leviable and payable under this Act;

(*zf*) "taxable goods" means all goods in respect of which tax is payable under section 14;

(*zg*) "Tribunal" means the Tribunal constituted under sub-section (*1*) of section 9;

(*zh*) "works contract" means any agreement for carrying out for cash or deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable or movable property;

(*zi*) "year" means the financial year.

CHAPTER II

INCIDENCE OF TAX

3. Charge of tax.—(*1*) Every dealer who is registered under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, shall be liable, on or after the commencement of this Act, to pay tax under this Act on sale or purchase, made by him.

(*2*) Every dealer, to whom sub-section (*1*) does not apply, shall be liable to pay tax on sale or purchase, as the case may be, from the date on which his gross turnover, during a period not exceeding twelve months, first exceeded five lakh rupees.

(*3*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*) but subject to the other provisions of this Act, every dealer,—

(*a*) being an importer or a manufacturer; or

(*b*) who is required to file a return under the Income-tax Act, 1961 (43 of 1961); or

(*c*) who holds any licence under the Explosives Act, 1884 (4 of 1884), or the Bihar Excise Act, 1915 (Bihar and Orissa Act 2 of 1915), or the Drugs and Cosmetics Act, 1940 (23 of 1940), or the Essential Commodities Act, 1955 (10 of 1955) or the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957); or

(*d*) being a corporation, constituted under any law for the time being in force or a company incorporated under the Companies Act, 1956 (1 of 1956), or, is registered under the Central Sales Tax Act, 1956 (74 of 1956); or

(*e*) whose place of business is located inside the market yard established under the Bihar Agriculture Produce Market Act, 1960 (Bihar Act 16 of 1960); or

(*f*) who fulfils the following two conditions, namely:—

(*i*) uses a telephone in his place of business or has a mobile telephone; and

(*ii*) the receipts or payments of whose business, either wholly or in part, are transacted through any bank,

shall be liable to pay tax on sale or purchase, as the case may be, with effect from the date of the first sale of any taxable goods made by him.

(*4*) Every dealer who has become liable to pay tax under sub-sections (*1*), (*2*) and (*3*) shall, subject to the provisions of sub-section (*5*), cease to be so liable after the expiry of twelve consecutive months from the date he either closes or discontinues his business or entirely transfers his business to another person.

(*5*) A registered dealer shall, within a period of twelve consecutive months, pay tax on the stock of goods remaining with him on the date with effect from which he closes or discontinues his business:

Provided that the Commissioner may, after recording the reasons, extend the period of twelve consecutive months if the goods are held in stock beyond the said period of twelve months because of reasons beyond the control of the dealer.

(*6*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*) or sub-section (*3*), where any person who, is, or was, less than six months earlier, a member of the partnership firm, concern or Hindu undivided family, which is, or was, less than six months earlier, liable to pay tax, starts a new business, either singly or jointly with other persons, or joins other business, partnership firm or concern, tax as aforesaid, shall likewise be payable on sales and purchases made from such business, partnership firm or concern, on and from the date the person starts or joins it, unless the liability in respect of such business, partnership firm or concern has arisen from an earlier date under the said sub-sections.

(*7*) The tax for each year or any part thereof, may, with the previous approval of the Commissioner, be estimated and collected in advance, in the manner prescribed, during a year, in such instalments as may be fixed by the prescribed authority.

(*8*) For the purposes of sub-section (*7*), the prescribed authority may require the dealer to furnish an advance estimate of his taxable turnover for that year or any part thereof and may provisionally determine the amount of tax payable by the dealer in respect of the year or any part thereof and thereupon the dealer shall pay the amount so determined by such date as may be fixed by such authority.

4. Levy of purchase tax.—Subject to the provisions of sections 6 and 7, every dealer liable to pay tax under section 3, who purchases goods in circumstances in which no tax on sales is payable or has been paid on the sale price of such goods and either consumes such goods in the manufacture of other goods for sale or otherwise disposes of such goods in any manner other than by way of sale in the State or sale in the course of inter-State trade or commerce, shall be liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale price of such goods under section 14.

5. Liability to pay purchase tax on certain purchases.–Where a dealer purchases any taxable goods from any person within the State of Bihar, and such person is not a registered dealer and the said goods are used as capital assets anytime after such purchase, there shall be levied, a tax on the purchase price of such purchases at the rate at which tax on sales is leviable on the said goods.

6. Non-levy of tax in certain cases.—(*1*) No tax shall be payable under this Act on sales or purchases of goods which have taken place—

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

(*b*) outside the State of Bihar;

(*c*) in the course of import of goods into, or, export of goods out of, the territory of India.

(*2*) The provisions of the Central Sales Tax Act, 1956 (74 of 1956) shall apply for determining when a sale or purchase of goods shall be deemed to have taken place in any of the ways mentioned in clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*1*).

7. Exemptions.—No tax shall be payable on sale or purchase of goods specified in Schedule I.

8. Burden of proof.—The burden of proving that any sale or purchase effected by a dealer is not liable to tax under section 6 or section 7 or sub-section (*2*) of section 13, as the case may be, or that he is eligible for an input tax credit under sections 16 and 17 shall be on the dealer.

CHAPTER III

TRIBUNAL AND TAXING AUTHORITIES

9. Tribunal.—(*1*) Subject to such rules, as may be prescribed, the State Government shall, by a notification published in the Official Gazette, constitute a Tribunal to be called the Commercial Tax Tribunal consisting of a Chairperson and two other Members to exercise all the powers and perform all the functions conferred by or under this Act or any other law for the time being in force upon such a Tribunal:

Provided that till the Tribunal is constituted under this Act, the Tribunal constituted under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, shall be deemed to be the Commercial Tax Tribunal constituted under this Act and shall exercise all the powers and perform all the functions conferred by or under this Act or any other law for the time being in force.

(*2*) The Chairperson of the Tribunal shall be a retired High Court Judge, not exceeding sixty-five years of age, or a judicial officer of the rank of a District Judge.

(*3*) One of the other two Members shall be an officer of the Commercial Taxes Department of the State Government not below the rank of Joint Commissioner and the third Member shall be a person—

(*a*) who has, for at least ten years, been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (38 of 1949) or as a registered accountant under any law formerly in force or partly as a registered accountant and partly as a chartered accountant; or

(*b*) who is or has been an officer of the Indian Audit and Accounts Service not below the rank of Deputy Accountant-General; or

(*c*) who is a Government servant, whether serving or retired having experience of at least four years in the administration of accounts or financial management in the State Government or public sector undertaking.

(*4*) (*a*) The State Government may, if it considers expedient to do so, set up by a notification, one or more additional benches of the Tribunal at such places and having jurisdiction over such area as may be specified in the notification.

(*b*) It shall consist of such Member or Members, as may be specified in the notification, possessing such qualifications as are specified in sub-sections (*2*) and (*3*):

Provided that if a judicial officer is appointed to such an additional bench, he shall be an officer not below the rank of an Additional District Judge.

(*5*) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as possible.

(*6*) During the vacancy in the post of the Chairperson pending the appointment of a permanent Chairperson, the Government may appoint one of the remaining members to act as the Chairperson.

(*7*) Any person appointed as a member of the Tribunal shall ordinarily hold office for a period of three years:

Provided that in case a retired High Court Judge is appointed as the Chairperson or any other Government servant is appointed as a Member, after his superannuation to the Tribunal, the terms and conditions of service (including his pay and allowances) shall be such as may be prescribed.

(*8*) (*a*) The functions of the Tribunal shall be exercised by a bench to be constituted by the Chairperson consisting of one or two or three members.

(*b*) The nature of cases to be disposed of by either of these benches shall be under the discretion of the Chairperson:

Provided that a bench consisting of only one Member or two Members may in its discretion refer a case to a larger bench of two or three Members, as the case may be.

(*9*)(*a*) Where an application is heard by all the three Members of the Tribunal and the Members are divided in opinion on any point or points, such point or points shall be decided in accordance with the opinion of the majority:

Provided that if the post of any one of the Members is vacant such points shall be decided in accordance with the opinion of the Chairperson.

(*b*) Where an application is heard by a bench consisting of two Members, whether it consists of the Chairperson or not, and the Members are divided in opinion on any point or points, such point or points shall be referred to a bench consisting of all the three Members.

(*10*) (*a*) The Members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(*b*) No Member shall accept any other paid employment outside the duties of his office during the term of his membership of the Tribunal.

(*11*) The Tribunal shall, with the previous sanction of the State Government, make regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and other matters incidental to the disposal of its business and publish such regulations in the Official Gazette.

(*12*) The Members of the Tribunal shall, ordinarily be appointed for a period of three years from the date of their appointment:

Provided that the period of appointment may be reduced or extended by the State Government.

(*13*) The Chairperson or any other Member may, by notice in writing under his hand addressed to the State Government, resign his office:

Provided that the Chairperson or any other Member shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(*14*) The Chairperson or any other Member of the Tribunal shall not be removed from his office except by an order by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the High Court, in which the Chairperson or any other member concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(*15*) The State Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson or any other Member.

10. Taxing Authorities and Inspectors.—(*1*) There shall be the following classes of authorities to be appointed by the State Government, for carrying out the purposes of this Act, namely:—

(*a*) Commissioner of Commercial Taxes;

(*b*) Senior Joint Commissioner of Commercial Taxes;

(*c*) Joint Commissioner of Commercial Taxes;

(*d*) Deputy Commissioner of Commercial Taxes;

(*e*) Assistant Commissioner of Commercial Taxes;

(*f*) Commercial Taxes Officer;

(*g*) Assistant Commercial Taxes Officer.

(*2*) The authorities appointed under sub-section (*1*) shall, within such areas or in respect of such transactions falling within an area as the State Government may, by notification specify, exercise such powers as may be conferred and perform such duties as may be imposed, by or under this Act.

(*3*) The Commissioner may appoint such number of Inspectors of Commercial Taxes as may be necessary to assist any of the authorities appointed under sub-section (*1*) and the Inspectors so appointed shall, within such areas exercise powers under sub-sections (*1*) and (*2*) of section 56 and perform such other functions in the execution of this Act in those areas as may be prescribed or as the Commissioner

may, by general or special order, assign to them and such assignment may be subject to such conditions and restrictions as may be specified in the order.

(*4*) All persons appointed under sub-section (*1*) or sub-section (*3*) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code 45 of 1860.

(*5*) The Commissioner may, at any stage, direct transfer of a proceeding under section 27 or section 28 or section 31 or section 32 or section 33 or section 72 in respect of any dealer from the prescribed authority to another of the same or higher rank appointed under sub-section (*1*) and where such direction is given by the Commissioner the authority to whom the proceeding is transferred shall proceed to dispose it of as if it had been initiated by the said authority, irrespective of the local limits of its jurisdiction; such transfer shall not render necessary the re-issue of any notice already issued before the transfer and the authority to whom the proceeding is transferred may, in its discretion, continue it from the stage at which it was left by the authority from whom it was transferred.

(*6*) For smooth functioning of the office, it shall be lawful for the Deputy Commissioner or the Assistant Commissioner in-charge of a circle to allot work and proceedings amongst the officers posted in the circle, as the case may be, and it may include transfer of a proceeding from one officer to another posted in the same office and exercising concurrent jurisdiction.

(*7*) The Commissioner may, from time to time, issue such orders, instructions and directions as he may deem fit, to the authorities subordinate to him, for carrying out the purposes of this Act, and such authorities shall observe and follow such orders, instructions and directions of the Commissioner:

Provided that no such orders, instructions and directions shall be issued–

(*i*) so as to require any authority to pass a particular order or to dispose of a particular case in a particular manner; or

(*ii*) so as to interfere with the discretion of the Appellate authorities in a particular case:

Provided further that if the Commissioner is of the opinion that it is necessary in the public interest so to do, he may cause such orders, instructions and directions to be published and circulated for general information.

11. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against any servant of the Government or any officer or authority appointed under section 10 or section 86 of this Act for anything which is in good faith done or intended to be done in pursuance or rules made thereunder.

12. Power to issue summons and examine on oath.—(*1*) The Tribunal constituted under section 9, or the Commissioner or any officer or authority appointed under section 10 or section 86 shall, for carrying out the purposes of this Act, have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) and in particular in respect of the following matters, namely:—

(*a*) to summon and enforce attendance of any person, including any officer of a banking company, and examine him on oath or affirmation;

(*b*) to compel the production of documents or accounts and to impound and retain them;

(*c*) to issue commissions for the examination of witness.

(*2*) Every proceeding under this Act before the Tribunal, shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1860 (45 of 1860).

CHAPTER IV

RATE OF TAX AND POINT OF LEVY

13. Point or points in series of sales at which sales tax shall be levied.—(*1*)(*a*) Subject to the provisions of sections 16 and 17, tax on sale of goods (other than goods specified in Schedule IV) shall be levied at each point in a series of sales in the State of Bihar by a dealer liable to pay tax under this Act.

(*b*) Where the tax is levied at each point of sale, the tax payable by a dealer at any point shall be the amount arrived at after deducting, the input tax credit specified under section 16 or section 17, from the tax computed at that point of sale.

(*2*) (*a*) The tax on sales, in respect of goods specified in Schedule IV, shall be levied at the first point of their sale in the State of Bihar by a dealer and subsequent sales of the same goods in the State of Bihar shall not be levied to tax, if the dealer making the subsequent sale produces before the prescribed authority the original copy of the cash memo, or invoice or bill issued to him and files a true and complete declaration in the form and in the manner prescribed.

(*b*) The declaration referred to in clause (*a*) shall be issued by the selling dealer to the purchasing dealer not later than the 30th day of September of the year following the year to which such sales relate.

(*3*) If upon information, the prescribed authority has reasons to believe that the selling dealer has, without reasonable cause, failed to issue to the purchasing dealer the declaration referred to in sub-section (*2*), he shall, after giving the selling dealer a reasonable opportunity of being heard, direct that the selling dealer shall pay, by way of penalty, a sum of rupees five thousand per month for every month of default or the amount of tax involved, whichever is less.

14. Rate of tax.—(*1*) Tax shall be payable on the sale price of—

(*a*) the goods specified in the Schedule II, at the rate of one per cent.;

(*b*) the goods specified in the Schedule III, at the rate of four per cent.;

(*c*) the goods specified in the Schedule IV, at the rate not exceeding fifty per cent. but not less than twenty per cent., as the State Government may, subject to such conditions and restrictions, by notification, specify;

(*d*) any other goods, not specified in the Schedules I, II, III and IV, at the rate of twelve and a-half per cent.

(*2*) The State Government may, by notification, alter any Schedule to this Act.

15. Compounding of tax liability in certain cases.—(*1*) Notwithstanding anything to the contrary contained in the Act, the State Government may, by notification and subject to such conditions and restrictions as may be prescribed, permit any class of registered dealers, whose gross turnover does not exceed the limit specified in the notification to pay, in lieu of the tax payable by him, an amount calculated at such rate, not exceeding four per cent. of his taxable turnover, as may be specified in the notification:

Provided that no such permission shall be granted to a manufacturer or a person who imports any goods from any place outside the State of Bihar for the purpose of his business:

Provided further that the amount so specified shall be in addition to any tax that may be payable by the dealer under section 4.

(*2*) The dealers to whom the provisions of sub-section (*1*) apply shall—

(*a*) not charge any tax on the sale of goods specified in Schedule I;

(*b*) not charge tax in excess of the rate specified in the notification issued under sub-section (*1*); and

(*c*) not be entitled to issue tax invoices in respect of sales made by them.

(*3*) If the Assessing Authority has reasons to believe that the dealer was not eligible to pay tax at a rate specified under sub-section (*1*), the Assessing Authority shall, without prejudice to any action which is or may be taken under section 81, impose a penalty equivalent to three times of the amount of tax arrived at after applying the rate, specified under section 14, to the gross turnover of the dealer after deducting the value of sales under section 6:

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

16. Input tax credit.—(*1*) Subject to the provisions of this Act, an input tax credit as provided in this section shall be claimed by a registered dealer, subject to such conditions and restrictions as may be prescribed, on sales of goods in the following circumstances, namely:—

(*a*) when a registered dealer purchases any input within the State of Bihar from another registered dealer after paying him the tax as specified under section 14, he shall claim credit of the input tax in the manner prescribed, if the goods are sold within the State or in the course of inter-State trade and commerce;

(*b*) when a registered dealer—

(*i*) purchases any input within the State from another registered dealer after paying him the tax under section 14, or

(*ii*) purchases any input and pays tax on such purchase under section 4 of the Act,

and consumes such goods in the manufacture of any goods mentioned in clause (*a*), (*b*) and (*d*) of section 14, he shall claim credit of the said input tax in the manner prescribed, if the goods so manufactured are sold within the State of Bihar or in the course of inter-State trade and commerce;

(*c*) when a registered dealer purchases any capital goods within the State from another registered dealer after paying him the tax as specified under section 14, and uses such goods in the manufacture of any goods mentioned in clauses (*a*), (*b*) and (*d*) of section 14 and sells the manufactured goods within the State of Bihar or in the course of inter-State trade or commerce, or otherwise, he shall claim and be allowed, in such manner as may be prescribed, credit of the amount of input tax;

(*d*) when a registered dealer holds in stock, on the 1st day of April, 2005, such goods as have been purchased by him on or after the 1st day of April, 2004 and which have suffered the incidence of tax under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94 and—

(*i*) he sells such goods within the State of Bihar or in the course of inter-State trade and commerce, or

(*ii*) he consumes such goods in the manufacture of any goods mentioned in clauses (*a*), (*b*) and (*d*) of section 14 and the goods so manufactured are sold within the State of Bihar or in the course of inter-State trade and commerce,

he shall claim credit of the input tax in the manner prescribed;

(*e*) when a registered dealer purchases any input within the State of Bihar from another such dealer after paying him the tax as specified under section 14 at a rate higher than four per cent. and transfers such goods or goods manufactured from such goods to another dealer outside the State of Bihar, he shall be allowed credit of such tax in excess of four per cent. in the manner as may be prescribed:

Provided that if the claim for input tax credit under clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) or clause (*e*) for any month exceeds the output tax for the same month, such excess shall be carried forward for adjustment against the output tax of subsequent months, not being a month later than two years after the close of the year during which such excess had arisen and the amount of input tax remaining unadjusted after two years after the close of the year during which such excess had arisen shall be refunded to the dealer subject to the provisions of sections 68, 69 and 71 of this Act:

Provided further that input tax credit in respect of capital goods shall be allowed in the manner and over such period, not exceeding thirty-six months from the date of their acquisition, as may be prescribed:

Provided also that no credit of input tax shall be allowed in respect of capital assets purchased or acquired before the commencement of this Act.

(*2*) Notwithstanding anything contained in sub-section (*1*), where a registered dealer purchases any input in the circumstances mentioned in clause (*a*) or clause (*b*) or clause (*c*) or clause (*d*) of the said sub-section and,—

(*a*) he despatches such goods or the goods manufactured by consuming such goods, to a commission agent registered under this Act or transfers such goods to its branch or head office within the State of Bihar for sale, as the case may be; or

(*b*) he supplies such goods in the course of execution of a works contract to another registered dealer to whom he has let out a sub-contract, for use in the execution thereof,

the input tax credit on the sale or supply, as the case may be, of such goods shall be claimed by the registered dealer selling the goods on commission or using the goods supplied in the execution of sub-contract, as the case may be, in accordance with the provisions of sub-section (*1*), in such manner as may be prescribed.

(*3*) No input tax credit under sub-section (*1*) shall be claimed or be allowed to a registered dealer–

(*a*) in respect of goods specified in Schedule IV or such other goods as may be prescribed; or

(*b*) in respect of inputs purchased by him from another registered dealer or manufactured by him and the right wherein to use is transferred to another dealer; or

(*c*) in respect of inputs purchased from a registered dealer permitted to pay tax under the provisions of section 15; or

(*d*) in respect of inputs consumed for the manufacture of goods specified in Schedule I; or

(*e*) in respect of goods used for self consumption or as gift.

(*4*) In case the inputs or goods are used partially for the purpose specified in sub- section (*3*), the claim for input tax credit shall stand reduced to the extent they are so used.

(*5*) (*a*) No dealer shall claim an input tax credit in respect of inputs purchased unless he is in possession of an original copy of the tax invoice, signed and issued by the selling registered dealer, containing the prescribed particulars of sale.

(*b*) If the original tax invoice is lost, input tax credit shall be allowed only on the basis of a duplicate copy of the original tax invoice in the form and manner prescribed.

17. Exports to be zero-rated.—(*1*) In the case of a sale in the course of export under section 5 of the Central Sales Tax Act, 1956 (74 of 1956); or sale of any input made to any dealer in a special economic zone outside the customs territory of India; or sale (including sale outside India and Domestic Tariff Area) by an export oriented unit, there shall be no tax payable on the turnover of such sale and the person exporting the goods or selling them shall be entitled, in the manner prescribed, to a credit of input tax paid—

(*a*) on the purchase of the goods sold in the course of export (excluding sale to Domestic Tariff Area) or purchase of goods sold to any dealer in the special economic zone or sale (including sale outside India and Domestic Tariff Area) by an export oriented unit, or

(*b*) on the purchase of inputs and capital assets which have been used for the manufacture of goods sold in the course of export (excluding sale to Domestic Tariff Area) or to any dealer in the special economic zone:

Provided that the input tax credit on account of capital assets shall be allowed only to the extent and in the manner prescribed.

(*2*) The organisations specified in the Schedule V to this Act shall be entitled to claim a refund of tax paid on goods purchased in the State of Bihar, subject to such restrictions and conditions as may be prescribed and such organisation shall be entitled to a refund of the same only on an application made to the prescribed authority within such time and in such manner as may be prescribed.

18. Rate of tax on packing materials and containers.—Notwithstanding anything contained in section 14, where any goods packed in any container or packing material are sold or purchased, the container or packing material in which such goods are so packed shall be deemed to have been sold or purchased along with such goods and the tax under sections 3, 4 and 5 shall be levied on the sale or purchase of such container or packin packing materials or containers are

separately charged for or not) at the rate of tax applicable to the sale or the purchase, as the case may be, of such goods:

Provided that where the price of the goods is less than the container or packing material in which they are packed, the rate of tax specified in respect of such containers under sub-section (*1*) of section 14 shall apply.

CHAPTER V

REGISTRATION

19. Registration.—(*1*) No person liable to pay tax under section 3 or section 4, as the case may be, of this Act shall sell or purchase goods unless he has obtained and is in possession of a valid certificate of registration:

Provided that any dealer not liable to pay tax under this Act may also apply for grant of a certificate of registration.

(*2*) Every person, referred to in sub-section (*1*), shall apply for the grant of certificate of registration to the prescribed authority in the prescribed manner and the prescribed authority, shall, after verifying that the application has been duly filled in, grant certificate of registration in the manner as may be prescribed:

Provided that dealers registered under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, shall be deemed to be dealers registered under this Act and such dealers shall be granted, a certificate of registration within such time and in the manner as may be prescribed and such dealers may sell or purchase goods till such time as the certificate of registration is granted to them:

Provided further that a dealer, who exclusively sells or purchases, goods mentioned in Schedule I, shall not be liable for registration.

(*3*) Every dealer registered under sub-section (*1*) of section 7 of the Central Sales Tax Act, 1956 (74 of 1956), shall apply for and obtain a certificate of registration, notwithstanding whether such dealer is not liable to pay tax under this Act.

(*4*) Where the prescribed authority, at any time after the grant of the certificate of registration, is satisfied upon an inquiry, that the particulars mentioned in the application are incorrect or the applicant has suppressed or misrepresented certain material facts, he shall, after giving the applicant an opportunity of being heard, and after recording reasons therefor, cancel the certificate of registration granted to him.

20. Amendment and cancellation of certificate of registration.—(*1*) The prescribed authority may, after considering such information as may be furnished by the dealer under section 23 or as may be otherwise received by the said authority, amend the certificate of registration of the dealer in respect of whom the information has been furnished or received.

(*2*) When—

(*a*) any registered dealer discontinues or entirely transfers his business to other persons; or

(*b*) the liability of a registered dealer to pay tax under this Act has ceased,

the dealer shall, forthwith, surrender his certificate of registration in the manner prescribed to the prescribed authority and the said authority shall cancel the certificate of registration in the manner prescribed:

Provided that, in a case covered by clause (*a*), the certificate of registration shall be deemed to be inoperative with effect from the date of discontinuance or transfer of the business and, in a case covered by clause (*b*), with effect from the date on which the dealer's liability to pay tax has ceased.

21. Security.—Where it appears necessary to the prescribed authority to do so for the proper realisation of the tax payable under this Act, he may, by an order in writing and for reasons to be recorded therein, direct a dealer to furnish such security and in such manner as may be prescribed.

22. Declared manager.—(*1*) Every dealer, who is liable to pay tax under this Act, and who is a Hindu undivided family, a firm, company or corporation or a society or club or association or who is engaged in

business as a guardian or a trustee or otherwise on behalf of another person, shall furnish to the prescribed authority in the prescribed manner a declaration stating the name and prescribed particulars of the person or persons who shall be deemed to be the manager or managers of such dealer's business for the purposes of this Act.

(*2*) Every dealer shall specifically authorise his manager or officer or any other person to receive any form of declaration, make any statement, furnish any return, statement, accounts, produce documents or other evidence and any statement made, return or statement furnished, accounts, registers or documents produced or evidence given by the manager or any person authorised by him or by the dealer in this behalf, in the course of any proceeding under this Act, shall be binding on the dealer.

23. Furnishing of information by dealers.—If any person or dealer liable to pay tax under this Act—

(*a*) transfers or otherwise disposes of his business or any part thereof, whether by way of sale or otherwise, or

(*b*) acquires any business or part of any business, whether by way of purchase or otherwise, or

(*c*) effects any other change in the ownership or constitution of the business, or

(*d*) discontinues his business, or shifts his place of business, or

(*e*) changes the name, style or nature of his business or effects any change in the class or description of goods dealt in by him, or

(*f*) starts a new business or joins another business either singly or jointly with other person or persons, or

(*g*) effects any change in the particulars furnished in an application under section 19 or declaration furnished under section 22, or

(*h*) applies for or has an application made against him for insolvency or liquidation under any law for the time being in force, or

(*i*) makes a reference or has a reference made under the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986),

he shall, within seven days of the occurring of any of the events aforesaid, inform the prescribed authority accordingly, and, if any such dealer dies without doing so, his executor, administrator, successor-in-interest or legal representative, as the case may be, shall, within fifteen days of the dealer's death, inform the said authority accordingly.

CHAPTER VI

RETURNS, ASSESSMENT, RE-ASSESSMENT AND PAYMENT OF TAX

24. Returns, payment of tax, interest and penalty.—(*1*) Every person, being—

(*a*) a dealer, who is not registered under this Act, by a notice served in the manner prescribed by the prescribed authority;

(*b*) a registered dealer (other than a dealer permitted under section 15 to pay tax at a fixed rate in lieu of the tax payable by him),

shall furnish a true and complete return in respect of all his transactions relating to sales, purchases, receipts and despatches of goods and any other transactions prescribed specifically for each month, on or before the end of the next following month to the prescribed authority in such form and in such manner as may be prescribed.

(*2*) Without prejudice to the provisions contained in sub-section (*1*), every person, being—

(*a*) a dealer, who is not registered under this Act, by a notice served in the manner prescribed by the prescribed authority;

(*b*) a registered dealer (other than a dealer permitted under section 15 to pay tax at a fixed rate in lieu of the tax payable by him),

shall furnish a true and complete statement in respect of all his transactions relating to sales and purchases of goods and any such details as may be prescribed for each completed quarter on or before the end of the month following the end of the quarter to the prescribed authority in such form and in such manner as may be prescribed.

(*3*) Every registered dealer shall furnish to the prescribed authority, on or before the due date, a true and complete return in respect of every financial year in the form and manner prescribed.

Explanation.—In this sub-section, "due date" means—

(*a*) where the dealer is a company within the meaning of the Companies Act, 1956 (1 of 1956), the 30th day of November of the year following the year to which such return relates;

(*b*) where the dealer is a person, other than a company,—

(*i*) in a case where the accounts of the dealer are required under this Act or any other law to be audited or where the report of an accountant is required to be furnished under section 54, the 31st day of October of the year following the year to which such return relates;

(*ii*) in any other case, the 31st day of July of the year following the year to which such return relates.

(*4*) Every dealer who has been permitted to pay tax under section 15 shall file a quarterly abstract statement for each completed quarter on or before the end of the month following the end of the quarter to the prescribed authority in such form and in such manner as may be prescribed.

(*5*) If the due date prescribed for the filing of quarterly statement or monthly return or quarterly abstract statement or annual return happens to be a holiday, the next date on which the office opens shall be deemed to be the due date.

(*6*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), the prescribed authority may, for specific reasons to be recorded in writing, extend the date of filing such return or quarterly statement, as the case may be, subject to the condition that such an extension may be allowed only once and for a period not exceeding thirty days from the due date; but the Commissioner may allow extension beyond thirty days for reasons to be recorded in writing subject to the condition that such an extension may be allowed only once and that also for a period not exceeding three months.

(*7*) If a dealer, having furnished a monthly return under sub-section (*1*) or the quarterly statement under sub-section (*2*), discovers any omission or wrong statement therein, he may furnish a revised return or statement, as the case may be, in the form and manner prescribed to the prescribed authority at any time before the due date within the meaning of sub-section (*3*):

Provided that no such return or statement shall be taken into consideration if, upon information or otherwise and for reasons to be recorded in writing, the prescribed authority is satisfied that the return or statement originally furnished was deliberately false or that it was furnished with intent to defraud the State Government of its revenue.

(*8*) If a dealer fails to furnish the return within the time specified under sub-section (*1*) or the quarterly statement under sub-section (*2*) or the quarterly abstract statement under sub-section (*4*), the prescribed authority shall, after giving such a dealer an opportunity of being heard in the manner prescribed, impose a penalty at the rate of twenty-five rupees for every day of such failure.

(*9*) (*a*) Every dealer liable to furnish the return under sub-section (*1*) shall also deposit the tax payable, according to the return on or before the fifteenth day of the following month in such manner as may be prescribed and shall enclose the proof of payment in the form and manner prescribed along with the return.

(*b*) Every dealer permitted to pay tax under section 15 shall also deposit the tax, arrived at after applying the rate specified in the notification issued under section 15 to his quarterly turnover, on or before the fifteenth day of the month following the quarter to which it relates and shall enclose the proof of payment in the form and manner prescribed along with the statement required to be furnished under sub-section (*4*).

(*c*) Subject to the provisions of sub-section (*10*), if any registered dealer submits a revised return under sub-section (*7*) and if the amount of tax due from such dealer according to the revised return is higher than the amount which was due according to the original return, such revised return shall be accompanied by a receipt showing the payment of extra amount of tax in the manner provided in clause (*a*).

(*10*) If a dealer, required to furnish the return under sub-section (*1*) or statement under sub-section (*4*), fails to pay the amount of tax payable according to the provisions of sub-section (*9*), such dealer shall be liable to pay interest—

(*a*) in respect of tax payable under sub-section (*9*), by him in accordance with the return or the quarterly abstract statement or revised return, as the case may be; or

(*b*) in respect of the tax payable for the period for which he has failed to furnish returns under sub-section (*1*) or quarterly abstract statement under sub-section (*4*),

at the rate of one and a-half per cent. per month of the amount due from the date the tax so payable had become due to the date of its payment.

Explanation.—For the purposes of this sub-section—

(*i*) where the period of default in payment of tax covers a period less than a month, the interest payable on such tax in respect of such period shall be computed proportionately;

(*ii*) "month" shall mean thirty days.

(*11*) Any interest levied or penalty imposed under this section shall be without prejudice to any action, which is or may be taken under section 81.

(*12*) A rebate at the rate of half per cent. of the amount of tax admitted to be due in the return furnished under sub-section (*1*), subject to a maximum of fifty thousand rupees in a year, shall be allowed to a registered dealer who has furnished the return within the due dates specified under this section and has paid such amount in full on or before the date specified for payment of tax under this section.

25. Scrutiny of returns.—(*1*) The prescribed authority shall, within the time and in the manner prescribed, scrutinize every return filed under sub-sections (*1*) and (*3*) of section 24 for the purpose of ascertaining that—

(*a*) all calculations contained therein are arithmetically accurate;

(*b*) the output tax, the input tax, the tax payable and interest payable, if any, have been computed correctly and properly;

(*c*) the rates of tax have been applied correctly; and

(*d*) evidence, as prescribed, has been furnished with regard to payment of tax and interest payable, if any.

(*2*) If, upon scrutiny under sub-section (*1*), the prescribed authority discovers any error, he shall serve a notice in the prescribed form on the concerned dealer directing him to—

(*a*) pay, within thirty days, the extra amount of tax along with the interest, if any, payable and furnish the challan evidencing such payment; or

(*b*) explain, within thirty days, that the return or returns filed by him do not suffer from any error and all requirements specified in clauses (*a*) to (*d*) of sub-section (*1*) have been complied with.

(*3*) (*a*) The prescribed authority shall, in a case falling under clause (*b*) of sub-section (*2*) and after giving the dealer a reasonable opportunity to adduce necessary evidence, pass such order in the matter as it may deem fit.

(*b*) If, pursuant to an order under clause (*a*), any tax or interest is found to be payable by a dealer, a notice in the form and manner prescribed, shall be served upon the dealer requiring him to pay the tax and interest within the time as may be prescribed.

(*c*) Any tax or interest payable under clause (*b*) shall be deemed to be an arrear of tax within the meaning of section 39.

26. Self-Assessment of tax.—(*1*) Subject to the provisions of section 25, the tax due in respect of a financial year from every registered dealer, who has furnished the return and statement mentioned in section 24, shall be deemed to have been assessed.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Commissioner may, in the interest of revenue, select any registered dealer for detailed audit of his business, on the basis of a selection model as may be prepared for such purpose, incorporating therein such criteria as may be deemed fit by the Commissioner.

(*3*) The audit of the business of a dealer selected under sub-section (*2*) shall be conducted, within a period of twenty-four months from the due date within the meaning of sub-section (*3*) of section 24, in such manner as may be prescribed.

27. Assessment of dealer not filing return.—(*1*) If a registered dealer fails to furnish before the due date specified under sub-section (*3*) of section 24—

(*a*) the returns specified under sub-section (*1*) or sub-section (*3*) of section 24; or

(*b*) the quarterly abstract statement under sub-section (*4*) of section 24; or

(*c*) the statement under sub-section (*2*) of section 24,

the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, assess to the best of its judgment, the amount of tax due from the dealer and interest, if any—

(*2*) Any assessment made or interest levied under this section shall be without prejudice to any action, which is, or may be, taken under section 81.

28. Assessment of tax of dealers evading registration.—(*1*) If upon information which has come into his possession, the prescribed authority is satisfied that reasonable grounds exist to believe that any dealer has been liable to pay tax under this Act in respect of any period, and has nevertheless wilfully failed to apply for grant of certificate of registration, or, having so applied, failed to furnish any particulars or information required for the purposes of section 19, the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of its judgment, the amount of tax due, if any, from the dealer in respect of such period and all subsequent periods; and the prescribed authority may, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum of one hundred rupees for every day of the period during which the dealer failed to apply for registration or failed to furnish any particulars or information required for the purposes of section 19 or an amount equal to the amount of tax assessed, whichever is higher:

Provided that no proceeding for such assessment shall be initiated except before the expiry of two years from the expiry of the period to which it relates:

Provided further that a proceeding initiated under this sub-section shall be completed within a period of four years from the date of initiation.

(*2*) Any assessment made, interest levied or penalty imposed under this section shall be without prejudice to any action which is, or may be, taken under section 81.

29. Assessment of tax on disputed question.—Notwithstanding anything contained in any other provision of this Act, where the assessment involves a decision on a point which is concluded against any of the authorities specified in sub-section (*1*) of section 10 by a judgment of the Tribunal and an appeal has been filed under section 79, then unless otherwise directed by the High Court, the prescribed authority may complete the assessment as if the point was not so decided against such authority, but shall stay the recovery of such of the dues including tax, penalty, interest or amount forfeited, if any, in so far as they relate to such point, until the decision by the High Court and after such decision, may modify the assessment order, if found necessary, after giving the dealer a reasonable opportunity of being heard.

30. Assessment of tax of non-resident dealer doing business temporarily by way of fair, *mela,* etc.— (*1*) Notwithstanding anything contained in section 19, or section 26 and subject to such rules as may be prescribed, it shall be open to the prescribed authority or any other officer authorised by the Commissioner in this behalf to make pro of turnover of sale or purchase of

goods, as the case may be, effected by any dealer residing outside the State of Bihar and carrying on business temporarily by way of fair, *mela* or by way of any other similar mode in the State of Bihar.

(*2*) If a dealer referred to in sub-section (*1*) claims that the sales affected by him are not of goods imported by him, the onus to prove such claim shall lie on the claimant.

31. Assessment or re-assessment of tax of escaped turnover.—(*1*) If the prescribed authority is satisfied, either on the basis of audit conducted under sub-section (*3*) of section 26 or otherwise, that reasonable grounds exist to believe that, in respect of any assessment under this Act or under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, during any period, any sale or purchases of goods liable to tax under this Act or the said Act, for any reason, has been under-assessed or has escaped assessment, or has been assessed to tax at a lower rate, or any deduction therefrom has been wrongly made, or an input tax credit has incorrectly been claimed, the prescribed authority shall, in such manner as may be prescribed and after serving on the dealer a notice in the form and in the manner prescribed, proceed to assess or re-assess, as the case may be, the tax payable by such dealer within four years from the expiry of the year during which the original order of assessment or re-assessment was passed, in a case where the dealer has concealed, omitted or failed to disclose full and correct particulars of such sale or purchase or input tax credit, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice under this sub-section was a notice under section 27:

Provided that the amount of tax shall be assessed or re-assessed after allowing such deductions as were allowable during the said period and at the rates at which it would have been assessed had the turnover not escaped assessment.

(*2*)(*a*) The prescribed authority shall, in a case where the dealer has concealed, omitted or failed to disclose full and correct particulars of such sale or purchase or input tax credit, direct that the dealer shall, besides the amount of interest payable under sub-section (*10*) of section 24, pay by way of penalty, a sum equal to three times the amount of tax which is or may be assessed on the turnover of sale or purchase which escaped assessment.

(*b*) The penalty imposed under clause (*a*) shall be in addition to the amount of tax, which is or may be assessed on the turnover of sale or purchase which escaped assessment.

(*3*) Any assessment or re-assessment made and any penalty imposed under this section shall be without prejudice to any action, which is or may be taken under section 81.

32. Escaped turnover detected before or at the time of assessment of tax.—(*1*) If the prescribed authority is satisfied that any registered dealer—

(*a*) has concealed any sales or purchases or any particulars thereof, with a view to reduce the amount of tax payable by him under this Act; or

(*b*) has furnished incorrect statement of his turnover or incorrect particulars of his sales or purchases in the return furnished under sub-section (*1*) of section 24 or quarterly statement under sub-section (*2*) of section 24 or quarterly abstract statement under sub-section (*3*) of section 24; or

(*c*) has claimed input tax credit in excess of the amount of input tax credit to which he is entitled under this Act,

the prescribed authority shall, after giving such a dealer an opportunity of being heard in the prescribed manner, by an order in writing, direct that he shall, besides the amount of interest payable under sub-section (*10*) of section 24 and in addition to any tax which may be determined to be payable by him under the Act, pay by way of penalty, a sum equal to three times the amount of tax on the concealed turnover or on concealed or incorrect particulars or excess input tax credit claimed.

(*2*) The penalty under sub-section (*1*) may be imposed before completion of assessment, and for determining the amount of penalty, the prescribed authority may quantify the amount of tax provisionally in the prescribed manner.

(*3*) Any penalty imposed under sub-section (*1*) shall be without prejudice to any action, which is or may be taken under section 81.

33. Assessment of tax based on audit objections.—Where an objection has been made by the Comptroller and Auditor-General of India in respect of an assessment or re-assessment made or scrutiny of any return filed under this Act, the prescribed authority shall proceed to re-assess the dealer with respect to whose assessment or re-assessment or scrutiny, as the case may be, the objection has been made in the manner prescribed:

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

34. Assessment of tax proceedings, etc., not to be invalid on certain grounds.—No assessment and demand on account of any tax, interest or penalty shall be invalid or affected by reason only of any mistake in the name, residence, place of business or status of any person liable to pay the tax, interest of penalty or by reason only of clerical error or other defect of form, if the provisions contained in this Act and the rules made thereunder have, in substance, been complied with.

35. Taxable turnover.—(*1*) For the purposes of this Act, the taxable turnover of a dealer shall be that part of his gross turnover which remains after deducting therefrom—

(*a*) the aggregate value of the transactions specified in section 6;

(*b*) sale price on account of sales exempted under section 7;

(*c*) in the case of works contract, the amount remaining after deducting from the gross value of the contract the amount on account of the following, namely:—

(*i*) labour charges for execution of the works contract,

(*ii*) amount paid to sub-contractor on account of labour and services,

(*iii*) charges for planning, designing and architects fees,

(*iv*) charges for obtaining on hire, the machineries and tools used in the execution of the works contract,

(*v*) cost of consumables such as water, electricity, fuels, etc., used in execution of the works contract, the property in which is not transferred in the course of execution of a works contract,

(*vi*) cost of establishment of the contractor to the extent, it is relatable to supply of labour and services,

(*vii*) other similar expenses relatable to supply of labour and services,

(*viii*) profit earned by the contractor to the extent it is relatable to the supply of labour and services, and

(*ix*) goods or transaction exempted under section 6 or section 7;

(*d*) value of goods transferred otherwise than by way of sale;

(*e*) the value of goods sold but returned to the dealer within a period of six months from the date of the original sales and in respect of which the selling dealer has issued to the purchasing dealer a credit note specified in section 53;

(*f*) sale price at the subsequent stages of sale of such goods as are specified in Schedule IV as being subject to tax at the first point of their sale in the State of Bihar, if necessary evidence as required by sub-section (*2*) of section 13 are filed along with the return filed by the dealer under sub-section (*3*) of section 24.

(*2*) Where a dealer claims that he is not liable to pay tax on any part of his gross turnover in respect of any goods by reason of transfer of such goods by him to any other dealer or to his agent or to his principal, as the case may be, for sale, the burden of proving such claim shall be on the dealer and for this purpose, along with other evidences as may be prescribed, he shall furnish before the prescribed authority a declaration in a form and in the manner prescribed.

36. Tax payable by a dealer.—The tax payable by a dealer shall be calculated according to the following formula, namely:–

T = A–B

Where—

T means the tax payable by the dealer,

A means the output tax under this Act, and

B means the total amount of input tax credit allowable to the dealer under section 16 or section 17.

37. Time limit for completion of proceeding of assessment of tax.—Except for a proceeding under sub-section (*2*) of section 26, section 28, sub-section (*1*) of section 31 and section 33, no proceeding for assessment of tax payable by a dealer under this Act in respect of any period shall be initiated and completed except before the expiry of two years from the expiry of such period:

Provided that a proceeding for re-assessment in pursuance of or as a result of an order on appeal, revision or review shall be initiated and completed before the expiry of one year from the expiry of the year during which such order was communicated to the assessing authority:

Provided further that the Commissioner may, on being satisfied that it is necessary so to do and for reasons to be recorded in writing, extend in a case or class of cases, the said period of two years to such further period not exceeding two years.

38. Exclusion of time in assessment tax proceedings.—In computing the period of limitation prescribed for assessment or re-assessment, as the case may be, under section 27 or section 28 or section 29 or section 30 or section 31 or section 32 or section 33, the time during which any assessment or re-assessment proceedings remained stayed under the order of any competent court shall be excluded.

39. Payment and recovery of tax.—(*1*) The tax payable under this Act shall be paid in the manner hereinafter provided.

(*2*) The amount of—

(*i*) tax estimated in advance under sub-section (*7*) of section 3, or

(*ii*) tax due according to the returns filed by the dealer where full payment of such amount has not been made, or

(*iii*) tax assessed or re-assessed under section 26 or section 27 or section 28 or section 29 or section 30 or section 31 or section 32 or section 33 or in pursuance of or as a result of an order on appeal, revision or review, less the sum, if any, already paid by the dealer, or

(*iv*) interest chargeable or penalty imposed, if any, under any of the provisions of this Act,

shall be paid by the dealer or the person concerned into a Government Treasury or a bank authorised in this behalf by the State Government, or in such other manner as may be prescribed and by such date as may be
specified in a notice issued by the prescribed authority for this purpose and the date to be specified shall, ordinarily, not be less than thirty days from the date of service of such notice:

Provided that the authority may, in respect of any particular dealer or a person, and, for reasons to be recorded in writing, extend the date of such payment, or allow such dealer to pay tax or interest due and the penalty, if any, by instalments in the manner prescribed:

Provided further that where the prescribed authority considers it expedient in the interest of revenue, it may, for reasons to be recorded in writing, require any dealer, or person, to make such payments forthwith.

(*3*) If a dealer or a person fails to make payment of any amount of tax by the period specified in the notice issued under sub-section (*2*) or fails to make payment of tax by the date extended or has defaulted in making payment of instalments under the first proviso of the said sub-section, the dealer shall, for such failure or default, pay, in addition to the amount of tax, an amount by way of simple interest calculated at the rate of one and a-half per cent. for each calendar month or part thereof on the amount of such tax.

(*4*) Where, in course of any proceeding, the prescribed authority finds that any dealer has—

(*i*) wrongly claimed either the whole or part of his turnover as not taxable and, has consequently, paid lesser amount of tax than payable by him; or

(*ii*) wrongly declared his turnover or any particulars thereof and thereby has reduced the amount of tax payable under this Act; or

(*iii*) wrongly claimed input tax credit in excess of what he is entitled to under this Act,

the dealer shall pay, in addition to the amount of tax assessed under any proceeding as aforesaid, simple interest at the rate of one and a half per cent. for each calendar month or part thereof on the difference of the amount previously admitted and tax finally assessed from the date, the tax would have been payable had the dealer not committed any of the acts mentioned in clause (*i*) or clause (*ii*) or clause (*iii*):

Provided that where the recovery of tax or any part thereof assessed under any proceeding under this Act is stayed as a result of an order on appeal or by any competent court, the amount of such interest shall be recoverable after the final order is passed and such order is confirmed from the date the tax first became due.

(*5*) If a dealer or a person has failed, without reasonable cause, to make payment of any amount of tax by the date specified in the notice issued under sub-section (*2*) or forthwith as required by the second proviso thereto, or in like manner has failed to make payment of tax and interest by the date extended under the first proviso of the said sub-section or has defaulted in payment of instalments or has not paid the amount of interest due, the prescribed authority, after giving the dealer a reasonable opportunity of being heard, may direct that the dealer shall pay, in the prescribed manner, by way of penalty for such failure, an amount which shall be five per cent. per month of the amount payable following the expiry of such date for each subsequent month and part thereof.

(*6*) Subject to the provisions of sub-sections (*2*), (*4*) and (*5*), any amount of tax, interest together with penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (*2*), or penalty imposed under sub-section (*5*) and remaining unpaid shall, without prejudice to any other mode of recovery, be recoverable as if it were an arrear of land revenue:

Provided that where an appeal in respect of such amount has been entertained under section 72, the appellate authority may, subject to such rules as may be made by the State Government under this Act, stay recovery of such amount or portion thereof for so long as the appeal remains pending or for such shorter period as the said authority may consider to be adequate.

40. Advance recovery of tax on sales and supplies to Governments and other persons.—(*1*) Subject to the provisions of section 6, any person responsible for paying sale price or any amount purporting to be the full or part payment of sale price in respect of sales or supplies of taxable goods exceeding rupees two lakh fifty thousands during a year made to the State Government or the Central Government or a company, corporation, Board, authority, undertaking or any other body owned, financed or controlled either wholly

or partly by the State Government or the Central Government, shall, at the time of payment, subject to such conditions and restrictions as may be prescribed, deduct an amount at the rate as may be specified by the State Government, by a notification, on account of tax on the amount of such payment:

Provided that the rate or rates to be specified by the State Government shall not be more than the rate of tax applicable to the goods sold or supplied.

(*2*) Notwithstanding any law or contract to the contrary, the person making such deduction shall be lawfully competent to make such deduction.

(*3*) The payment of the amount deducted under sub-section (*1*) into the Government Treasury in the prescribed manner, shall be the liability of the person making such deduction.

(*4*) The payment of the amount deducted under sub-section (*1*) into the Government Treasury by the person making the deduction shall be deemed to be a payment by or on behalf of the seller or supplier concerned.

(*5*) If any person contravenes any or all of the provisions of sub-sections (*1*), (*3*) and (*4*), he shall be liable to pay, by way of penalty, a sum not exceeding twice the amount of tax deductible under sub-section (*1*):

Provided that such penalty shall not be imposed unless the person contravening the provisions is given an opportunity of being heard by the prescribed authority.

(*6*) The provisions of sections 39 and 47 for recovery of any amount of tax due from a dealer shall, *mutatis mutandis*, apply for recovery of any amount of tax deducted or any penalty imposed but not deposited under this section.

Explanation.—For the purposes of this section, the "person" in this section shall include all officers or authorities who are competent or authorised to make payment of the sale-price in respect of sales to the State Government or the Central Government or to a company, corporation, Board, authority, undertaking or any other body owned, financed or controlled wholly or partly by the State Government or the Central Government.

(*7*) The provisions of sub-section (*5*) of section 41 shall, *mutatis mutandis*, apply, so far as it relates, to issuance of certificate to person from whose bills deduction has been made and for filing of quarterly statements by the person making the deductions.

41. Advance recovery of tax from works contractors.—(*1*) Subject to the provisions of section 6, every person, responsible for making any payment in discharge of any liability on account of valuable consideration payable in respect of transfer of property in goods (whether as goods or in some other form) vested in the execution of a works contract shall be lawfully competent to deduct an amount at the rate or rates, not exceeding four per cent. to be specified by the State Government, in a notification published in the Official Gazette, purporting to be a part or full amount of tax payable on the sale of such goods from every bill or invoice raised by the works contractor as payable by the person and no such payment or discharge of any such bill or invoice raised by a works contractor shall be made without deduction as aforesaid.

Explanation.—For the purposes of this section, the "person" in this section shall include all officers and authorities of the Central or the State Government or of a company, corporation, Board, authority, co-operative societies, undertaking or any other body constituted or formed under any Act and of any firm or association of persons and organisation:

Provided that, the State Government may prescribe the conditions subject to which no such deductions shall be made.

(*2*) No such payment or discharge of any bill or invoice raised in respect of transfer of property in goods (whether as goods or in some other form) by a works contractor shall be made without the deduction referred to in sub-section (*1*):

Provided that no deduction under sub-section (*1*) shall be made where the payment is made as advance prior to the commencement of the execution of such works contract until it forms part of the sale price payable for transfer of property in goods (whether as goods or in some other form):

Provided further that no deduction under sub-section (*1*) shall be made from the payment or any part thereof, where—

(*a*) the payment or any part thereof does not relate to any transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;

(*b*) the dealer produces a certificate issued by the Deputy Commissioner, Commercial Taxes or the Assistant Commissioner, Commercial Taxes or the Commercial Taxes Officer, in-charge of the concerned Circle to the effect that the payment or any part thereof relates to such transfer of property in goods (whether as goods or in some other form) on which he has no further liability to pay tax in terms of the provisions of section 15 of the Central Sales Tax Act, 1956 (74 of 1956);

(*c*) the dealer produces a certificate issued by the Deputy Commissioner, Commercial Taxes or the Assistant Commissioner, Commercial Taxes or the Commercial Taxes Officer, in charge of the concerned Circle to the effect that the payment or any part thereof relates to such transfer of property

in goods (whether as goods or in some other form) on which he has no liability to pay tax in terms of the provisions of section 6.

(*3*) The amount deducted under sub-section (*1*) shall be adjusted against the amount of tax finally assessed or determined as being payable by the concerned works contractor and any amount deducted in excess of the tax so assessed or determined shall be refunded in accordance with the provisions of this Act.

(*4*) The deduction referred to in sub-section (*1*) shall be made in the manner prescribed.

(*5*) The person making the deduction shall issue a certificate, in the form and manner prescribed, containing such particulars as may be required to be mentioned therein, to the works contractor or person from whose bill or invoice such deduction has been made and such certificate shall be deemed to be a valid discharge of liability in terms of provisions of sub-section (*9*) of section 24 to the extent of amount of deduction made under sub-section (*1*).

(*6*) If any person contravenes any or all of the provisions of sub-sections (*1*), (*2*) and (*5*), the prescribed authority shall, after giving a reasonable opportunity of being heard, by order in writing direct that such person shall pay by way of penalty, a sum not exceeding twice the amount of tax deductible or deducted and not deposited in the Government Treasury.

(*7*) The provisions of sections 39 and 47 shall, *mutatis mutandis*, apply for recovery of any amount of tax deducted but not deposited into the Government Treasury or any penalty imposed under this section.

42. Production of tax clearance certificate.—Notwithstanding anything contained in any law for the time being in force, no person shall be awarded by—

(*i*) the State Government; or

(*ii*) the Central Government; or

(*iii*) a company, corporation, board, authority, undertaking or any other body which is owned, financed or controlled either wholly or partly by the State Government or the Central Government,

any contract involving sale or supply of goods and no person shall be granted any licence to carry on any trade or commerce unless he produces to the State Government or the Central Government or the company, corporation, board, authority, undertaking or any other body which is owned, financed or controlled either wholly or partly by the State Government or the Central Government, a tax clearance certificate, granted by the prescribed authority in the form and manner prescribed, to the effect that the prescribed authority has no objection to the awarding of such contract or the granting of such licence to the person concerned:

Provided that no such certificate shall be granted to any person who is not a registered dealer under this Act or, being a registered dealer, has made a default in the payment of any tax, penalty or interest due under this Act:

Provided further that if a person not liable to tax under this Act applies for the grant of certificate under this section and in whose case the value of the contract or, as the case may be, the anticipated turnover in
the immediately succeeding twelve months exceeds the limit specified in sub-section (*2*) of section 3, he shall be granted such certificate subject to the condition that he shall furnish, to the prescribed authority, an undertaking to the effect that he shall apply for grant of certificate of registration in the manner and within the period prescribed and in the event of failure to do so the concerned Government or person or authority shall terminate the contract awarded to the person.

43. Restriction on collection of tax by dealers.—(*1*) Without prejudice to the provisions of sections 40 and 41, no person, who is not a registered dealer, shall collect from any person any amount, by whatever name or description it may be called, towards or purporting to be tax on sale of goods.

(*2*) No registered dealer shall collect from any person any such amount exceeding the amount arrived at after applying the rate of tax specified under section 14 to the sale price of the goods sold.

(*3*) If any person or a registered dealer contravenes the provisions of sub-section (*1*) or sub-section (*2*), the prescribed authority shall, after giving an opportunity of being heard in the manner prescribed, by an order in writing direct that such person or registered dealer shall pay by way of penalty a sum equal to twice the amount collected in contravention of the provisions of sub-sections (*1*) and (*2*).

44. Forfeiture of tax collected in violation of this Act.—(*1*) Any amount collected, by any person in contravention of the provisions of sub-section (*1*) or sub-section (*2*) of section 43 or any amount collected by any person by way of tax, by whatever name called, or in any other manner not payable under any provision of this Act, shall be liable to forfeiture to the State Government.

(*2*) If the prescribed authority, in the course of any proceeding under this Act or otherwise, has reason to believe that any amount is liable for forfeiture under sub-section (*1*), it shall serve, on the person who has collected such amount, a notice in the prescribed form requiring him to show cause why the said amount should not be forfeited to the State Government and on receipt of the reply, if any, and after making such inquiries as may be deemed fit, he shall make an order of forfeiture if the amount is found so liable.

(*3*) Where an order of forfeiture under sub-section (*2*) has been made, the person making the unauthorised collection shall forthwith pay the amount so forfeited to the State Government, if it has not already been paid and on his failure to do so, such amount shall be recoverable from him as if it were a tax due from him.

(*4*) Where an order for forfeiture is passed, the Commissioner shall publish or cause to be published, in the prescribed manner, a notice for information of the persons from whom the amount so forfeited had been collected giving such details as may be prescribed.

(*5*) On the publication of the notice under sub-section (*4*) a refund of such amount or part thereof may be claimed from the State Government within one year from the date of publication of the said notice by the person from whom it was unauthorisedly realised by way of tax and for this purpose the person claiming the refund shall make an application in the prescribed form.

(*6*) On receipt of an application under sub-section (*5*), the Commissioner shall hold such enquiry as he deems fit and if he is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid to the State Government and no refund or remission in respect of that amount was granted, the Commissioner shall refund such amount or any part thereof to the person concerned.

(*7*) Notwithstanding anything contained in this Act or in any other law for the time being in force, where any amount collected by any person is forfeited to the State Government under this section, such forfeiture shall, if the amount forfeited has been paid to the State Government, discharge him of the liability to refund the amount to the person from whom it was so collected.

45. Rounding off of tax liability.—Any tax, interest or penalty payable under this Act shall be rounded off to the nearest ten rupees and shall be paid accordingly.

46. Recovery of tax as arreears of land revenue.—(*1*) All authorities appointed under section 10 shall, for the purpose of recovery of tax, interest and penalty under this Act, have the same powers as are vested in the certificate officer under the Bihar and Orissa Public Demand Recovery Act, 1914 (Bihar and Orissa Act 4 of 1914).

(*2*) Any proceeding under sub-section (*1*) before any authority appointed under section 10 shall be deemed to be a proceeding for recovery of the public demand under the Bihar and Orissa Public Demands Recovery Act, 1914 (Bihar and Orissa Act 4 of 1914) and all provisions of the said Act for recovery, attachment, sale, arrest shall *mutatis mutandis* apply.

47. Special mode of recovery of tax and other liabilities under this Act.—(*1*) Notwithstanding anything contained in section 39 or any law or contract to the contrary, the prescribed authority may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the said authority) direct—

(*a*) any person from whom any money is due or may become due to a dealer who has failed to comply with a notice of demand served under section 39; or

(*b*) any person who holds or may subsequently hold any money for or on account of such dealer,

to pay into Government treasury, in the manner specified in the notice issued under this sub-section, either forthwith or upon the money becoming due or being held, or within the time specified in the notice (not being before the money becomes due or it is held) so much of the money as is sufficient to pay the amount of tax due from the dealer, together with interest and penalty, if any, under this Act or the whole of the money when it is equal to or less than that amount.

(*2*) The authority issuing a notice under sub-section (*1*) may, at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(*3*) Any person making any payment in compliance with a notice issued under sub-section (*1*) shall be deemed to have made the payment under the authority of the dealer and the receipt from the Government Treasury shall constitute a good and sufficient discharge of the liability of such person to the dealer to the extent of the amount specified in the receipt.

(*4*) Any person discharging any liability to the dealer after service on him of the notice issued under sub-section (*1*) shall be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer for tax, interest and penalty, whichever is less.

(*5*) Where a person on whom a notice is served under sub-section (*1*) proves to the satisfaction of the authority which issued the notice that the money demanded or any part thereof was not due to the dealer or that he did not hold any money for or on account of the dealer, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the dealer or be held for or on account of the dealer, nothing contained in this section shall be deemed to require such person to pay into the Government Treasury any such money or part thereof, as the case may be.

(*6*) If any person contravenes any of the provisions of sub-sections (*1*) and (*4*) of this section, the prescribed authority shall after giving an opportunity of being heard by an order in writing direct that such person shall pay by way of penalty a sum not exceeding twice the amount payable under sub-section (*1*).

(*7*) Any amount of money which a person is directed to pay under subsection (*1*) or for which he is personally liable to the State Government under sub-section (*4*), shall, if it remains unpaid, be recoverable as an arrear of land revenue.

(*8*) No action shall be taken under this section in respect of any amount of tax, interest and penalty, if any, the date of payment of which has been extended or the realisation of which has been stayed under this Act during the period of such extension or stay.

(*9*) The provisions of this section shall be without prejudice to any action that may be taken for recovery of the arrears of tax, interest and penalty, if any, due from the dealer or person.

48. Liability of surety.—The liability of a surety under this Act shall be co-extensive, to the extent of the amount of security, with that of the defaulting dealer and all modes of recovery enforceable against the dealer shall be enforceable against the surety by the prescribed authority.

49. Transfers to defraud revenue void.—Where, during the pendency of any proceeding relating to assessment, re-assessment or recovery of any tax, interest or penalty payable under this Act or the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, any person or dealer creates a charge on or parts with the possession, by any mode of transfer whatsoever including sale, mortgage, gift or exchange, of any of his assets in favour of any person with the intention of defrauding the revenue, then, notwithstanding anything to the contrary contained in any Act or contract, such charge or

transfer shall be void as against any claim inrespect of any tax or any other sum payable by the dealer as a result of the completion of such proceeding or otherwise.

50. Period of limitation for recovery of tax.—Notwithstanding anything contained in any other law for the time being in force, no proceedin ction (*6*) of section 39 or sub-section

(*7*) of section 47, shall be initiated under this Act except before the expiry of twelve years from due date within the meaning of sub-section (*3*) of section 24:

Provided that the period of limitation for the registered dealer availing of the tax deferment under section 23A of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, shall be reckoned from the last date of repayment of the deferred amount of tax:

Provided further that when an appeal or application for review has been filed, the period of limitation as aforesaid shall run from the date of order passed on such appeal, application for review or from the date of order passed in pursuance of or as a result of such order, whichever is later.

51. Tax to be first charge on property.—Notwithstanding anything to the contrary contained in any law for the time being in force, any amount of tax and interest and penalty, if any, payable by a dealer or any other person under this Act shall be a first charge on the property of the dealer or such person.

CHAPTER VII

BOOKS OF ACCOUNT AND FURNISHING OF INFORMATION

52. Maintenance of accounts.—(*1*) Every registered dealer (other than a dealer permitted to pay tax under section 15), shall—

(*a*) keep in such manner as may be prescribed a true and complete account in respect of all goods produced, raised, manufactured, processed, bought, sold or delivered or transferred to or by him;

(*b*) maintain in such manner as may be prescribed correct and complete accounts of despatches and arrivals of goods as also of stock of goods manufactured or transferred.

(*2*) Such dealers or persons, as may be prescribed, and such other dealers to whom sub-section (*1*) applies, shall, at the end of each financial year, draw up, in the manner as may be prescribed,–

(*a*) a manufacturing, trading and profit and loss account and a balance sheet, in the case of a manufacturer; and

(*b*) such accounts as may be prescribed, in any other case:

Provided that no accounts referred to in sub-section (*1*) shall be considered, true and complete unless such accounts enable the prescribed authority to compute the tax payable and the entitlement of input tax credit under the provisions of this Act:

Provided further that the accounts referred to in sub-section (*1*) shall not be considered true and complete unless they give a true and fair view—

(*i*) of the state of affairs of the dealer or the person as at the end of the financial year, in the case of the balance sheet; and

(*ii*) of the working results of the dealer or the person for the financial year, in the case of the anufacturing, trading and profit and loss account.

(*3*) Every dealer or a person required to keep accounts by sub-section (*1*) shall—

(*a*) issue a challan in respect of all transfers of goods from his place of business otherwise than as a result of sale, in such form as may be prescribed; and

(*b*) preserve all invoices for a period of not less than six years from the end of the year to which they relate, or for a period of two years after the completion of assessment, appeal or revision for the year, whichever is later.

(*4*) Every dealer permitted to pay tax under section 15 shall—

(*a*) maintain accounts showing his purchases and sales during the year and such other accounts, as may be prescribed; and

(*b*) draw up, at the end of each financial year, in the manner as may be prescribed, a trading and profit and loss account.

53. Issue of tax invoice and debit and credit notes.—(*1*) A registered dealer, making a sale liable to tax under this Act, to another registered dealer shall, provide the purchaser at the time of sale, a tax invoice containing the particulars specified in sub-section (*2*) and retain a copy thereof:

Provided that a tax invoice shall not be issued—

(*a*) by a dealer permitted to pay tax under section 15; or

(*b*) for the sale in the course of inter-State trade or commerce or export by a dealer,

and in such cases a retail invoice shall be issued:

Provided further that not more than ed for each such sale:

Provided also that if an invoice has been issued under the provisions of the Central Excise Act, 1944 (1 of 1944), it shall be deemed to be a tax invoice if it contains the particulars specified in sub-section (*2*).

(*2*) The tax invoice issued under sub-section (*1*) shall contain the following particulars on the original as well as copies thereof, namely:—

(*a*) the words "Tax Invoice" in a prominent place;

(*b*) the name, address and tax payer identification number of the selling registered dealer;

(*c*) the name, address and tax payer identification number of the purchaser;

(*d*) an individual pre-printed serialised number and the date on which the tax invoice is issued;

(*e*) description, quantity, volume and value of goods sold and the amount of tax charged thereon indicated separately;

(*f*) the signature of the selling dealer or his manager, agent or servant duly authorised by him; and

(*g*) the name and address of the printer and first and last serial number of tax invoices printed and supplied by him to the dealer.

(*3*) A tax invoice in respect of a sale shall be issued in duplicate and the original of which shall be issued to the purchaser (or the person taking the delivery, as the case may be) and the duplicate shall be retained by the selling dealer.

(*4*) Except when a tax invoice is issued under sub-section (*1*), if a dealer sells any goods exceeding such amount in value as may be prescribed, in any one transaction to any person, he shall issue to the purchaser a retail invoice containing the particulars specified in sub-section (*5*) and retain a copy thereof.

(*5*) The retail invoice issued under sub-section (*4*) shall contain the following particulars on the original as well as copies thereof, namely:—

(*a*) the words "Retail Invoice" or "Cash Memorandum" or "Bill" in a prominent place;

(*b*) the name, address and tax payer identification number of the selling dealer, if registered;

(*c*) in case the sale is in the course of inter-State trade or commerce, the name, registration number and address of the purchasing dealer and type of any form, under the Central Sales Tax Act, 1956 (74 of 1956), if any, against which the sale has been made;

(*d*) an individual pre-printed serialised number and the date on which the retail invoice is issued;

(*e*) description, quantity, volume and value of goods sold and amount of tax charged thereon indicated separately; and

(*f*) the signature of the selling dealer or his servant, manager or agent, duly authorised by him.

(*6*) The retail invoice shall be issued in duplicate, and the original of which shall be issued to the purchaser and the duplicate copy of which shall be retained by the selling dealer.

form in which the particulars on a tax invoice or retail invoice are to be recorded.

(*8*) If a purchaser claims to have lost the original tax invoice, the selling dealer may, subject to such conditions and restrictions as may be prescribed, provide a copy of such tax invoice clearly marked as a copy of the original tax invoice.

(*9*) Where a tax invoice has been issued in respect of a sale and—

(*a*) the amount shown as tax in that tax invoice exceeds the tax payable in respect of the sale, the dealer shall provide the purchaser with a credit note, containing such particulars as may be prescribed; or

(*b*) the tax payable in respect of the sale exceeds the amount shown as tax on the tax invoice, the dealer shall provide the purchaser with a debit note, containing such particulars as may be prescribed.

(*10*) Every dealer referred to in sub-section (*1*) shall preserve books of account including tax invoices and retail invoices until the expiry of six years after the end of the year to which they relate or for such other period as may be prescribed.

(*11*) If a registered dealer contravenes the provisions of this section, the prescribed authority shall, after giving the dealer an opportunity of being heard, direct him to pay by way of penalty a sum equivalent to twice the amount of tax payable for each sale in respect of which such contravention has taken place.

54. Accounts to be audited in certain cases.—(*1*) Every dealer whose gross turnover exceeds forty lakh rupees shall, for the purposes of this Act, get his annual accounts audited by an accountant by—

(*i*) the 30th day of November of the following year, in the case of a company formed and registered under the Companies Act, 1956 (1 of 1956); and

(*ii*) the 31st day of October of the following year, in any other case.

(*2*) Every dealer referred to in sub-section (*1*) shall obtain, by the date specified in that sub-section, a report of such audit in the prescribed

form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and true copy of such report shall be furnished, on or before the due date, by such dealer to the prescribed authority.

Explanation 1.—In this sub-section, "due date" means—

(*a*) where the dealer is a company within the meaning of the Companies Act, 1956 (1 of 1956), the 30th day of November of the year following the year to which such return relates;

(*b*) where the dealer is a person, other than a company,—

(*i*) in a case where the accounts of the dealer are required under this Act or any other law to be audited or where the report of an accountant is required to be furnished under this section, the 31st day of October of the year following the year to which such return relates;

(*ii*) in any other case, the 31st day of July of the year following the year to which such return relates.

Explanation 2.—For the purposes of this section, "accountant" means a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949) and includes a person who, by virtue of the provisions of sub-section (*2*) of section 226 of the Companies Act, 1956 (1 of 1956), is entitled to be appointed to act as an auditor of companies registered in any State.

(*3*) If the accounts of a registered dealer are not required to be audited in terms of the provisions of sub-section (*1*), such dealer shall furnish, to the prescribed authority, the accounts and statements mentioned in sub-section (*2*) of section 52 on or before the 31st day of July of the year following the year to which such accounts or statements relate.

(*4*) If a dealer contravenes the provisions of sub-section (*2*) or sub-section (*3*), the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equivalent to two per cent. of the tax payable by him under section 36 for every month, or part thereof, of such default.

55. Furnishing of information by Government departments, banks, financial institutions clearing and forwarding agents and owners of warehouses, godowns and others.—(*a*) Every bank, including any branch of a bank, or any clearing house in the State or any financial institution, department of the
Government, corporation, institution, organisations or companies, boards, authorities, undertakings or any bodies owned, financed or controlled wholly or partly by the State Government or the Central Government; and

(*b*) every clearing, forwarding or booking agent or dalal as defined in clause (*a*) of the *Explanation* to section 59 or a person engaged in the business of transporting goods,

shall, if so required by any authority appointed under section 10, furnish any such particulars as may be required by such authority in respect of the transactions relating to sales or purchases of goods by such dealers or any dealer with or through such banks or clearing house or any financial institution, department of the Government, corporations, institutions, organisations or companies, boards, authorities, undertakings or any other body owned, financed or controlled wholly or partly by the State Government or the Central Government.

CHAPTER VIII

INSPECTIONS, SEARCH AND SEIZURE

56. Production of books of account, inspection, search and seizure.—(*1*) Subject to such rules as may be made by the State Government under this Act, any authority appointed under sub-section (*1*) of section 10 may, either before or after assessment, require any dealer to produce before it or him any accounts, registers or documents or to furnish any information relating to the details of his purchases and sales and the stock of goods produced, raised, processed, manufactured, bought, sold or delivered by such dealer, and the dealer shall comply with

(*2*) If reasonable grounds exist to suspect that—

(*a*) a dealer, with an intention to reduce his tax liability under the Act, has suppressed any financial transaction, element of value addition implicit in the transaction or the stock of goods produced, raised, processed, manufactured, bought, sold or delivered by such dealer or has claimed input tax credit in excess of his entitlement; or

(*b*) any clearing or forwarding agent or a person engaged in the business of transporting goods or owner of a warehouse or a godown is keeping or has kept his accounts in such a manner as is likely to cause evasion of tax payable under this Act,

the prescribed authority shall, after making such further inquiries as may be deemed fit and after obtaining such authorisation in the manner prescribed, proceed to inspect all the places of business of the dealer or the clearing or forwarding agent or the person engaged in the business of transporting goods or the owner of warehouse or godown:

Provided that if the prescribed authority is satisfied that delay in obtaining such authorisation may be prejudicial to the interest of revenue, he may, for reasons to be recorded in writing, proceed to inspect all the places of business of the dealer or the clearing or forwarding agent or the person engaged in the business of transporting goods or the owner of warehouse or godown without obtaining such authorisation which may be granted subsequently.

(*3*) The prescribed authority shall have the powers to enter into and search the premises, including the place of business, of such dealer or the person and, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer or the person as may be necessary, in the manner prescribed, and shall retain the same for so long as may be necessary in connection with any proceeding under this Act or for a prosecution under any law:

Provided that if the dealer or person whose accounts, registers or documents have been seized, applies for a copy of the same, he shall be supplied with a photo-copy of the same on payment of appropriate cost into a Government Treasury or a bank authorised in this behalf by the State Government:

Provided further that such authority or inspector may take or cause to be taken such copies of, or extracts from, the accounts, registers or documents, as such authority or inspector may consider necessary.

(*4*) (*a*) Any authority referred to in sub-sections (*1*) and (*2*) shall have the powers to seize any goods not properly accounted for in the books, accounts, registers and other documents of the dealer or the dalal as defined in clause (*a*) of the *Explanation* to section 59, or the owner of the warehouse, or the clearing, booking or forwarding agent, or the person engaged in the business of transporting goods in the manner prescribed.

(*b*) The authority referred to in clause (*a*) shall, in a case where the dealer or the person in-charge of goods as mentioned in clause (*a*) fails to produce any evidence or fails to satisfy the said authority regarding the proper accounting of goods, impose a penalty, after allowing an opportunity of hearing in the prescribed manner to the dealer or such person, which shall be equal to three times the amount of tax calculated on the value of such goods and the goods shall be released as soon as the penalty is paid.

(*c*) If the dealer or the person in-charge of the goods mentioned in clause (*a*) requests for time for production of necessary documents in support of proper accounting, the authority referred to in clause (*a*) shall release the goods on the condition that the dealer or such person deposits a security equivalent to three times the amount of tax calculated on the value of the goods, either in the form of cash, to be deposited in the Government Treasury, or in the form of bank guarantee acceptable to the authority.

(*d*) If the goods seized under clause (*a*) are not claimed by any person, the authority referred to in the said clause shall arrange for the safe custody of goods.

(*e*) In case the penalty imposed under clause (*b*) is not paid or the goods remain unclaimed for a period of thirty days or more from the date of seizure, the goods so seized shall be sold by auction in the prescribed manner and the sale proceeds shall be appropriated towards the amount of penalty imposed

under clause (*b*); and the balance of the sale-proceeds, if any, shall be deposited in the Government Treasury and shall be refunded to the lawful claimant in the prescribed manner:

Provided that in the case of goods of a perishable nature, the prescribed authority may decide to sell the goods by auction before a period of thirty days.

(*f*) In case where the goods have been released on the deposit of a security as mentioned in clause (*c*) and evidence regarding proper accounting of goods, to the satisfaction of the authority referred to in clause (*a*) is not produced within thirty days from the date on which the security is deposited, the amount of security shall stand forfeited to the State Government:

Provided that in case evidence or document to the satisfaction of the authority mentioned in clause (*a*) regarding the proper accounting of goods is produced within the said period of thirty days, the security shall be released in the prescribed manner.

(*5*) (*a*) The power conferred under sub-sections (*3*) and (*4*) shall include the power to break open the lock of any box or receptacle or door of any other place or premises where any accounts, registers or other documents or goods may be kept or are reasonably suspected to be kept.

(*b*) The powers conferred under sub-sections (*3*) and (*4*) shall also include the power to seal any box or receptacle, godown or building where any accounts, registers or other documents or goods may be kept or are reasonably suspected to be kept.

(*6*) An authority appointed under section 10 may require the assistance of any person, public servant or police officer in making a search and a seizure or for safe custody of goods seized under this section, and such person, public servant or police officer shall render necessary assistance in the matter.

(*7*) Where any books of account, other documents, money or goods are found in the possession or control of any person in the course of any search under sub-section (*2*) or sub-section (*3*), it shall be presumed, unless it is proved to the contrary, that such books of account, documents, money or goods belong to such person.

Explanation.—For the purposes of this section the expression "proper accounting", shall—

(*i*) in the case of a dealer, mean that the goods have either not been entered in the books of account or they have been classified in a manner which is likely to lead to evasion of tax payable under this Act; or

(*ii*) in the case of the owner of a warehouse, or a clearing, booking or forwarding agent, or a person engaged in the business of transporting goods, mean properly entered in such registers and accounts as may be prescribed under sub-section (*2*) of section 59.

(*8*) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to searches and seizure shall apply, so far as may be, to searches and seizure under this section.

57. Cross checking or verification of transactions.—(*1*) With a view to preventing evasion of tax payable under this Act and ensuring proper compliance with the provisions of this Act, the prescribed authority may, from time to time, collect information regarding sales and purchases effected by any class of dealers and cause any of such transactions of sale and purchase to be cross-checked.

(*2*) For this purpose, the prescribed authority may, from time to time and by issuing a notice, in the manner and form prescribed, require any class of dealers to furnish, before such authority and by such date as may be specified in the said notice, such information, details and particulars as may be specified in the notice, regarding the transactions of sales and purchases effected by the dealers during the period mentioned in the said notice.

(*3*) The prescribed authority shall cause any of such transactions to be cross-checked with reference to the books of account of the purchasing and selling dealers and for this purpose, the prescribed authority shall send an intimation required for the purpose of cross-checking, stating therein the details of the transactions proposed to be cross-checked and the time and date on which any officer or person duly authorised to cross check the transaction shall visit the place where the books of account are ordinarily kept by the dealer.

58. Survey.—(*1*) With a view to identifying dealers who are liable to pay tax under this Act, but have remained unregistered, the prescribed authority, shall, from time to time, cause a survey of unregistered dealers to be done for this purpose.

(*2*) For the purposes of the survey, the prescribed authority may, by notice in the prescribed form, require any dealer or class of dealers to furnish the names, addresses and other particulars, in the manner specified, of the persons and dealers who have purchased or sold any goods from, or, to, such dealer or class of dealers during a given period.

(*3*) For the purposes of survey, the prescribed authority may call for, by notice in the prescribed form, details and particulars regarding the services provided by public utilities, financial institutions including banking companies, clearing and forwarding agents, owners of warehouses, *dalals* and persons engaged in the business of transporting goods which such authority is of the opinion, shall be relevant and useful for the purposes of this Act.

59. Control on clearing, forwarding or booking agent and any person transporting goods.—(*1*) Every clearing, forwarding or booking agent or *dalal* or a person transporting goods, who during course of his business handles the document of title to the goods or transports goods or takes delivery of goods for or on behalf of a dealer and having his place of business in the State of Bihar, shall furnish true and complete particulars and information relating to his place of business to the prescribed authority, within such time and in such manner as may be prescribed.

(*2*) Every agent or person referred to in sub-section (*1*), shall maintain true and complete accounts, registers and documents, as may be prescribed, in respect of the goods handled by him and the documents of title relating thereto and shall produce the said accounts, registers and documents before the prescribed authority as and when required by him.

(*3*) If any agent or person referred to in sub-section (*1*) contravenes the provisions of sub-section (*1*) or sub-section (*2*) in a manner which is likely to lead to evasion of any tax payable under this Act, the prescribed authority may, without prejudice to any action under section 81, on charge of abetment, after giving such agent or person an opportunity of being heard, direct him to pay by way of penalty an amount which shall be equal to three times the amount of tax calculated on the value of goods in respect of which complete particulars have not been furnished or incorrect particulars or information have been furnished.

Explanation.—For the purposes of this sub-section—

(*a*) *"dalal"* shall include a person who renders his services for booking of, or taking delivery of, consignment of goods at a railway station, booking agency, goods transport company office, or any place of loading or unloading of goods or contrives, makes and concludes bargains and contracts for or on behalf of any dealer for a fee, reward, commission, remuneration or other valuable consideration or otherwise;

(*b*) "person transporting goods" shall, besides the owner, include the manager, agent, driver or employee of the owner, or person in-charge of a place of loading or unloading of goods other than a rail-head, or a post office, or of a goods carrier carrying such goods, or a person who accepts consignments of such goods for despatch to other places or gives delivery of any consignment of such goods to the consignee.

CHAPTER IX

CHECK-POSTS AND RESTRICTIONS ON MOVEMENT

60. Establishment of check-posts.—(*1*) The State Government may, by notification, set up and erect, in such manner as may be prescribed, check-posts and barriers at any place in the State with a view to preventing evasion of tax payable under this Act.

(*2*) Every person transporting goods, other than those specified in Schedule I and subject to such conditions as may be prescribed, shall, at any check-post or barrier, referred to in sub-section (*1*) and before crossing such check-post or barrier, file before such authority or officer as may be authorised by the State Government in this behalf, a correct and complete declaration in such form and manner as may be prescribed.

(*3*) Any authority or officer who may be authorised by the State Government in this behalf, may, for the purpose of verifying, whether any goods are being transported in contravention of the provisions of sub-section (*2*) and in such manner as may be prescribed, intercept, detain and search any goods carrier; and the person, transporting goods or for the time being in-charge of goods, shall render all possible assistance to such authority or officer in carrying out the search.

(*4*) (*a*) The authority or any officer referred to in sub-section (*3*) may seize any goods along with the vehicle or carrier, which, he suspects, are being transported in contravention of the provisions of sub-section (*2*) together with any container or material for the packing of such goods:

Provided that a list of all the goods seized under this sub-section shall be prepared by such officer and be signed by the officer, the dealer or the person in-charge of goods and not less than two witnesses and a copy of the seizure list shall be made over to the dealer or the person in charge of the goods, as the case may be.

(*b*) The provisions of section 56 shall, *mutatis mutandis*, apply in matters relating to such seizure, penalty, security, release and confiscation of goods.

61. Restriction on movement of goods.—(*1*) A person transporting goods—

(*a*) from any place outside the State of Bihar to any place inside the State of Bihar, or

(*b*) from any place inside the State of Bihar to any place outside the State of Bihar, or

(*c*) from any place within the State of Bihar to any other such place,

shall carry a declaration in such form as may be prescribed supported by a cash memo, retail invoice, bill or tax invoice, as the case may be, in case the movement is as a result of sale or a challan in case the movement is otherwise than as a result of sale, in respect of goods which are being transported on a goods carrier, vehicle or a vessel or is otherwise in transit or in transit storage and shall produce such cash memo or bill or tax invoice or challan, as the case may be, along with the aforesaid form of declaration on demand before the prescribed authority:

Provided that the Commissioner may exempt, by notification in the Official Gazette, consignments below a particular value or quantity from the requirement of this sub-section in so far as it relates to carrying of a declaration.

(*2*) Any authority or officer who may be authorised by the State Government in this behalf may, for the purpose of verifying whether any goods are being transported in contravention of the provisions of sub-section (*1*) intercept, detain and search any goods carrier, vehicle or vessel and may also search the warehouse or godown or any other such place of transit storage, where goods are kept in course of transportation and if the said authority is satisfied on such verification and search that transportation of goods is being made in contravention of the provision of sub-section (*1*), he may seize any such goods together with any container or material for the packing of such goods:

Provided that a list of all the goods seized under this sub-section shall be prepared by such officer and be signed by the officer, the dealer or the person in-charge of goods and not less than two witnesses and a copy of the seizure list shall be made over to the dealer or the person in charge of the goods, as the case may be.

(*3*) The provisions of section 56 shall, *mutatis mutandis*, apply in matters relating to such seizure, penalty, security, release and confiscation of goods.

Explanation.–For the purposes of this section, the power to seize any goods shall also include the power to seize the goods carrier on which the goods are being transported.

62. Transportation of goods through State of Bihar.—(*1*) If any consignment of goods is being transported by road from a place outside the State of Bihar to another such place and the vehicle carrying the consignment passes through the territory of the State, the driver or any other person in-charge of the vehicle shall obtain transit permission in the prescribed manner from the authority of the first check-post falling *en route* after entry into the State and shall surrender the same transit permission to the authority of the last check-post before leaving the St e to do so within seventy-two hours of

leaving the first check-post falling *en route,* it shall be deemed that goods so transported have been sold by the owner or the person in-charge of the vehicle within the State of Bihar.

(*2*) In case the driver or person referred to in sub-section (*1*) fails to comply with the provisions of sub-section (*1*), he shall be liable to pay penalty at the rate of rupees five hundred for every day of the default or a sum twice the amount of tax calculated on the value of the goods transported in contravention of that sub-section, whichever is higher:

Provided that no such penalty shall be levied without giving the person an opportunity of being heard:

Provided further that if the person proceeded against, justifies, beyond any doubt, the reasons for any delay exceeding seventy-two hours, the prescribed authority shall, for reasons to be recorded in writing, condone the delay.

CHAPTER X

LIABILITIES OF REPRESENTATIVE CHARACTER

63. Liability to pay tax in case of transfer of business.—(*1*) When the ownership of the business of a dealer liable to pay tax under this Act is entirely transferred, the transferor and the transferee, shall jointly and severally be liable to pay any tax, interest and penalty, if any, payable in respect of such business and remaining unpaid at the time of the transfer and the transferee shall also be liable to pay tax on sales or purchases made by the transferee on and from the date of such transfer and shall forthwith apply for the grant of a registration certificate unless such certificate is already possessed by him.

(*2*) Where a dealer liable to pay tax under this Act transfers the ownership or a part of his business, the transferor shall be liable to pay tax in respect of the stock of goods transferred with that part of the business.

64. Tax payable by deceased dealer shall be paid by his representative.—(*1*) Where a dealer dies after assessment but before payment of the tax, interest or penalty payable by him under this Act, his executor, administrator, successor-in-interest or legal representative shall be liable to pay out of the property of the deceased, to the extent to which it is capable of meeting the charge, the amount payable by such dealer.

(*2*) When a dealer dies without having furnished the return under section 24 or after having furnished the return but before assessment, the prescribed authority may proceed to make an assessment and determine the amount payable under this Act by the deceased and for the said purpose he may require the executor, administrator, successor-in interest or legal representative, as the case may be, of the deceased to perform all or any of the obligations, which he might, under the provisions of this Act, have required the deceased to perform and the amount thus determined shall be payable by the executor, administrator, successor-in-interest or legal representative of the deceased to the extent to which the property of the deceased is capable of meeting the charge.

65. Tax-liability of guardian and trustee, etc.—Where the business in respect of which tax is payable under this Act is carried on by, or is in charge of, 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
shall be assessed upon and recoverable from such guardian, trustee or agent, as the case may be, in the manner and to the same extent as it would be leviable upon and recoverable from any such minor or incapacitated person, if he were of full age and sound mind, and if he were conducting the business himself and all the provisions of this Act shall apply accordingly.

66. Tax-liability of court of wards.—Where the estate or any portion thereof of a dealer owning a business in respect of which tax is payable under this Act is under the control of the court of wards, the Administrator General, the official trustee, or any receiver or manager, including any person, whatever his designation who in fact manages the business, appointed by, or under the order of a court, the tax shall be assessed upon and recoverable from such court of wards, Administrator-General, official trustee, receiver or manager in like manner and to the same extent as it would be assessable upon and recoverable from the

dealer if he were conducting the business himself; and all the provisions of this Act shall apply accordingly.

67. Liability in case of dissolution of firm, etc.—Where a dealer is a Hindu undivided family, firm or association of persons, and such family, firm or association is partitioned, dissolved or disrupted, as the case may be—

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

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

CHAPTER XI

REFUNDS AND ADJUSTMENTS

68. Refunds.—(*1*) Subject to the other provisions of this Act and the rules made thereunder, the prescribed authority shall refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him in such manner as may be prescribed.

(*2*) Where on account of death, incapacity, insolvency liquidation or other cause a person is unable to claim or receive any refund due to him, his legal representative or the trustee or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund in the manner prescribed:

Provided that the prescribed authority shall first apply such excess amount towards the recovery of any amount for any period in respect of which a notice under section 39 has been issued and shall then refund the balance, if any.

69. Provisional refunds.—(*1*) If a registered dealer files any returns or produces any other evidence as required by or under this Act, and the return or evidences produced show any amount to be refundable to the dealer, then the dealer may apply in the prescribed form to the prescribed authority for grant of provisional refund.

(*2*) The prescribed authority may require the said dealer to furnish such security as may be prescribed for an amount equal to the amount of refund and on receipt of such security, the prescribed authority shall, subject to rules, grant the dealer a provisional refund of the amount claimed refundable as aforesaid.

(*3*) (*a*) Subject to other provisions of this Act, the refund under sub-section (*1*) shall be deemed to be final if the dealer has no liability under the Act as per his annual return filed under section 24 and the report submitted under sub-section (*2*) of section 54.

(*b*) Upon the said refund being final, the security, if any, furnished under sub-section (*2*) shall be returned to the said dealer.

(*c*) If any amount in excess of the amount refunded under sub-section (*1*) is found to be payable by the said dealer in respect of the period for which he had claimed and was allowed such provisional refund, such excess shall be recovered as arrears of tax from the dealer and he shall be liable to pay simple interest on such excess amount at the rate of one and half per cent. per month or part thereof from the date of grant of provisional refund till the date of the payment of such excess amount.

70. Interest on delayed refund.—(*1*) Where an amount required to be refunded by the prescribed authority to any person is not refunded to him or the application for refund is not rejected, as the case may be, within ninety days of the amount having become refundable, the prescribed authority shall pay such person simple interest at the rate of six per cent. per annum or part thereof on the said amount from the date immediately following the expiry of the period of ninety days to the date of the refund:

Provided that where the amount becomes refundable by virtue of an order of the Tribunal or the High Court or the Supreme Court, the interest under the provisions of this section shall be payable from the date immediately following the expiry of the period of ninety days from the date of receipt of the order of the Tribunal, the High Court or the Supreme Court, by the officer whose order forms the subject matter of the proceedings before the Tribunal, the High Court or the Supreme Court, to the date of refund.

(*2*) If the delay in granting the refund within the period of ninety days aforesaid is attributable to the said person, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(*3*) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner, whose decision shall be final.

71. Power to withhold refund in certain cases.—Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the authority competent to grant such refund is of the opinion that the grant of the refund is likely to adversely affect the revenue, such authority (not being the Commissioner) with the previous approval of the Commissioner may withhold the refund till such time as is deemed fit:

Provided that the Commissioner may, on application or otherwise, order for release of such refund if he is of the opinion that the situation does not require such action on the part of the prescribed authority.

CHAPTER XII

APPEAL, REVISION AND REVIEW

72. Appeal to Deputy Commissioner and Joint Commissioner.—(*1*) Subject to such rules as may be made by the State Government under this Act, any dealer, objecting to an order of assessment or an order levying interest or penalty passed by the prescribed authority against him, or an order under section 25 or a person, objecting to an order of penalty passed against him or an order under section 47, may appeal to the Joint Commissioner, or, the Deputy Commissioner specially authorised in this behalf.

(*2*) No appeal under sub-section (*1*) shall be admitted unless the dealer objecting to an order of assessment has paid twenty-five per cent. of the tax assessed or full amount of admitted tax, whichever is higher.

(*3*) Every appeal under this section shall be filed, in such form and the manner, as may be prescribed, within forty-five days of the receipt of the notice of demand but where the appellate authority is satisfied that the appellant had sufficient reason for not preferring the appeal within time, it may condone the delay.

(*4*) The appellate authority while disposing of an appeal against an order, other than an order under section 47, may—

(*a*) (*i*) confirm, annul, reduce, enhance or otherwise modify such order; or

(*ii*) set aside the order directing the authority below to make fresh order after further enquiry on specific points as directed; and

(*b*) in other cases, pass such order as it may, for reasons to be recorded in writing, deem fit.

(*5*) No order under this section shall be passed without giving reasonable opportunity of hearing to the appellant as also the authority whose order has been appealed against.

73. Appeal to Tribunal.—(*1*) Subject to such rules as may be made by the State Government, any of the authorities mentioned in section 10 or any person aggrieved by an order made by the Deputy Commissioner or Joint Commissioner under section 72 or the Commissioner under section 74 or section 77, may, prefer an appeal to the Tribunal.

(*2*) Where an appeal is preferred by a dealer, such appeal shall not be entertained by the Tribunal unless such dealer has deposited in the manner specified by the Tribunal, twenty-five per cent. of the amount in dispute:

Provided that the Tribunal may, for reasons to be recorded in writing, waive or reduce the amount required to be deposited under this section.

(*3*) Every application for appeal under this section shall be filed within ninety days of the communication of the order which is sought to be appealed, but where the Tribunal is satisfied that the applicant had sufficient cause for not applying within time, it may condone the delay.

(*4*) No order under this section shall be passed without giving the applicant as also the authority whose order is sought to be appealed or their representative a reasonable opportunity of being heard.

(*5*) On receipt of an appeal under sub-section (*1*), the Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such order thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(*6*) The Tribunal shall send the copy of every order made by it to the parties to the appeal and to the concerned authority against whose order the appeal had been preferred.

(*7*) The appeal filed before the Tribunal under sub-section (*1*) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

74. Revisionary powers of Commissioner.—The Commissioner may, *suo motu,* call for and examine the record of any proceeding recorded by any authority, officer or person subordinate to him under this Act and if he considers that any order passed therein is erroneous in so far as it is prejudicial to the interest of revenue, pass such order as he deems fit after giving the dealer or the person concerned an opportunity of being heard.

75. Additional evidence in appeal or revision.—A dealer shall not be entitled to produce additional evidence whether oral or documentary in appeal before the appellate authority or in revision before the Commissioner or the Tribunal except where the evidence sought to be adduced is evidence, which the prescribed authority had wrongly refused to admit or which, after exercise of due diligence, was not within his knowledge or could not be produced by him before the prescribed authority or for the production of which adequate time was not given by the prescribed authority and in every such case upon the additional evidence being taken on record reasonable opportunity for challenge or rebuttal shall be given.

76. Review.—Subject to such rules as may be made by the State Government under this Act, any authority appointed under section 10 or the Tribunal may review any order passed by it, if such review is, in the opinion of the said authority or the Tribunal, as the case may be, necessary on account of a mistake which is apparent from the record:

Provided that no such review, if it has the effect of enhancing the tax, interest or penalty or of reducing a refund shall be made unless the said authority or the Tribunal, as the case may be, has given the dealer, or the person concerned a reasonable opportunity of being heard.

77. Determination of disputed questions.—(*1*) If any question arises, otherwise than in proceedings before a court, or before the prescribed authority has commenced assessment of a dealer under section 27 or section 28 or section 29 or section 30 or section 31 or section 32 or section 33, whether, for the purposes of this Act, —

(*a*) any person, society, club or association or any firm or any branch or department of any firm, is a dealer, 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 a purchase, or where it is a sale or a purchase the sale price or the purchase price, as the case may be, thereof, or

(*d*) any particular person or dealer is required to be registered, or

(*e*) in the case of any person or dealer liable to pay tax, any tax is payable by such person or dealer in respect of any particular sale or purchase, or if tax is payable, the rate thereof, or

(*f*) input tax credit can be claimed on any particular transaction of purchase and if it can be claimed, what are the conditions and restrictions subject to which such input tax credit can be claimed, or

(*g*) the order passed under sub-section (*2*) of section 25 is just and proper, or

(*h*) any other question involving interpretation of any provisions of this Act,

the Commissioner shall, subject to such rules as may be made, make an order determining such question.

Explanation.—For the purposes of this sub-section, the prescribed authority shall be deemed to have commenced assessment of the dealer under section 27 or section 28 or section 29 or section 30 or section 31 or section 32 or section 33, when the dealer is served with any notice by the prescribed authority under the said sections.

(*2*) The Commissioner may direct that the determination shall not affect the liability of any person under this Act, as respect any sale or purchase affected prior to the determination or such date as he may specify.

(*3*) If any such question arises from any order already passed by any authority or court under this Act or the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, no such question shall be entertained for determination under this section; but such question may be raised in appeal against such order.

78. Power to transfer proceedings.—(*1*) The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, by order in writing after recording his reason for so doing, transfer any proceedings or class of proceedings under any provision of this Act, from himself to any other officer and he may likewise transfer any such proceeding, including a proceeding pending with any officer or already transferred under this section, from any officer to any other officer.

(*2*) For the purpose of this section, any proceeding shall be deemed to have commenced only when any authority having appropriate jurisdiction issues notice under the provisions of this Act, rules or notifications and the proceedings shall be deemed to be pending only after the issue of such notice.

(*3*) Where no proceedings are pending before any authority, then any authority having appropriate jurisdiction over a person or dealer, may initiate and complete any proceedings whatsoever.

Explanation.—In this section, the word "proceedings" in relation to any dealer means all proceedings under this Act in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date, and also includes all proceedings under this Act which may be commenced after the date of such order in respect of the said year in relation to such dealer.

79. Appeal before High Court.—(*1*) An appeal shall lie to the High Court from every order passed by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(*2*) The Commissioner or a dealer aggrieved by any order passed by the Tribunal,—

(*i*) under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, on or after the date of commencement of this Act; or

(*ii*) under this Act,

may file an appeal to the High Court, and such appeal under this section shall be filed within ninety days from the date of the communication to the dealer or the Commissioner on any question of law arising out of such order.

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

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

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

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

(*b*) The High Court may determine any issue which—

(*i*) has not been determined by the Tribunal, or

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

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

80. Case before High Court to be heard by not less than two Judges.—(*1*) When an appeal has been filed before the High Court under section 79, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(*2*) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall then be heard upon that point only by one or more of other Judges of the High Court and such point shall be decided according to the opinion of the majority of Judges who have heard the case including those who first heard it.

CHAPTER XIII

OFFENCES AND PENALTIES

81. Offences and penalties.—(*1*) Whoever—

(*a*) carries on business as a dealer without being registered in wilful contravention of section 19, or

(*b*) fails without sufficient cause to furnish any information required by section 23, or

(*c*) fails, without sufficient cause, when directed so to do under section 59, to keep any accounts or record in accordance with the directions, or

(*d*) fails, without sufficient cause, to furnish any return as required by section 24 by the date and in the manner prescribed,

shall, on conviction, be punished with imprisonment, of either description, for a term which shall not be less than three months but which may extend to six months and with fine not exceeding one thousand rupees.

(*2*) Whoever—

(*a*) knowingly keeps false account of the value of the goods bought or sold by him in contravention of sub-section (*1*) of section 52 or section 53, or

(*b*) wilfully attempts, in any manner whatsoever, to evade any payment of any tax, penalty or interest,

shall, on conviction, be punished with imprisonment, of either description, for a term which shall not be less than six months but which may extend to one year and with fine not exceeding two thousand rupees.

(*3*) Whoever—

(*a*) not being a registered dealer under section 19, falsely represents that he is or was a registered dealer at the time when he sells or buys goods; or

(*b*) knowingly furnishes a false return; or

(*c*) knowingly produces before the prescribed authority, false bill, tax invoice, cash-memorandum, voucher, declaration, certificate or other document for any of the purposes of this Act; or

(*d*) issues to any person a certificate or declaration under this Act or the rules framed or notifications issued thereunder, a bill, cash memorandum, tax invoice, voucher or other document which he knows or has reason to believe to be false; or

(*e*) obstructs any officer making inspection or search or seizure under section 56 or section 61 or section 62,

shall, on conviction, be punished with imprisonment, of either description, for a term which shall not be less than one year but which may extend to three years and with fine not exceeding three thousand rupees.

(*4*) Whoever aids or abets any person in the commission of any offence specified in sub-section (*1*) or sub-section (*2*) or sub-section (*3*) shall, on conviction, be liable for punishment of the description specified in respect of the offence in the commission of which he has aided or abetted.

(*5*) Notwithstanding anything contained in sub-sections (*1*) to (*4*), no person shall be proceeded against under these sub-sections for the commission of the offences referred therein if the total amount of tax, interest or penalties evaded or attempted to be evaded is less than five thousand rupees.

(*6*) Where a dealer is accused of an offence specified in sub-section (*1*) or sub-section (*2*) or sub-section (*3*), the person declared as manager of the business of the dealer under section 22 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission thereof.

82. Cognizance of offences.—(*1*) Save as provided in section 81, the punishments inflicted under the said section shall be without prejudice to any penalty which may be imposed under the provisions of this Act.

(*2*) No court shall take cognizance of any offence under this Act except with the previous sanction of the Commissioner or any officer specially empowered in this behalf and no court inferior to that of a Magistrate of the first class shall try any such offence.

(*3*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), all offences punishable under section 81 shall be cognizable and bailable.

83. Investigation of offences.—(*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 this Act.

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

84. Offences by companies and others.—(*1*) Where an offence under this Act 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 business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

Explanation.—For the purposes of this section—

(*a*) "company" means a company incorporated under the Companies Act, 1956 (1 of 1956), and includes a body corporate, a firm or other association of individuals;

(*b*) "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 render the *karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence:

Provided further that, where an offence under this Act has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of, or is attributable 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 on conviction punished accordingly.

85. Compounding of offences.—(*1*) The Commissioner may, either before or after the institution of proceedings under section 81, accept from any person charged with an offence under sub-section (*1*) or sub-section (*2*) or sub-section (*3*) or sub-section (*4*) of the said section by way of composition of the offence, a sum not exceeding ten thousand rupees and where the offence charged was likely to cause or caused evasion of any amount of tax payable under this Act, a sum not exceeding three times of such amount, whichever is higher.

(*2*) On payment of such sum as may be determined by the Commissioner under sub-section (*1*), no further proceeding shall be taken against the accused person in respect of the same offence.

CHAPTER XIV

BUREAU OF INVESTIGATION

86. Bureau of Investigation.—(*1*) The State Government may, by an order published in the Official Gazette, constitute a Bureau of Investigation and it shall consist of such personnel and such number of officers and such hierarchy of supervision and control as may be specified by the State Government in the said order:

Provided that if authorities appointed under sub-section (*1*) of section 10 are specified as such they shall, without prejudice to the powers under sub-section (*1*) of section 10, exercise the powers of an authority under sections 55, 56, 57, 58, 59, 60, 61 and 62 for carrying out the purposes of this Act.

(*2*) (*a*) The State Government may, by an order published in the Official Gazette, vest an officer of the Bureau of Investigation with the powers of an officer in-charge of a police station under the Code of Criminal Procedure, 1973 (2 of 1974) and with such other powers under different Acts, as it may consider necessary.

(*b*) The Commissioner may, by an order published in the Official Gazette, authorise an officer of the Bureau of Investigation to exercise the powers of an authority appointed under section 10 in respect of such matters as may be specified in the order.

(*3*) The Bureau of Investigation shall function under the control and supervision of the Commissioner, and discharge such duties as may be assigned to it by the Commissioner, including investigation of offences under section 83 of this Act.

CHAPTER XV

MISCELLANEOUS

87. Appearance before taxing authorities.—Any person, who is required to appear before any authority appointed under section 10 or before the Tribunal or before an officer of the Bureau of Investigation constituted under section 86 in connection with any proceeding under this Act, may appear before such authority through—

(*a*) a person authorised in the prescribed manner by him in this behalf, being his relative or person in his regular and whole time emplo

(*b*) a sales tax practitioner who possesses the prescribed qualifications; or

(*c*) a legal practitioner, or

(*d*) subject to such conditions as may be prescribed, a chartered accountant, or company secretary, or cost accountant.

Explanation.—For the purposes of this section,—

(*a*) "chartered accountant" means a chartered accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) and who has obtained a certificate of practice under sub-section (*1*) of section 6 of that Act;

(*b*) "company secretary" means a company secretary as defined in clause (*c*) of sub-section (*1*) of section 2 of the Company Secretaries Act, 1980 (56 of 1980) and who has obtained a certificate of practice under sub-section (*1*) of section 6 of that Act;

(*c*) "cost accountant" means a cost accountant as defined in clause (*b*) of sub-section (*1*) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who has obtained a certificate of practice under sub-section (*1*) of section 6 of that Act;

(*d*) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

88. Change of an incumbent of an office.—Whenever, in respect of any proceeding under this Act, any person or authority appointed under section 10 ceases to exercise jurisdiction and is succeeded by another person who has and exercises jurisdiction, the person so succeeding may continue the proceeding 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 reopened or that before any order is passed against him, he be heard.

89. Bar to certain proceedings.—Save as provided in section 79, no assessment made and no order passed under this Act or rules made thereunder by any authority appointed under section 10 or by the Bureau of Investigation or by the Tribunal shall be called in question in any court, and save as is provided in section 72 or section 73 or section 74 or section 76, no appeal or application for revision or review shall lie against any such assessment or order.

90. Disclosure of information by public servant.—(*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceeding before a criminal court), or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall, save as provided in sub-section (*3*), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(*2*) If, save as provided in sub-section (*3*), any servant of the Government discloses any of the particulars referred to in sub-section (*1*), he shall, on conviction, be punished with imprisonment, which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars, referred to in sub-section (*1*), made—

(*a*) for the purposes of a prosecution under the Indian Penal Code, 1860 (45 of 1860) in respect of any statement, return, accounts, registers, documents or evidence, or any part thereof; or

(*b*) for the purposes of a prosecution under this Act; or

(*c*) for regulating any inquiry under the Public Servant (Inquiries) Act, 1850 (37 of 1850), into the conduct or behaviour of any autho under section 10 or an officer of the

Bureau of Investigation constituted under section 86 or into the behaviour of any other officer appointed to conduct such inquiry; or

(*d*) in connection with the trial of a suit in a civil court to which the State of Bihar is a party and which relates to any matter arising out of any proceeding under this Act; or

(*e*) for the purposes of enabling an officer of the Central Government or of any State Government to levy or recover any tax or duty imposed by it;

(*f*) to any officer of the State Government where it is necessary to make such disclosure for the purposes of this Act; or

(*g*) to any officer of the Central Government or of the State Government for the purpose of enabling such officer to perform his executive functions relating to the affairs of the Union or the State.

91. Agreements to defeat intention and application of this Act to be void.—(*1*) If the Commissioner is satisfied that an arrangement has been entered into between two or more persons or dealers to defeat the application or purposes of this Act or any provision of this Act, then, the Commissioner may, by order, declare the arrangement to be *null* and *void* as regards the application and purposes of this Act and he may, by the said order, provide for increase or decrease in the amount of tax payable by any person or dealer who is affected by the arrangement, whether or not such dealer or person is a party to the arrangement, in such manner as the Commissioner considers appropriate so as to counter act any tax advantage obtained by that dealer from or under the arrangement.

(*2*) For the purposes of this section,—

(*i*) "arrangement" includes any contract, agreement, plan or understanding whether enforceable in law or not, and all steps and transactions by which the arrangement is sought to be carried into effect;

(*ii*) "tax advantage" includes,—

(*a*) any reduction in the liability of any dealer to pay tax,

(*b*) any increase in the entitlement of any dealer to claim input tax credit or refund,

(*c*) any reduction in the sale price or purchase price receivable or payable by any dealer.

(*3*) Before passing any order under this section, the Commissioner shall afford a reasonable opportunity of being heard to any such person or dealer whose tax advantage is sought to be counter acted.

92. Write off of dues.—Notwithstanding anything contained in this Act, the State Government, by notification to be published in the Official Gazette, may, subject to such rules as may be prescribed, declare any dues created under this Act or the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, as unrecoverable.

93. Power to make rules.—(*1*) The State Government may, subject to the condition of previous publication, by notification, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the manner in which the advance tax may be collected under sub-section (*7*) of section 3;

(*b*) constitution of the Tribunal under sub-section (*1*) of section 9;

(*c*) the terms and conditions of service of the Chairperson or any other Government servant appointed as a member of the Tribunal under sub-section (*7*) of section 9;

(*d*) the areas and functions of inspectors under sub-section (*3*) of section 10;

(*e*) the form and manner in which the true and complete declaration referred to in clause (*a*) of sub-section (*2*) of section 13 shall be filed;

(*f*) the conditions and restrictions subject to which the registered dealers may be permitted to pay an amount under sub-section (*1*) of section 15;

(*g*) the conditions and restrictions subject to which an input tax credit shall be claimed under sub-section (*1*) section 16;

(*h*) the manner and the period within which the input tax credit in respect of capital goods shall be allowed under clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of sub-section (*1*) of section 16;

(*i*) the manner in which the input tax credit on the sale or supply of goods shall be claimed by the

registered dealer selling the goods or using them in the execution of sub-contract under sub-section (*2*) of section 16;

(*j*) the other goods on which input tax credit shall not be claimed or allowed under clause (*a*) of sub-section (*3*) of section 16;

(*k*) the particulars of sale in the original copy of the tax invoice and the form and manner of the duplicate copy of the original tax invoice under sub-section (*5*) of section 16;

(*l*) the manner in which input tax credit on goods and the manner and extent in which the input tax on account of capital assets shall be allowed under sub-section (*1*) of section 17;

(*m*) the restrictions and conditions subject to which and the time and manner in which the organisations specified in the Schedule V to this Act may apply for refund of tax paid on goods purchased under sub-section (*2*) of section 17;

(*n*) the manner of application for and the grant of certificate of registration under sub-section (*2*) of section 19;

(*o*) the manner in which the certificate of registration shall be surrendered and the manner in which the certificate of registration shall be cancelled under sub-section (*2*) of section 20;

(*p*) the security and the manner in which such security shall be furnished under section 21;

(*q*) the manner in which the declaration shall be furnished and the particulars of the person under sub-section (*1*) of section 22;

(*r*) the form and manner in which the returns or statements or notice, as the case may be, under sub-sections (*1*), (*2*), (*3*), (*4*) and (*7*) of section 24 shall be furnished;

(*s*) the manner in which the opportunity of being heard is to be provided under sub-section (*8*) of section 24;

(*t*) the manner of depositing tax and the form and manner of enclosing the proof of payment of such tax under sub-section (*9*) of section 24;

(*u*) the time and manner of scrutiny of return under sub-section (*1*) of section 25;

(*v*) the form of notice to the concerned dealer under sub-section (*2*) of section 25;

(*w*) the form and manner of serving a notice and the time within which the dealer is required to pay the tax and interest under clause (*b*) of sub-section (*3*) of section 25;

(*x*) the manner of conducting an audit of the business of a dealer under sub-section (*3*) of section 26;

(*y*) making of provisional or final assessment of turnover of sale or purchase of goods under sub-section (*1*) of section 30;

(*z*) the form and manner of notice and the manner of assessment or re-assessment under sub-section (*1*) of section 31;

(*za*) the manner in which the opportunity of being heard is to be provided under sub-section (*1*) of section 32;

(*zb*) the manner in which the amount of tax may be provisionally quantified under sub-section (*2*) of section 32;

(*zc*) the manner in which the re-assessment may be made under section 33;

(*zd*) the other evidence to prove and the form and manner of declaration required to be furnished under sub-section (*2*) of section 35;

(*ze*) such other manner of payment of tax and the manner of payment of tax, interest due or the penalty by instalments under sub-section (*2*) of section 39;

(*zf*) the manner of payment of penalty under sub-section (*5*) of section 39;

(*zg*) the conditions and restrictions subject to which the deduction of tax may be made under sub-section (*1*) of section 40;

(*zh*) the manner of payment of amount into the Government Treasury under sub-section (*3*) of section 40;

(*zi*) the conditions subject to which no deduction of tax shall be made under sub-section (*1*) of section 41;

(*zj*) the manner in which tax referred to in sub-section (*1*) of section 41 shall be deducted under sub-section (*4*) of section 41;

(*zk*) the form and manner of certificate by the person making deduction under sub-section (*5*) of

section 41;

(*zl*) the form and manner of granting tax clearance certificate under section 42;

(*zm*) the manner in which the opportunity of being heard is to be provided under sub-section (*3*) of section 43;

(*zn*) the form of notice by the prescribed authority under sub-section (*2*) of section 44;

(*zo*) the manner of publication of notice and the details therefor under sub-section (*4*) of section 44;

(*zp*) the form of application in which the person may claim the refund under sub-section (*5*) of section 44;

(*zq*) the manner of keeping a true and complete accounts under sub-section (*1*) of section 52;

(*zr*) the dealers or persons and the manner of drawing up the manufacturing, trading and profit and loss account and a balance-sheet and other accounts under sub-section (*2*) of section 52;

(*zs*) the form of challan to be issued by every dealer or a person under sub-section (*3*) of section 52;

(*zt*) the accounts and the manner in which the trading and profit and loss account shall be drawn up under sub-section (*4*) of section 52;

(*zu*) the value of goods exceeding which the retail invoice is required to be issued by the dealer under sub-section (*4*) of section 53;

(*zv*) the period for which invoices under sub-section (*7*) of section 53 may be required to be preserved;

(*zw*) the conditions and restrictions subject to which a copy of the original tax invoice may be provided by the selling dealer under sub-section (*8*) of section 53;

(*zx*) the particulars of the credit note and the debit note under sub-section (*9*) of section 53;

(*zy*) the other period for which the tax invoices and retail invoices are required to be preserved under sub-section (*10*) of section 53;

(*zz*) the form of audit report and the particulars thereof under sub-section (*2*) of section 54;

(*zza*) the manner of authorisation to inspect all places of business under sub-section (*2*) of section 56;

(*zzb*) the manner of seizure of accounts, registers or documents under sub-section (*3*) of section 56;

(*zzc*) the manner of seizure of goods under clause (*a*) of sub-section (*4*) of section 56;

(*zzd*) the manner in which the opportunity of being heard is to be provided under clause (*b*) of sub-section (*4*) of section 56;

(*zze*) the manner of auction of goods and the manner in which the sale proceeds shall be refunded under clause (*e*) of sub-section (*4*) of section 56;

(*zzf*) the manner of release of security under clause (*f*) of sub-section (*4*) of section 56;

(*zzg*) the manner and form of notice by the prescribed authority under sub-section (*2*) of section 57;

(*zzh*) the form of notice by the prescribed authority under sub-sections (*2*) and (*3*) of section 58;

(*zzi*) the time and manner of furnishing information under sub-section (*1*) of section 59;

(*zzj*) the accounts, registers and documents required to be maintained under sub-section (*2*) of section 59;

(*zzk*) the manner of erecting check posts and barriers under sub-section (*1*) of section 60;

(*zzl*) the form and manner of furnishing declaration and the conditions subject to which such declaration shall be furnished under sub-section (*2*) of section 60;

(*zzm*) the manner of intercepting, detaining and searching any goods carrier under sub-section (*3*) of section 60;

(*zzn*) the form of declaration required by a person transporting goods under sub-section (*1*) of section 61;

(*zzo*) the manner of obtaining transit permission under sub-section (*1*) of section 62;

(*zzp*) the manner of refund to a person who paid in excess of the amount due under sub-section (*1*) of section 68;

(*zzq*) the manner of claiming or receiving the refund under sub-section (*2*) of section 68;

(*zzr*) the form of application for grant of provisional refund under sub-section (*1*) of section 69;

(*zzs*) the security to be furnished by the dealer under sub-section (*2*) of section 69;

(*zzt*) the form and manner of filing an appeal under section 72;

(*zzu*) the conditions subject to which the offences punishable under this Act may be investigated under sub-section (*1*) of section 83;

(*zzv*) the manner of authorisation and the conditions subject to which an accountant, company secretary or sales tax practitioner may appear before taxing authorities under section 87;

(*zzw*) declaration by the State Government relating to any dues as unrecoverable under section 92;

(*zzx*) the manner of imposition of penalty for breach of any rules made under this section;

(*zzy*) the manner and time in which, the particulars of, and the authority to whom, goods held in stock is to be declared under section 95;

(*zzz*) the manner of claiming input tax credit under sub-sections (*1*) and (*2*) of section 96;

(*zzza*) the manner and extent of deferment of tax liability under sub-section (*3*) of section 96;

(*zzzb*) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, or may be, made by rules.

(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(*4*) Any rule made under this section may provide that the contravention thereof shall be punishable with fine which may extend to five thousand rupees and where the contravention is continuing one, with a further fine which may extend to one hundred rupees per day for every day during which such contravention continues.

94. Repeal and savings.—(*1*) The Bihar Finance Act, 1981 (Bihar Act 5 of 1981) (hereinafter referred to as "the repealed Act") is hereby repealed from the date of commencement of this Act.

(*2*) The repeal shall not affect,—

(*a*) any legal proceeding or remedy whether initiated or availed of before or after this repeal, in respect of any such right, title, obligation or liability;

(*b*) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Act except the right or privilege accrued under the repealed Act or the rules framed or notifications issued thereunder, to industries, granted under any industrial policy or industrial policy resolution of the State Government; or

(*c*) the levy, assessment or recovery of any tax or the imposition or recovery of any penalty, in respect of such period,

under the provision of the repealed Act; and all proceedings under the repealed Act in respect of matters aforesaid shall be initiated and disposed of or continued and disposed of, as the case may be, as if this Act has not been passed; and for this purpose all taxing authorities or Inspectors appointed under section 10, and the Tribunal constituted under section 9 of, shall exercise all powers and perform all duties conferred by or under the repealed Act upon the corresponding authorities appointed under section 9 or section 8 thereof:

Provided that any appeal or any revision arising out of any order under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) shall be filed before, or heard or disposed of by, the appropriate authorities mentioned in sections 72, 73 and 74 in the manner as provided therein.

(*3*) All rules, orders and appointments made, notifications published, certificates granted, powers conferred and other things done under the said Act and in force on the commencement of this Act, shall, so far as they are not inconsistent with or until they are not modified, superseded or cancelled under this Act, be deemed to have been respectively made, published, granted, conferred or done under this Act.

(*4*) Save as otherwise provided in sub-sections (*2*) and (*3*), the mention of particular matters in those sub-sections shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal.

95. Declaration of stock of goods held on 1st April, 2005.—Every dealer who was registered under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, or who makes an application for registration as a dealer on the 1st day of April, 2005 shall declare such details regarding the stock of goods held by him on the 31st March, 2005 in such manner and with such particulars and within such time and to such authority, as may be prescribed.

96. Transitory provisions.—(*1*) Where any goods, other than those specified under sub-section (*2*) of section 13 of this Act, held in stock by a registered dealer on the date of commencement of this Act, are goods which have already suffered tax on the first point of their sale within the meaning of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, are sold by him or are consumed in manufacture of other goods on or after the date of commencement of this Act, he shall claim and be allowed, in such manner as may be prescribed, an input tax credit under sections 16 and 17 of this Act.

(*2*) Where any goods, other than those specified under sub-section (*2*) of section 13 of this Act, held in stock by a registered dealer on the date of commencement of this Act, are goods which have already suffered tax on the first point of their sale within the meaning of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, are used or consumed by him for the manufacture of goods for sale within the State of Bihar or in the course of inter-State trade and commerce under section 3 of the Central Sales Tax Act, 1956 (74 of 1956) or in the course of export within the meaning of section 5 of the Central Sales Tax Act, 1956 on or after the date of commencement of this Act, he shall claim and be allowed, in such manner as may be prescribed, an input tax credit under sections 16 and 17 of this Act.

(*3*) Where—

(*a*) any dealer has been granted the facility of deferment of tax payable under section 23A of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, and who has, on the commencement of this Act, not availed of the full entitlement, he shall be allowed to continue to defer the tax payable under this Act, in the manner and to the extent prescribed;

(*b*) any dealer has been granted the facility of exemption from payment of tax under clause (*b*) of sub-section (*3*) of section 7 of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, and who has, on the commencement of this Act, not availed of the full entitlement, he shall be allowed to opt for deferment of his tax liability under this Act, in the manner and to the extent prescribed.

(*4*) Where—

(*a*) the tax has been collected under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) as it stood before its repeal by section 94, but the same has not been deposited before the date of commencement of this Act, the tax so collected by any person under the said Act shall be deposited in accordance with the provisions of the aforesaid Act and the rules made thereunder, as if this Act has not come into force and the said Act had not been repealed;

(*b*) a return or statement is required to be filed under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) as it stood before its repeal by section 94, but the same had not been filed before the

commencement of this Act, such return or statement, as the case may be, shall be filed in accordance with the provisions of the aforesaid Act and by the person liable to file such return or statement;

(*c*) a return has been filed, under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) as it stood before its repeal by section 94, by any dealer for any year and no assessment in respect of that year has been made before the commencement of this Act, the proceedings for the assessment of that dealer for that year shall be made or be continued as if this Act had not come into force and the said Act had not been repealed and such assessment shall be made by the prescribed authority under this Act;

(*d*) a person has been aggrieved by any decision made or order passed under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981) as it stood before its repeal by section 94, and he has not filed any appeal or an application for review or revision, such person may file an appeal or make an application for revision or review, as the case may be, in accordance with the provision of the said Act and the rules made thereunder to the prescribed authority for disposing of such appeal or application;

(*e*) any liability of any dealer to pay tax, under the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, had been affected, and such person was entitled to make a reference before the High Court under section 48 of the said Act, before the date of commencement of this Act, such person may, draw up, within two months of the date of commencement of this Act, a reference (if not already made such reference) and refer it to the High Court in accordance with the provisions of said section 48, as if the aforesaid Act had not been repealed.

(*5*) No interest or penalty shall be leviable or imposable or no prosecution shall be initiated for any offence committed under this Act during the period beginning on the 18th April, 2005 and ending on the day preceding the day on which this Act comes into force.

97. Construction of references in any repealed law to officers, authorities, etc.—Any reference in any provision of the Bihar Finance Act, 1981 (Bihar Act 5 of 1981), as it stood before its repeal by section 94, to an officer, authority or tribunal shall, for the purpose of carrying into effect the provisions contained in section 83, be construed as a reference to the corresponding officer, authority or tribunal appointed or constituted by or under this Act; and if any question arises as to who such corresponding officer, authority or tribunal is, the decision of the Commissioner thereon shall be final.

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

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

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of State Legislature.

99. Laying of notifications on the table of the State Legislature.—Every notification issued under this Act shall be laid, as soon as may be, after it is published in the Official Gazette, before each House of State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or both Houses agree that the notification should be annulled, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

100. Validation of Bihar Value Added Tax Ordinance, 2005.—Anything done or any action taken under the Bihar Value Added Tax Ordinance, 2005 (Bihar Ord. 1 of 2005) (including any order passed, notification issued and rules made) shall be deemed to be valid and be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE I

(*See* section 7)

Serial Number	Goods
1.	Coarse grains.
2.	Fresh vegetables and fresh fruits.
3.	Fresh meat, fresh fish and livestock.
4.	Unprocessed and unbranded salt.
5.	Fresh milk and pasteurized milk.
6.	Fresh eggs.
7.	Unpacked plain water.
8.	Books, periodicals and journals.
9.	Unbranded bread.
10.	Handlooms excluding handloom products.
11.	Betel leaves.
12.	Condoms an contraceptives.
13.	Curd, lassi and butter milk.
14.	Electrical energy.
15.	Glass bangles.
16.	Kumkum and bindi.
17.	Aids and implements used by handicapped persons.
18.	Poultry feed and aquatic feed.
19.	Green garlic and green ginger.
20.	Firewood.
21.	Agricultural implements exclusively worked by human or animal power such as rahat, water lift, ploughs and parts thereof, spades (kudali), hoes, phavras, harrows, sickles, khurpies, karing, kundi, mowers, cultivators, ridgers, land levellers, axe, gandasa, shears, yokes, hand dusters.
22.	Raw silk.
23.	Indigenous hand-made musical instruments.
24.	Raw wool.
25.	Fresh flowers.
26.	Saplings.
27.	Cotton yarn in hank.
28.	Cart driven by animals.
29.	Rakhi.
30.	Sacred thread, commonly known as *yagyopawit*.
31.	Idols made of clay.

Serial Number	Goods

32.	Clay lamps.
33.	Bangles made of shell, plastic, lac or glass.
34.	Kites.
35.	Takhti.
36.	Poha, murmura, laktho, lai and mukundana.
37.	Sattu.
38.	Goods mentioned in clauses (*iia*), (*vii*), (*viii*), (*ix*) and (*x*) of section 14 of the Central Sales Tax Act, 1956 (74 of 1956).

SCHEDULE II

(*See* section 14)

Serial Number	Goods
1.	Gold, silver and other precious metals.
2.	Articles of gold, silver and precious metals including jewellery made of gold, silver and precious metals.
3.	Precious stones.

SCHEDULE III

(*See* section 14)

PART I

Serial Number	Goods
1.	Acids.
2.	Agarbatti.
3.	All kinds of bricks including refractory bricks and asphaltic roofing.
4.	All types of yarn except cotton hank yarn.
5.	Aluminium conductor steel reinforced.
6.	Aluminium utensils.
7.	Aluminium, aluminium alloys, their products (including extrusions) not elsewhere mentioned in this Schedule or in any other Schedule.
8.	Article made of rolled gold and imitation gold.
9.	Artificial silk yarn, polyster fibre yarn, and staple fibre yarn.
10.	Bagasse.
11.	Basic chromium sulphate, sodium bi-chromate, bleach liquid.
12.	Beedi leaves.
13.	Bicycles, tricycles and their spare parts.
14.	Bone meal.
15.	Bran oil.
16.	Branded bread.
17.	Castor oil.
18.	Charcoal.
19.	Chemical fertilizers, pesticides, weedicides and insecticides excluding mosquito repellants.
20.	Chemicals including caustic soda, caustic potash, soda ash, bleaching powder, sodium bi-carbonate, sodium hydrosulphite, sulphate of alumina, sodium nitrate, sodium acetate, sodium sulphate, acid slurry, tri-sodium phosphate, sodium tripoly phosphate, sodium silicate, sodium metasilicate, carboxy methyl cellulose, sodium sulphide, acetic acid, sodium bi-sulphite, oxalic acid, sodium thiosulphate, sodium sulphite, sodium alginate, benzene, citric acid, diethylene glycol, sodium nitrite, hydrogen peroxide, acetaldehyde, pentaerythritol, sodium alpha olefin sulphonate, sodium formate, chemical components and mixtures and all other chemicals not specified elsewhere in this Schedule or in any other

Schedule.

21. Chillies.

22. Clay.

23. Cumin seed.

24. Declared goods under section 14 of the Central Sales Tax Act, 1956 (74 of 1956) except goods mentioned in clauses (*iia*), (*vii*), (*viii*), (*ix*) and (*x*) of that section.

25. De-oiled cake.

Serial Number	Goods
26.	Dyes, that is to say, –(*i*) Acid dyes; (*ii*) Alizarine dyes; (*iii*) Bases; (*iv*) Basic dyes; (*v*) Direct dyes; (*vi*) Naphthols; (*vii*) Nylon dyes; (*viii*) Optical whitening agents; (*ix*) Plastic dyes; (*x*) Reactive dyes; (*xi*) Sulphur dyes; (*xii*) Vat dyes; (*xiii*) all other dyes not specified elsewhere in the Schedule.

27. Edible oils and oil cake.

28. Electrodes.

29. Embroidery or zari articles, that is to say,–(*i*) imi; (*ii*) zari; (*iii*) kasab; (*iv*) saima; (*v*) dabka; (*vi*) chumki; (*vii*) gota; (*viii*) sitara; (*ix*) naqsi; (*x*) kora; (*xi*) glass bead; (*xii*) badla; (*xiii*) glzal, (*xiv*) embroidery machines, (*xv*) embroidery needles.

30. Fireclay, coal ash, coal boiler ash, coal cinder ash, coal powder, clinker.

31. Flour-atta, maida, suji, bran and besan.

32. Galvanized iron Pipes.

33. Gingili oil.

34. Gur and Jaggery.

35. Hand pumps and spare parts.

36. Hose pipes.

37. Hosiery goods.

38. Ice.

39. Industrial cables.

40. Industrial inputs as specified in Part III of this Schedule used exclusively as industrial inputs.

41. Information Technology products, as given in Part II of this Schedule, including computers, telephone and parts thereof, tele-printer and wireless equipment.

42. Khandsari.

43. Kirana goods such as:

i. Spices *e.g*. garlic, haldi, gol mirch, tejpatta, dhania, jira, laung, ilaichi, sahjira, mangraila, dalchini, jaffer, hing, methi, jabitri, saunf, all kinds of adrakh, jatamanshi, tamarind, sonth, ajwain, kawabchini and pepper;

ii. Medical herbs, and

iii. Miscellaneous articles like rori, gulal, mica dust, camphor, peppermint, dhup, broom sticks, lohban, arrowroot, sohaga, nausadar, alum, posta and mitha soda.

44. Knitting wool.

45. Lignite.

46. Lime, lime stone, products of lime, dolomite and other white washing materials not elsewhere mentioned in this Schedule or in any other Schedule.

47. Linear alkyl benezene.

48. Maize products.

49. Medicine and Drugs of all varieties excluding any cosmetics, perfumery, toiletry and hair oil, whether or not such cosmetics, perfumery, toiletry and hair oil is manufactured under any Drug Licence and whether or not such cosmetics, perfumery, toiletry and hair oil contains any medicinal properties.

Serial Number	Goods

50. Metals, alloys, metal powders, metal pastes of all types and grades and metal scraps other than those declared under section 14 of the Central Sales Tax Act, 1956.

51. Mixed PVC stabilizer.

52. Napa Slabs (rough flooring stones).

53. Ores and minerals.

54. Organic manure.

55. Palm fatty acid.

56. Paper and newsprint including exercise books, paperboard, mill board, straw board, blotting paper, cardboard, waste paper (cutting paper), cartridge paper, packing paper, paper bags, cartons, cards, blank registers, note books, envelopes, labels, letter pads, writing tablets and flat files.

57. (*i*) Paraffin wax of all grade standards other than food grade standard including standard wax and match wax;

(*ii*) Slack wax.

58. Pens of all kinds including refills.

59. Plastic footwear.

60. Plastic granules.

61. Power operated agricultural implements.

62. Printing ink excluding toner and cartridges.

63. Processed and branded salt.

64. Pulp of bamboo.

65. PVC pipes.

66. Ready-made garments.

67. Rubber that is to say,–(*a*) Raw rubber, latex, dry ribbed sheet of all RMA Grades, tree lace, earth scrap, ammoniated latex, prescribed latex, latex concentrate, centrifugal latex, dry crepe rubber, dry block rubber, crumb rubber, skimmed rubber and all other qualities and grades of latex; (*b*) Reclaimed rubber all grades and qualities; (*c*) Synthetic rubber.

68.	Safety matches.
69.	Seeds.
70.	Sewing thread.
71.	Ship (including ship building).
72.	Silk fabrics.
73.	Solvent oils other than organic solvent oil.
74.	Sponge iron.
75.	Stainless steel.
76.	Starch.
77.	Tamarind.
78.	Tractors, harvesters, their implements and spare parts.

Serial Number	Goods
79.	Transmission wires and towers.
80.	Turmeric.
81.	Vanaspati.
82.	Vegetable oil.
83.	Water when sold in sealed container.
84.	Writing instruments.
85.	Renewable energy devices and spare parts such as flat solar collectors, concentrating and pipe type solar collectors, solar water heaters and systems, air/gas/fluid heating systems, solar crop dealers and systems, solar stills and declination systems, solar pumps based on solar thermal and solar photovoltaic conversion, solar power generating systems, solar photovoltaic nodules and panels for water pumping and other applications, wind mills and any specially designed devices on wind mills, any special devices including electric generators and pumps running on wind energy, bio-gas plants and bio-gas engines and bio-gas fires, agricultural and municipal water conversion devices producing energy, equipment for utilising geothermal energy, portable varieties of improved solar chullah, solar refrigeration, solar cold storage and solar air conditioning systems, electricity operated vehicles including battery powered or fuel cell powered vehicles.

PART II

1. Word processing machines and electronic typewriters.

2. Electronic calculators.

3. Computer systems and peripherals, electronic diaries.

4. Parts and accessories of goods specified at serial numbers 1, 2, 3 above.

5. DC Micrometers/stepper motors of an output not exceeding 37.5 watts.

6. Parts of goods specified at serial number 5 above.

7. Uninterrupted Power Supplies and their parts.

8. Permanent magnets and articles intended to become permanent magnets (Ferrites).

9. Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carries-current line systems or for digital line systems; Videophones.

10. Microphones, Multimedia speakers combined microphone/

speaker sets and their parts.

11. Telephone answering machines.

12. Parts of telephone answering machines.

13. Prepared unrecorded media for sound recording or similar recording of other phenomena.

14. Information Technology software on any media.

15. Transmission apparatus other than apparatus for radio broadcasting or TV broadcasting, transmission apparatus incorporating reception apparatus, digital still image video cameras.

16. Radio communication receivers, Radio pagers.

Serial Number	Goods
17.	(i) Aerials, antennas and their parts. (ii) Parts of goods specified at serial number 14 and 15 above.

18. LCD Panels, LED Panels and parts thereof.

19. Electrical capacitors, fixed, variable or adjustable (Pre-set) and parts thereof.

20. Electrical resistors (including rheostats and potentiometers), other than heating resistors.

21. Printed circuits.

22. Switches, connectors and Relays for up to 5 Amps at voltage not exceeding 250 volts, electronic fuses.

23. Data/Graphic display tubes, other than TV picture tubes and parts thereof.

24. Diodes, transistors and similar semi-conductor devices, Photosensitive semi-conductor devices, including Photovoltaic cells whether or not assembled in modules or made up into panels; Light emitting diodes; Mounted piezo-electric crystals.

25. Electronic Integrated Circuits and Micro-assemblies.

26. Signal generators and parts thereof.

27. Optical fibre cables.

28. Optical fibre and optical fibre bundles and cables.

29. Liquid Crystal Devices, Flat Panel Display Devices and parts thereof.

30. Cathode ray oscilloscopes, Spectrum Analyzers, Cross-talk meters, Gain measuring instruments, Distortion factor meters, Psophometers, Network and Logic Analyzer and Signal Analyzer.

PART III

1. Animal (including fish) fats and oils, crude, refined or purified.

2. Glycerol, crude, glycerol waters and glycerol lyes.

3. Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermacell, whether or not refined or coloured; degras; residues resulting from the treatment of tall substances or animal or vegetable waxes.

4. Animal or vegetable fats boiled, oxidized, dehydrated, sulphurised, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified inedible mixtures or preparations of fats and oils.

5. Liquid glucose (non-medicinal).

6. Denatured ethyl alcohol of any strength.

7. Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculate on dry weight.

8. Copper ores and concentrates.

9. Nickel ores and concentrates.

10. Cobalt ores and concentrates.

11. Aluminium ores and concentrates.

12. Lead ores and concentrates.

13. Zinc ores and concentrates.

Serial Number	Goods
14.	Tin ores and concentrates.
15.	Chromium ores and concentrates.
16.	Tungsten ores and concentrates.
17.	Uranium or thorium ores and concentrates.
18.	Molybdenum ores and concentrates.
19.	Titanium ores and concentrates.
20.	Niobium, tantalum, vanadium or zirconium ores and concentrates.
21.	Precious metal ores and concentrates.
22.	Other ores and concentrates.
23.	Granulate slag (slag sand) for the manufacture of iron or steel.
24.	Benzole.
25.	Toluole.
26.	Xylole.
27.	Naphthalene.
28.	Phenols.
29.	Creosote oils.
30.	Fluorine, chlorine, bromine and iodine.
31.	Sulphur, sublimed or precipitated; colloidal sulphur.
32.	Carbon (carbon blacks and other forms of carbon not elsewhere specified or included).
33.	Hydrogen, rare gases and other non-metals.
34.	Alkali or alkaline-earth metals; rare-earth metals, scandium and yttrium, whether or not intermixed or inter alloyed; mercury.

35. Hydrogen chloride (hydrochloric acid); chlorosulphuric acids.

36. Sulphuric acid and anhydrides thereof; oleum.

37. Nitric acid; sulphonitric acids.

38. Diphosphorus pentaoxide; phosphoric acid and polyphosphoric acids.

39. Oxides of boron: boric acids.

40. Halides and halide oxides of non-metals.

41. Sulphides of non-metals; commercial phosphorus trisulphide.

42. Ammonia, anhydrous or in aqueou

43. Sodium hydroxide (caustic soda); potassium hydroxide (caustic potash); peroxides of sodium or potassium.

44. Hydroxide and peroxide of magnesium; oxides, hydroxides and peroxides of strontium or barium.

45. Aluminium hydroxide.

46. Chromium oxides and hydroxides.

47. Manganese oxides.

Serial Number	Goods

48. Iron oxides and hydroxides.

49. Cobalt oxides and hydroxides; commercial cobalt oxides.

50. Tatanium oxide.

51. Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides.

52. Fluorides; fluorosilicates, fluoroaluminates and other complex fluorine salts.

53. Chlorides, chloride oxides and chloride hydroxides, bromides and bromide oxides; iodides and iodide oxides.

54. Chlorates and perchlorates; bromates and perbromates; lodates and periodates.

55. Sulphides; polysulphides.

56. Dithionites and sulphoxylates.

57. Sulphides; thiosulphates.

58. Copper sulphate.

59. Nitrites; nitrates.

60. Phosphinates (hypophosphites), phosphonates (phosphates), phosphates and polyphosphates.

61. Carbonates; peroxocarbonates (percarbonates); commercial ammonium.

62. Cyanides, cyanide oxides and complex cyanides.

63. Fulminates, cyanates and thiocyanates.

64. Borates; peroxoborates (perborates).

65. Sodium dichromate.

66. Potassium dichromate.

67. Radioactive chemical elements and radioactive isotopes (including the fissile chemical elements and isotopes) and their compounds; mixtures and residues containing these products.

68. Isotopes compounds, inorganic or organic of such isotopes, whether or not chemically defined.

69. Compounds, inorganic or organic, of rare earth metals, of yttrium or of scandium or of mixtures of these metals.

70. Phosphides, whether or not chemically defined excluding ferrophosphours.

71. Calcium carbide.

72. Cyclic hydrocarbons.

73. Halogenated derivatives of hydrocarbons.

74. Sulphonated, nitrated or nitrosated derivatives of hydrocarbons, whether or nor halogenated.

75. Cyclic alcohols and their halogenated, sulphonated nitrated or nitrosated derivatives.

76. Halogenated, sulphonated, nitrated or nitrosated derivatives of phenols or phenol-alcohols.

77. Ethers, ether-alcohols, ether-phenols, ether-alcoholphenols, alcohol peroxides, ether peroxides, ketone peroxides (whether or not chemically defined) and their halogenated, sulphonated, nitrated or nitrosated, derivatives.

Serial Number	Goods

78. Epoxidees, epoxyalcohols, epoxyphenols and epoxyethers, with a three-membered ring and their halogenated, sulphonated, nitrated or nitrosated derivatives.

79. Acetals and hemiacetals, whether or not with other oxygen function and their halogenated, sulphonated, nitrated or nitorsated derivatives.

80. Aldehydes, whether or not with other oxygen function; cyclic polymers of aldehydes; paraformaldehyde.

81. Halogenated, sulphonated, nitrated or nitrosated derivatives.

82. Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacides; their halogenated, sulphonated, nitrated or nitrosated derivatives.

83. Unsaturated acyclic monocarboxylic acid, cyclic monocarboxylic acid, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives.

84. Polycarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated sulphonated, nitrated or nitrosated derivatives.

85. Carboxylic acids with additional oxygenfunction and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives.

86. Phosphoric esters and their salts including lactophosphates; their halogenated sulphonated, nitrated nitrosated derivatives.

87. Esters of other inorganic acids (excluding esters of hydrogen halides) and their salts; their halogenated; sulphonated, nitrated or nitrosated derivatives.

88. Amine-function compounds.

89. Oxygen-function amino-compounds.

90. Quaternary ammonium salts and hydroxides, leetcithins and other phosphoaminolipids.

91. Carboxyamind-function compounds: amide-function compounds of carbonic acid.

92. Carboxyamide function compounds (including saccharin andnits salts) and iminefunction compounds.

93. Nitrile-function compounds.

94. Diazo, Axo-orazoxy compounds.

95. Organic derivatives of hydrazine or of hydroxylamine.

96. Organo-sulphou compounds.

97. Ethylene Diamine Tetra Acetic Acid. Nitrillo Triaccetric acid and their derivatives.

98. Hetrocyclic compounds with oxygen heteroatom(s) only.

99. Hetrocyclic compounds with nitrogen heteroatom(s) only.

100. Nucleic acids and their salts; other heterocyclic compounds.

101. Sulphonamides.

102. Glycosides, natural or reproduced by synthesis and their salts, ethers, esters and other deritaves.

103. Vegetable alkaloids, natural or reproduced by synthesis and their salts, ethers, esters and other derivatives.

104. Ethylene Diamine Tetra Acetic Acid, nitrillo triaccetric acid and their derivatives.

Serial Number	Goods

105. Tanning extracts of vegetable origin; tannis and their salts, ethers, esters and other derivatives.

106. Synthetic organic tanning substances; inorganic tanning substances; tanning preparations whether or not containing natural tanning substances; enbzymatic preparations for pretanning.

107. Colouring matter of vegetable or animal origin (including dyeing extracts but excluding animal black), whether or not chemically defined; preparations based on colouring matter of vegetable or animal origin.

108. Synthetic organic colouring matter; synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, whether or not chemical defines.

109. Colour lakes; preparations based on colour lakes.

110. Glass frit and other glass, in the form of powder, granules or flakes.

111. Prepared driers.

112. Printing ink whether or not concentrated or solid.

113. Casein, caseinates and other casein derivatives, casein glues.

114. Enzymes; prepared enzymes not elsewhere specified or included.

115. Artificial graphite: colloidal or semi-colloidal graphite; preparations based on graphite or other carbon in the form of pastes, blocks, plated or other semi-manufactures.

116. Activated carbon: activated natural mineral products: animal black, including spent animal black.

117. Residual lyes from the manufacture of wood pulp, whether or not concentrated, desugared or chemically treated, including ligning sulphonates.

118. Resin and resin acids, and derivatives thereof: resin spirit and resin oils; run gums.

119. Wood tar; wood tar oils; wood creosote; woods naptha; vegetable pitch; brewers pitch and similar preparations based on rosin, resin acids or on vegetables pitch.

120. Finishing agents, dye carriers to accelerate the dyeing or fixing of dye-stuffs and other products and preparations (for example, dressing) and mordant of kind used in textile, paper, leather or liked industries, not elsewhere specified or included.

121. Prepared rubber accelerator; compound plasticisers for rubber or plastics, not elsewhere specified or included anti-oxidising preparations and other compound stabilisers for rubber or plastics.

122. Reducers and blanket wash/roller wash used in the printing industry.

123. Reaction intiators, reaction accelerators and catalytic preparations, not elsewhere specified or included.

124. Mixed alkylbenzenes and mixed alkyaphthalaenes.

125. Chemical elements doped for use in electronics, in the form of dises, wafers or similar forms: chemical compounds doped for use in electronic.

126. Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols.

127. Retarders used in the printing industry.

128. Polymers of propylene or of other olefins, in primary forms.

129. Acrylic polymers in primary forms.

Serial Number	Goods

130. Polyacetals, other polyethers and expoxide resins in primary forms, polycarbonates, alkyd resins, polyallyl esters and other polyesters in primary forms.

131. Polyamides in primary forms.

132. Amino-resins, polyphenylene oxide, phenolic resins and plyurethanes in primary forms.

133. Silicones in primary forms.

134. Petroleum resins, coumarone-indene resins, polyterpenes, polysulphides, polysulphides.

135. Cellulose and its chemical derivatives, and cellulose ethers, not elsewhere specified or included in primary forms.

136. Natural polymers (for example alginic acid) and modified natural polyers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms.

137. Ion-exchangers based on polymers.

138. Self adhesive plates, sheets, film foil, tape, strip of plastic whether or not in rolls.

139. Flexible plain films.

140. Articles for the packing of goods of plastics; namely; boxes, cases crates, containers, carboys, bottles, jerry cans and their stoppers, lids caps of plastics but not including insulated ware.

141. Natural rubber, balata, gutta percha, Guayule, chicle and similar natural gums, in primary

forms or in plates, sheets or strips.

142. Synthetic rubber and factice derived from oils in primary forms or in plates, sheets or strip; mixtures of any produce of this heading in primary forms or in plates, sheets or strip.

143. Reclaimed rubber in primary form or in plates, sheets or strip.

144. Compounded rubber, unvulcanised, in primary forms or in plates, sheets or strip other than the forms and articles of unvulcanised rubber.

145. Mechanical wood pulp, chemical wood pulp, semi-chemical wood pulp and pulps of other fibrous cellulosic materials.

146. Cartons (including flattened or folded cartons), boxes (including flattened or folded boxes), cases, bags and other packing containers, of paper, paperboard, whether in assembled or unassembled condition.

147. Paper printed labels and paperboard printed labels.

148. Paper self adhesive tape and printed wrappers used for packing.

149. Sacks and bags of a kind used for the packing of goods, of jute or of other textile based fibres.

150. Carboys, bottles, jars phials of glass, of a kind used for the packing of goods; stoppers, lids and other closures of glass.

151. Stoppers, caps and lids (including crown corks, screw caps and pouring stoppers) capsules for bottles, threaded bungs, bung covers, seals and other packing accessories of base metal.

SCHEDULE IV
(*See* section 14)

Serial Number	Goods
1.	Country liquor including spiced country liquor
2.	Potable spirit, wine or liquor whether imported or manufactured in India
3.	High Speed Diesel Oil and Light Diesel Oil
4.	Motor Spirit
5.	Natural Gas
6.	Aviation Turbine Fuel

SCHEDULE V
(*See* section 17)

Serial Number	List of organisations which can claim refund
1.	AFGHANISTAN. H.E. Ambassador of Republic of Afghanistan. The Embassy of Republic of Afghanistan. The Diplomatic Officers (including their spouses) of the Embassy of Afghanistan.
2.	AFRO-ASIAN RURAL RECONSTRUCTION ORGANISATION.
3.	ALGERIA. The Embassy of Democratic and Popular Republic of Algeria.
4.	ANGOLA. The Embassy of Angola on the purchases made by the diplomats for Official and personal use.
5.	APOSTOLIC NUNCIATURE.
6.	ARGENTINA. The Embassy of Argentina Republic on the purchases made by its diplomats for official as well as personal use.
7.	ARMENIA. The Embassy of Armenia on the purchases made by the mission for official use.
8.	ASIAN AFRICAN LEGAL CONSULTIVE COMMITTEE, for its official use.
9.	ASIAN DEVELOPMENT BANK.
10.	AUSTRALIA. The High Commission and its Diplomatic Officers in respect of purchases made from bounded stores only for their official and personal use.
11.	AUSTRIA. The Embassy of Austria in India (for sales intended for their official use). The Diplomatic Officers of the Embassy of Austria in India (for sales intended for their personal use).
12.	BANGLADESH. The High Commission for the Peoples Republic of Bangladesh in India. The Diplomatic Officers (including their spouses) of the High Commission for the Peoples Republic of Bangladesh in India.
13.	BELARUS. The Embassy of Belarus in India. Purchases made for its diplomatic and administrative/technical personnel for official as well as personal use.

Serial Number	List of organisations which can claim refund
14.	BELGIUM.

H.E. the Ambassador of Belgium in India.

The Embassy of Belgium in India.

The Diplomatic Officers of the Belgium Embassy in India.

15. BHUTAN.

The Royal Bhutan Mission for sales intended for official use of Mission.

The Representative of Bhutan for sales intended for personal use.

The Diplomatic Officers of the Royal Bhutan Mission for sales intended for personal use. 16. BRAZIL.

The Embassy of the Federative Republic of Brazil in India.

The Diplomatic Officers (including their spouses) of the Embassy of Federative Republic of Brazil in India.

17. BRITAIN.

The High Commission for Britain in India (all sales for official use).

The Diplomatic Officers (including their spouses) of the High Commission for Britain in India (sales of imported goods from bonded stocks only).

18. BRUNEI DARUSSALAM.

The Embassy of Brunei Darussalam on the purchases made by its Diplomats for Official as well as personal use.

19. BULGARIA.

H.E. the Ambassador of the Peoples Republic of Bulgaria in India.

The Embassy of the Peoples Republic of Bulgaria in India.

The Diplomatic Officers (including their spouses) of the Embassy of the Peoples Republic of Bulgaria in India.

20. CANADA.

H.E. the High Commissioner for Canadian in India.

The Diplomatic Officers of the Canada High Commission.

The Canadian High Commission.

21. CENTRAL AFRICA.

The Embassy of the Central African Empire (for sales intended for official use).

The Diplomatic Officers (including their spouses) of the Embassy of the Central African Empire (for sales intended for their personal use).

22. CHINA.

H.E. the Chinese Ambassador in India.

The Embassy of the Peoples Republic of China.

The Diplomatic officers of the Chinese Embassy in India.

Serial Number	List of organisations which can claim refund

23. COLUMBIA.

The Embassy of Columbia in India.

24. COMBODIA.

H.E. the ambassador of Combodia in India.

The Embassy of Combodia in India.

The Diplomatic Officers (including their spouses) of the Embassy of Combodia in India.

25. (A) Officials of the COMMISSION OF THE EUROPEAN COMMUNITIES for setting up their office.

(B) Personnel of the delegation holding diplomatic status (other than Indian nationals and persons permanently resident in India Employed by the said Commission).

26. COMMON EDUCATIONAL MEDIA CENTRE FOR ASIA.

Common Educational Media Centre on the purchase made for official use and by its President and Vice-President for personal use.

27. CONGO.

The Congolese Embassy and their Diplomatic Officers.

28. CROATIA.

The Embassy of Croatia on the purchases made by its diplomats for official as well as for personal use of their officials.

29. CUBA.

The Embassy of the Republic of Cuba in India.

The Diplomatic Officers (including their spouses) of the Republic of Cuba in India.

30. CYPRUS.

The Cyprus High Commission (for sales intended for official use).

The Diplomatic Officers (including their spouses) of the Cyprus High Commission (for sales intended for their personal use).

31. CZECH REPUBLIC.

The Embassy of Czech Republic on the purchases made by its diplomats for official as well as for personal use of their officials.

32. DENMARK.

The Royal Danish Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Danish Embassy in India.

33. DOMINICA.

The High Commission for the Commonwealth of Dominica (for its official purchases).

The Diplomatic Officials of the High Commission for the Commonwealth of Dominica (for their personal use).

Serial Number	List of organisations which can claim refund

34. EGYPT.

The Embassy of the Arab Republic of Egypt in India.

The Diplomatic officers (including their spouses) of the Embassy of the Arab Republic of Egypt in India.

35. ETHOPIA.

The Ethopian Embassy in India (for its official purchases).

The Diplomatic Officers of the Ethopian Embassy in India (for their personal purchases). 36. FINLAND.

The Embassy of Finland on the purchase of following items made by its diplomats for official purpose.

(1) Construction materials as well as commodities to be used for the interior decoration and furnishing of building.

(2) Commodities used in representational functions.

(3) Motor vehicles as well as spare parts and equipment for Motor vehicles.

(4) Work performances concerning the premises of a mission or office and the commodities referred to in items (1) to (3) or the rental of those commodities.

(5) Telecommunication services, energy commodities and fuel purchased for the building of a mission or office.

(6) Fuels for motor vehicles.

37. FRANCE.

The Embassy of France on the purchases made by its diplomats for Official purposes and for the residence of the Ambassador.

38. GERMANY.

The Embassy of Germany in India (for sales intended for official use only).

The Diplomatic Officers of the German Embassy in India (for sales intended for personal use).

39. GHANA.

The High Commissioner for Ghana in India.

The Diplomatic officers (including their spouses) of the High Commissioner for Ghana in India.

40. GREECE.

The Royal Greek Embassy in India.
The Diplomatic Officers (including their spouses) of the Royal Greek Embassy in India. 41. GUYANA.

The High Commission for Guyana, and its Diplomatic Officers (including their spouses).

Serial Number	List of organisations which can claim refund
42.	HUNGARY. H.E. The Ambassador of the Hungarian Peoples Republic in India. The Embassy of the Hungarian Peoples Republic in India. The Diplomatic Officers (including their spouses) of the Embassy of the Hungarian Peoples Republic in India.
43.	INDONESIA. The Embassy of Indonesia on all its official purchases and the purchases made by its officials for their personal use.
44.	INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT IN INDIA and Employees, other than those recruited locally of the International Bank for Reconstruction and Development in India.

45. INTERNATIONAL CENTRE FOR GENETIC ENGINEERING AND BIOTECHNOLOGY, (for all its official purchases).

46. (A) Office of the INTERNATIONAL COURT OF JUSTICE (for sales intended for official use).

(B) Dr. Nagendra Singh an elected judge of the International Court of Justice, (for sales intended for his personal use).

47. INTERNATIONAL LABOUR OFFICE.

48. IRAN.

The Embassy of Iran in India.

The Diplomatic Officers (including their spouses) of the Embassy of Iran in India.

49. IRAQ.

H.E. the Ambassador of the Republic of Iraq in India.

The Embassy of Republic of Iraq in India.

The Diplomatic Officers (including their spouses) of the Embassy of Iraq in India.

50. IRELAND.

The Embassy of Ireland in India.

The Diplomatic Officers (including their spouses) of the Embassy of Ireland in India.

51. ISRAEL.

The Embassy of Israel on purchases made by its diplomats for official as well as for personal use.

52. ITALY.

The Embassy of Italy on the purchases made by its diplomats for official use as well as for personal use of their officials.

53. JAPAN.

The Embassy of Japan and its Diplomatic Officers.

Serial Number	List of organisations which can claim refund

54. JORDAN.

The Embassy of Hashemite Kingdom of Jordan in India.

The Diplomatic Officers (including their spouses) of the Embassy of the Hashemite Kingdom of Jordan in India.

55. KAZAKHSTAN.

The Embassy of Kazakhstan on the purchases made by its diplomats for official as well as for personal use.

56. KENYA.

For official use as well as Diplomatic Officers (including their spouses) of the Kenya High Commission in India.

57. KOREA.

H.E. the Ambassador of Korea.

The Embassy of the Republic of Korea.

The Diplomatic Officers (including their spouses) of the Embassy Republic of Korea. 58. KOREA (D.P.R.).

H.E. The Ambassador of the Democratic Peoples Republic of Korea.

The Embassy of the Democratic People Republic of Korea.

The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Peoples Republic of Korea.

59. KUWAIT.

H.E. the Ambassador of the State of Kuwait in India.

The Embassy of the State of Kuwait in India.

The Diplomatic Officers of the Embassy of the State of Kuwait in India.

60. KYRGHYSTAN.

The Embassy of Kyrghystan on the purchases made by its diplomats for official as well as for personal use.

61. LAOS.

The Royal Embassy of Laos in India.

The Diplomatic Officers (including their spouses) of Royal Embassy of Laos in India. 62. LEAGUE OF ARAB STATES MISSION.

League of Arab States Mission.

Chief Representative, Deputy Chief Representative, their spouses and minor children of the league of Arab States Mission.

63. LEBANON.

H.E. the Ambassador of Lebanon in India.

The Embassy of Lebanon in India.

The Diplomatic Officers (including their spouses) of the Embassy of Lebanon.

Serial Number	List of organisations which can claim refund
64.	LIBERIA.
	The Embassy of Liberia on all its official purchases as well as purchases made by its officials for their personal use.
65.	LIBYA.
	The Embassy of the Libyan Arab Republic in India (for sales intended for official use). The Diplomatic Officers (including their spouses) of the Embassy of the Libyan Arab Republic in India (for sales intended for their personal use).
66.	LUXEMBOURG.
	The Embassy of Grand Duchy of Luxembourg in respect of goods purchased by them for official use only.
67.	MALAYSIA.
	The High Commissioner for Malaysia in India.
	The Diplomatic Officer (including their spouses) of the High Commissioner for Malaysia in India.
68.	MAURITIUS.

The High Commission of Mauritius and its Diplomatic Officers.

69. MEXICO.

The Embassy of Mexico in India.

The Diplomatic Officers (including their spouses) of the Embassy of Mexico in India. 70. MONGOLIA.

H.E. the Ambassador of the Mongolian Peoples Republic in India.

The Embassy of the Mongolian Peoples Republic in India.

The Diplomatic Officers of the Embassy of the Mongolian Peoples Republic in India.

71. MOROCCO

The Embassy of Morocco on the purchases made by its diplomats for official as well as personal use.

72. MOZAMBIQUE.

High Commission of the Republic of Mozambique in respect of goods purchased by them for official use only.

73. MYANMAR.

The Embassy of the Republic of the Myanmar in India. (Restricted to sale of goods from bonded stocks).

The Diplomatic Officers (including their spouses) of the Embassy of the Union of Myanmar in India. (sale of petrol only).

74. NAMIBIA.

The Namibian High Commission on the purchase made by its diplomats for official as well as for personal use.

Serial Number	List of organisations which can claim refund

75. NEPAL.

The Royal Nepalese Embassy in India, and

The Diplomatic Officers (including their spouses) of the Royal Nepalese Embassy in India. 76. NETHERLANDS.

The Royal Netherlands Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Netherlands Embassy in India.

77. NICARAGUA.

The Embassy of Nicaragua on all its official purchases as well as the purchases made by its officials for their personal use.

78. NIGERIA.

H.E. the High Commission of the Federal Republic of Nigeria in India.

The High Commission for the Federal Republic of Nigeria.

The Diplomatic Officers of the High Commission for the Federal Republic of Nigeria in India.

79. NORWAY.

H.E. the Norwegian Ambassador in India.

The Royal Norwegian Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Norwegian Embassy in India. 80. OMAN.

The Embassy of Sultanate of Oman and its Diplomatic Officers.

81. PAKISTAN.

The Embassy of Pakistan in India.
The Diplomatic Officers (including their spouses) of the Embassy of Pakistan in India. 82. PANAMA.

The Embassy of Panama and its Diplomatic Officers in respect of purchases made from bonded stores only.

83. PHILIPPINES.

H.E. the Ambassador of the Philippines in India.
The Embassy of Philippines in India, and
The Diplomatic Officers (including their spouses) of the Embassy of the Philippines in India. 84. PLO.

The Embassy of the Palestine Liberation Organisation (for sales intended for official use).
The Diplomatic Officers (including their spouses) of the Embassy of the Palestine Liberation Organisation (for sales intended for personal use).

85. POLAND.

The Embassy of the Polish Peoples Republic and their Diplomatic Officers.

Serial Number	List of organisations which can claim refund
86.	PORTUGAL. The Embassy of Portugal in India. The Diplomatic Officers (including their spouses) of the Embassy of Portugal in India (for sales intended for their personal use).
	87. QATAR. The Embassy of the State of Qatar. The Diplomatic Officers of the Embassy of the State of Qatar, and their spouses for sales intended for their personal use.
	88. ROMANIA. H.E. the Ambassador of the Socialist Republic of Romania in India. The Embassy of the Socialist Republic of Romania in India. The Diplomatic Officers (including their spouses) of the Embassy of the Socialist Republic of Romania.
	89. RUSSIA. The Embassy of the Russian Federation on the purchases made by the Diplomats for official and personal use.
	90. RWANDA. The Embassy of Republic of Rwanda on the purchases made by its diplomatic and administrative/technical personnel for official as well as personal use.
	91. SAHRAWI ARAB DEMOCRATIC REPUBLIC. The Embassy of Sahrawi Arab Democratic Republic.

The Diplomatic Officers of the Embassy of Sahrawi Arab Democratic Republic.

92. SAUDI ARABIA.

H.E. the Ambassador of Saudi Arabia in India.

The Embassy of Saudi Arabia in India.

The Diplomatic Officers (including their spouses) of the Embassy of Saudi Arabia in India. 93. SENEGAL.

The Embassy of Republic of the Senegal in India (for sales intended for the official use of the Embassy).

The Diplomatic Officers (including their spouses) the Embassy of the Republic of Senegal in India (for sales intended for personal use).

94. SINGAPORE.

The High Commission for Singapore.

Their Diplomatic Officers.

95. SLOVAK REPUBLIC.

The Embassy of Slovak Republic on the purchases made by its diplomats for official as well as for personal use of their officials.

Serial Number	List of organisations which can claim refund
96.	SOMALIA. The Embassy of Somalia in India (for sales intended for official use). The Diplomatic Officers (including their spouses) of the Embassy of the Somali in India (for sales intended for their personal use).
97.	SOUTH AFRICA. The Embassy of South Africa on the purchases made by its diplomats for official as well as for personal use.
98.	SOUTH WEST AFRICAN PEOPLES ORGANISATION (SWAPO). The Embassy of South West African Peoples Organisation (SWAPO) – on all its official purchases and the purchases made by its officials for their personal use.
99.	SPAIN. H.E. the Ambassador of Spain in India. The Embassy of Spain in India. The Diplomatic Officers of the Embassy of Spain in India.
100.	SRI LANKA. The High Commission for the Democratic Socialist Republic of Sri Lanka for purchases made for its official use as well as by diplomats.
101.	SUDAN. The Embassy of Democratic Republic of Sudan in India. The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Republic of Sudan in India. (Exemption extended to purchases from places other than bonded stocks).
102.	SURINAME.

The Embassy of Republic of Suriname on the purchases made for official use as well as personal use of the diplomats.

103. SWEDEN.

The Royal Swedish Embassy in India (for its official purchases).
The Diplomatic Officers of the Royal Swedish Embassy in India (for their personal use).

104. SWITZERLAND.

The Embassy of Switzerland on the purchases made by its diplomats for official as well as for personal use of their officials.

105. SYRIA.

The Embassy of the Syrian Arab Republic and their Diplomatic Officers.

106. THAILAND.

The Royal Thai Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Thai Embassy in India.

Serial Number	List of organisations which can claim refund

107. TRINIDAD.

The High Commission for Trinidad and Tobago in India.

The members of the Diplomatic Staff of the said High Commission.

(Exemption restricted to (*i*) sale intended for the official use of the Commission and (*ii*) sale intended for personal use).

108. TUNISIA.

The Embassy of Tunisia on the purchases made by its Diplomats for official as well as personal use.

109. TURKEY.

The Embassy of Turkey on the purchases made by its diplomats for official as well as for personal use.

110. U.A.E.

The Embassy of the United Arab Emirates, for its official use.

The Diplomatic Officers of the Embassy of the United Arab Emirates, and their spouses for sales intended for their personal use.

111. UGANDA.

The High Commission for the Republic of Uganda in India.

The Diplomatic officers (including their spouses) of the High Commission for the Republic of Uganda in India.

112. UKRAINE.

The Embassy of Ukraine on the purchases made by its diplomats for official as well as for personal use.

113. UNITED NATIONS DEVELOPMENT PROGRAMME.

114. The Regional Office for India, Nepal, Ceylon, Iran, Afghanistan and Pakistan of THE UNITED NATIONS ECONOMIC COMMISSION FOR ASIA and Far East (Division of Social Affairs).

115.	UNITED NATIONS EDUCATION SCIENTIFIC AND CULTURAL ORGANISATION.
116.	UNITED NATIONS EDUCATIONAL SCIENTIFIC AND CULTURAL ORGANISATION RESEARCH CENTRE ON SOCIAL AND ECONOMIC DEVELOPMENT IN SOUTHERN ASIA.
117.	UNITED NATIONS FOOD AND AGRICULTURAL ORGANISATION.
118.	UNITED NATIONS HIGH COMMISSION FOR REFUGEES. (Exemption for official use only).
119.	UNITED NATIONS INFORMATION CENTRE.
120.	UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND.
121.	UNITED NATIONS MILITARY OBSERVERS GROUP IN INDIA AND PAKISTAN.
122.	UNITED NATIONS OFFICE FOR POPULATION STUDIES.

Serial Number	List of organisations which can claim refund
123.	(A) The Regional Office of the UNITED NATIONS WORLD HEALTH ORGANISATION for South East Asia, (for sales intended for official use). (B) The Regional Director (including his spouses) of the United Nations World Health Organisation for South East Asia, (for sales intended for personal use).
124.	UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT MISSION. United States Agency for International Development Mission and Employees other than the locally recruited staff of the United States Agency for International Development Mission.
125.	URUGUAY. H.E. the Ambassador of the Oriental Republic of Uruguay in India. The Embassy of the Oriental Republic of Uruguay in India. The Diplomatic Officers (including their spouses) of the Oriental Republic of Uruguay in India.
126.	U.S.A. The Embassy of the U.S.A. in India. H.E. the Ambassador of the U.S.A. in India. The Diplomatic Officers (including their spouses and dependents) of the Embassy of U.S.A. in India.
127.	RUSSIAN FEDERATION. H.E. the Ambassador of the Russian Federation in India. The Embassy of the Russian Federation in India. The Diplomatic Officers of the Embassy of Russian Federation in India.
128.	UZBEKISTAN. The Embassy of Republic of Uzbekistan on the purchases made by its diplomats for official as well as for personal use.
129.	VIETNAM (DEMOCRATIC REPUBLIC). H.E. the Ambassador of the Democratic Republic of Vietnam in India. The Embassy of the Democratic Republic of Vietnam in India.

	The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Republic of Vietnam in India.
130.	VIETNAM (REPUBLIC).
	The Counsel General of the Republic of Vietnam in India.
	The Consulate General of the Republic of Vietnam in India.
	The Consular Officer of the Consulate General of the Republic of Vietnam in India.
131.	VENEZUELA.
	The Embassy of Venezuela in India.
	The Diplomatic Officers (including their spouses) of the Embassy of Venezuela in India.

Serial Number	List of organisations which can claim refund
132.	YEMEN.
	The Embassy of the Peoples Democratic Republic of Yemen in India.
	The Diplomatic Officers (including their spouses) of the Embassy of Peoples Democratic Republic of Yemen in India.
133.	YUGOSLAVIA.
	The Embassy of the Socialist Federal Republic of Yugoslavia in India.
	The Diplomatic Officers (including their spouses) of the Embassy of Federal Republic of Yugoslavia in India.
134.	ZAIRE.
	H.E. the Ambassador of the Republic of Zaire in India.
	The Embassy of the Republic of Zaire in India.
	The Diplomatic Officers (including their spouses) of the Embassy of the Republic of Zaire in India (exemption restricted to goods from bonded stores only).
135.	ZAMBIA.
	The High Commission of Zambia in India (for sales intended for official use).
	The Diplomatic Officers (including their spouses) of the Zambian High Commission in India (for sales intended for personal use), (exemption is restricted to goods manufactured or produced in India and not imported from out of India).
136.	ZIMBABWE.
	The Zimbabwe High Commission for its official purchases only upon certification of the Head of Mission Charged Affairs.