

ANDHRA PRADESH GENERAL SALES TAX ACT, 1957

6 of 1957

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ANDHRA PRADESH GENERAL SALES TAX ACT, 1957

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An Act to consolidate and amend the laws relating to the levy of general tax on the sale or purchase of goods in the State of Andhra Pradesh. WHEREAS it is expedient to consolidate and amend the laws relating to the levy of general tax on the sale or purchase of goods in the State of Andhra Pradesh. BE it enacted in the Eighth year of the Republic of India as follows

1. Short title, extent and commencement :-

(1) This Act may be called the Andhra Pradesh General Sales Tax Act, 1957.

(2) It extends to the whole of the State of Andhra Pradesh

(3) This section shall come into force at once; and the rest of this Act shall come into force on such date as the State Government may, by notification in the Andhra Pradesh Gazette, appoint.

2. Definitions :-

(1) In this Act, unless the context otherwise requires:

(a) ' Appellate Deputy Commissioner' means any person appointed to be an Appellate Deputy Commissioner of Commercial Taxes under Section 4;

(aa) ' Appellate Tribunal' means the Tribunal appointed under Section 3;

(aaa) "Additional Commissioner" means any person appointed to be an Additional Commissioner of Commercial Taxes under Section 4.

(b) ' Assessing authority' means any person authorised by the State Government or by any other authority empowered by them in this behalf, to make any assessment in such area or areas or the

whole of the State of Andhra Pradesh under this Act;

(bb) 'Assistant Commissioner' means any person appointed to be an Assistant Commissioner of Commercial Taxes under Section 4;

(bbb) 'Business' includes-

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

(ii) any transaction 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 trade, commerce, manufacture, adventure or concern;

Explanation :-For the purpose of this clause,-

(i) the activities of raising of manmade forests or rearing of seedlings or plants shall be deemed to be business;

(ii) any transaction of sale or purchase of capital assets pertaining to such trade, commerce, manufacture, adventure or concern shall be deemed to be business and the expression "capital assets" shall have the same meaning as assigned to it in the Income Tax Act, 1961.

(c) 'Casual trader' means a person who has, whether as principal, agent or in any other capacity, occasional transactions of a business involving the buying, selling, supplying or distributing of goods in the State whether for cash, or for deferred payment, or for commission, remuneration, or other valuable consideration;

(c-1) "Special Appellate Tribunal" means the Andhra Pradesh Sales Tax Special Appellate Tribunal constituted under Section 21A in pursuance of Article 323-B of the Constitution of India.

(d) 'Commercial Tax Officer' means any person appointed to be a Commercial Tax Officer under Section 4.

(dd) 'Commissioner' means any person appointed to be a Commissioner of Commercial Taxes under Section 4;

(e) 'Dealer' means any person who carries on the business of

buying, selling, supplying or distributing goods or delivering goods on hire purchase or on any system of payment by instalments, or carries on or executes any works contract involving supply or use of material directly or otherwise, whether for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, and includes. -

(i) local authority, a company, a Hindu undivided family or any society (including a co operative society), club, firm or association which carries on such business;

(ii) a society (including a cooperative society), club, firm or association which buys goods from, or sells, supplies or distributes goods to its members;

(iii) a casual trader, as herein before defined;

(iii a) any person, who may, in the course of business of running a restaurant or an eating house or a hotel (by whatever name called). 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);

(iii b) any person, who may transfer the right to the use of any goods for any purpose whatsoever (whether or not for a specified period) in the course of business to any other person;

(iv) a commission agent, a broker, a delcredere 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 any principal or principals;

Explanation I :- Every person who acts as an agent of a non resident dealer that is, as an agent on behalf of a dealer residing outside the State, and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer as -

(i) a mercantile agent as defined in the Indian Sale of Goods Act, 1930 (Central Act III of 1930); or

(ii) an agent for handling goods or documents of title relating to goods, or

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment and every local branch of a firm or company situated outside the State, shall

be deemed to be a dealer for the purpose of this Act.

Explanation II :- Where a grower of agricultural or horticultural produce sells such produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, in a form different from the one in which it was produced after subjecting it to any physical, chemical or any process other than mere cleaning, grading or sorting, he shall be deemed to be a dealer for the purpose of this Act;

Explanation III :- The Central Government or the State Government which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration shall be deemed to be dealer for the purposes of this Act;

Explanation IV:- For the purpose of this clause, each of the following persons and bodies who sell or dispose of any goods including unclaimed or confiscated or unserviceable goods or scrap surplus, old, obsolete, or discarded material or waste products whether by auction or otherwise, directly or through an agent for cash, or for deferred payment or for any other valuable consideration shall be deemed to be a dealer to the extent of such disposals or sales, namely:-

(a) The Port Trust;

(b) Municipal Corporation, and Municipal Councils, and other local authorities;

(c) Railway administration as defined under the Indian Railways Act, 1890;

(d) Shipping, transport and construction companies;

(e) Air transport companies and airlines;

(f) Transporters, holding permits for transport vehicles granted under the Motor Vehicles Act, 1988 which are used or adopted to be used for hire;

(g) The Andhra Pradesh State Road Transport Corporation;

(h) Customs Department of the Government of India administering the Customs Act, 1962;

(i) Insurance and Financial Corporations or Companies and Banks included in the Second Schedule to the Reserve Bank of India Act, 1934;

(j) Advertising Agencies;

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

(f) 'Declared Goods' means goods declared under section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) to be of Special importance in inter State trade or commerce;

(f-1) 'Deputy Commercial Tax Officer' means any person appointed to be a Deputy Commercial Tax Officer under section 4 ;

(g) 'Deputy Commissioner' means any person appointed to be a Deputy Commissioner of Commercial Taxes under Section 4;

(gg) "fair market price" means the price that the goods would ordinarily fetch on sale in the open market on the date of sale of such goods.

(h) 'Goods' means all kinds of movable property other than actionable claims, stocks, shares and securities, and includes all materials, articles and commodities including the goods (as goods or in some other form), involved in the execution of a works contract or those goods used or to be used in the construction, fitting out, improvement or repair of movable or immovable property and also includes all growing crops, grass and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale and also includes motor spirit;

Explanation :- Motor spirit means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly, to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol diesel oil, and other internal combustion oils, but does not include power alcohol, kerosene, furnace oil, coal or charcoal;

(h-1) 'Goods vehicle' means any motor vehicle constructed or adapted for the carriage of goods, or any other motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers;

(h-2) ' Joint Commissioner ' means any person appointed to be a joint Commissioner of Commercial Taxes under section 4;

(i) Licence means a licence granted or renewed under this Act;

(i-1) ' Miller ' means a person who engages himself in milling operations in any rice mill, oil mill, dhal mill, saw mill, ginning mill or a decorticating mill and includes a person who, or the authority which has the ultimate control over the affairs of the rice mill, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent.

Explanation :- For the purposes of this clause, the word mill means the plant and machinery with which, and the premises including the precincts thereof, in which or in any part of which, the milling, ginning or decorticating operations, as the case may be are carried on

(j) ' Notification' means a notification published in the Andhra Pradesh Gazette;

(j-1) ' Petrol' means dangerous petroleum as defined in the Petroleum Act, 1934;

(k) "Place of business" means any place where a dealer purchases or sells goods and includes -

(i) any ware-house, godown or other place where a dealer stores or process his goods;

(ii) any place where a dealer produces or manufactures goods;

(iii) any place where a dealer keeps his books of accounts;

(iv) in case where a dealer carries on business through an agent (by whatever name called) the place of business of such agent.

(kk) "Principal place of business" means-

(i) in the case of manufacturing or processing units the place of manufacture or processing;

(ii) in the case of manufacturing or processing units with more than one factory, the place where the main factory or processing unit is located;

(iii) in the case of trading units the place from which the dealer

carries on his main business.

(l) ' Prescribed' means prescribed by rules made under this Act;

(m) 'Registered dealer' means a dealer registered under this Act;

(mm) "Retail Dealer" means any dealer whose total turnover in a year does not exceed rupees ten lakhs and whose total turnover comprises sales of goods to persons, who purchase the goods for their own use but not for resale, and to other dealers only for effecting accommodation sales in the relevant assessment year.

(mmm) "Accommodation Sales" means sale of goods effected by a dealer which are not in stock held by that dealer as on the date of sale, but which are obtained by him from any other registered dealer specially to accommodate a particular customer and the sale is effected by the said dealer without making any profit out of that transaction.

(n) ' Sale' with all its grammatical variations and cognate expressions means every transfer of the property in goods whether as such goods or in any other form in pursuance of a contract or otherwise by one person to another in the course of trade or business, for cash, or for deferred payment, or for any other valuable consideration or in the supply or distribution of goods by a society (including a co operative society), club, firm or association to its members, but does not include a mortgage, hypothecation or pledge of, or a charge on goods.

Explanation I :- A delivery of goods on the hire purchase or any system of payment by instalments shall, notwithstanding the fact that the seller retains the title in the goods, as security for payment of the price, be deemed to be a sale.

Explanation II :-

(a) Notwithstanding anything contained in the Indian Sale of Goods Act, 1930 (Central Act III of 1930) a sale or purchase of goods shall be deemed, for the purpose of this Act to have taken place in the State, wherever the contract of sale or purchase might have been made, if the goods are within the State

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

(ii) in the case of unascertained or future goods, at the time of

their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

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

Explanation III :- Notwithstanding anything contained in this Act or in the Indian Sale of Goods Act, 1930 (Central Act III of 1930), two independent sales or purchases shall for the purposes of this Act, be deemed to have taken place.

(1) when the goods are transferred from a principal to his selling agent and from the selling agent to his purchaser, or

(2) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid...

(i) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate; or

(ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate; or

(iii) not to have accounted to his principal for the entire collections or deductions made by him, in the sales or purchases effected by him on behalf of his principal; or

(iv) to have acted for a fictitious or non-existent principal;

Explanation IV:- A transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration shall be deemed to be a sale

Explanation V:- Notwithstanding anything contained in this Act or in the Sale of Goods Act, 1930, the sale of goods includes the supply, by way of or as part of any service or in any 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 supply of any goods shall be deemed to be sale of those goods by the person making the supply of those

goods to the person to whom such supply is made.

Explanation VI :- Whenever any goods are supplied or used in the execution of a works contract, there shall be deemed to be a transfer of property in such goods, whether or not the value of the goods so supplied or used in the course of execution of such works contract is shown separately and whether or not the value of such goods or material can be separated from the contract for the service and the work done.

Explanation VII :- Notwithstanding anything contained in the Sale of Goods Act, 1930, a sale or purchase of goods shall, for the purposes of this Act be deemed to have taken place where in the course of any scheme whether called as "Lucky Gift Scheme" or by any other name, any goods are transferred by the person who runs such scheme to any other person who is a subscriber to that scheme, provided that all the subscribers to the scheme have agreed to contribute a specific sum periodically or otherwise, towards the cost of any article agreed to be sold or given to the winner of the draw held by the holder of the scheme; and the turnover for the purpose of this explanation shall be the amount which would have been payable by the subscriber had he not won the prize till the end of the series of draw;

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

(o) 'Schedule' means a Schedule appended to this Act;

(p) 'State' means the State of Andhra Pradesh;

(q) 'tax' means a tax on the sale or purchase of goods payable under this Act and includes,

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

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

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

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

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

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

(r) ' Total turnover' means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or any portion of such turnover is liable to tax: including the turnover of purchases or sales in the course of inter State trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India;

(s) ' Turnover ' means-

(i) the total amount set out in the bill of sale excluding the amount collected towards the tax or the tax due under the Act whichever is less;

(ii) the total amount of consideration for the sale or purchase of goods excluding tax due under the Act as may be determined by the assessing authority, if the bill of sale does not set out correctly the amount for which the goods are sold; or

(iii) if there is no bill of sale, the total amount charged as the consideration for the sale or purchase of goods by a dealer either directly or through another, on his own account or on account of others, whether such consideration be cash, deferred payment or any other thing of value and shall include,

(a) the value of any goods as determined by the assessing authority

(i) to have been used or supplied by the dealer in the course of execution of the works contract.

(ii) to have been delivered by the dealer on hire purchase or any

other system of payment by instalments;

(iii) to have been supplied or distributed by a society including a Co operative Society, Club, firm or association to its members, where the cost of such goods is not separately shown or indicated by the dealer and where the cost of such goods is separately shown or indicated by the dealer, the cost of such goods as shown or indicated;

(b) any other sum charged by the dealer for anything done in respect of goods sold at the time of, or before, the delivery of the goods;

(c) any other sum charged by the dealer, whatever be the description, name or object thereof; and

(d) the aggregate of amounts charged under Section 5 C or realisable under Section 5 E

Provided that in the case of a sale by a person whether by himself or through an agent of agricultural or horticultural produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, the amount of consideration relating to such sale shall be excluded from, his turnover when such produce is sold in the form in which it was produced without being subjected to any physical, chemical or other process for being made fit for consumption save mere cleaning, grading or sorting.

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

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

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

(iv) Where a dealer being a registered trade mark holder or registered trade mark user so arranges that not less than three fourths of his sales of goods with such trade mark in the state are through a related person, the price at which the related person

sells such goods in the state shall be deemed to be the consideration received by the dealer.

Explanation:- For the purpose of this sub-clause, "related person" means a person who is so associated with the dealer that they have interest, directly or indirectly, in the business of each other and including a holding company, subsidiary company, a relative and a distributor of the dealer and any sub-distributor of such distributor. In this sub-clause, holding company and subsidiary company and relative have the same meaning as in the Indian Companies Act, 1956 (Central Act 1 of 1956).

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

(u) 'Year' means the twelve months ending on the 31st day of March.

(2) The Andhra Pradesh General Clauses Act, 1891 (Act 1 of 1891) shall apply for the interpretation of this Act as it applies for the interpretation of an Andhra Act.

3. Appellate Tribunal :-

(1) The State Government shall appoint an Appellate Tribunal consisting of a Chairman and two other members to exercise the functions conferred on the Appellate Tribunal by or under this Act. The Chairman shall be a judicial officer not below the rank of a District Judge and of the other two members one shall be an officer of the State Government not below the rank of a Deputy Commissioner of Commercial Taxes, and the other shall be a Chartered Accountant, within the meaning of the Chartered Accountants Act, 1949, or a person possessing the degree of M.Com or B.com., (Hons) of any recognised university in India for atleast ten years or an officer not below the rank of a Deputy Commissioner of Central Excise Department or Income tax Department.

(2) Any vacancy in the membership of the Appellate Tribunal shall be filled up by the State Government.

(3)

(a) The functions of the Appellate Tribunal may be exercised -

(i) by a Bench consisting of all the members of the Appellate Tribunal, or

(ii) by a Bench consisting of two members constituted by the Chairman, or

(iii) by a Bench consisting of the Chairman and other member as constituted by the Chairman, or

(iii-a) by a Bench consisting of the other two members in case the Chairman is absent on leave or transfer or in case of the office of the Chairman is vacant otherwise;

(iv) by a single member of the Appellate Tribunal constituted by the Chairman in cases where the turnover does not exceed (rupees five lakhs):

Explanation :- The single member referred to in item (iv) above may be either the Chairman himself or any other member.

(b) Where an appeal or application is heard by all the three members of the Appellate 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.

(c) Where an appeal or application is heard by a Bench consisting of two members whether it consists of the Chairman or not, and the members are divided in opinion, on any point or points, such point or points shall be referred to the Appellate Tribunal consisting of all the three members.

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

(3-A)

(a) Notwithstanding anything contained in sub section (1), the Government may at any time, by order, constitute an additional Bench of the Tribunal, with two members, of whom one shall be a District Judge Grade II and the other shall be an Officer of the

Commercial Taxes Department of the State Government not below the rank of a Joint Commissioner to function at such place and for such period as they may specify therein.

(b) Where the members of the additional Bench are equally divided in opinion as to the decision to be given on any point or points, they shall state the point or points on which they differ and make a reference to the Chairman who shall thereupon hear the point or points himself and such point or points shall be decided according to the opinion of the majority of the Chairman and the members of the Bench who heard the case.

(c) The regulations made under sub section (4) shall apply to the Bench constituted under this sub section.

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

(5) The regulations made under sub section (4) shall be published in the Andhra Pradesh Gazette

4. Appointment of Commissioner of Commercial Taxes, Additional Commissioner of Commercial Taxes, Joint Commissioner of Commercial Taxes, Appellate Deputy Commissioners of Commercial Taxes, Deputy Commissioners of Commercial Taxes Assistant Commissioners of Commercial Taxes, Commercial Tax Officers and Deputy Commercial Tax Officers :-

The State Government may appoint a Commissioner of Commercial Taxes and as many Additional Commissioners of Commercial Taxes, Joint Commissioners of Commercial Taxes, Appellate Deputy Commissioners of Commercial taxes, Deputy Commissioners of Commercial Taxes, Assistant Commissioners of Commercial Taxes, Commercial Tax officers and Deputy Commercial Tax Officers as they think fit, for the purpose of performing the functions respectively conferred on them by or under this Act. Such officers shall perform the said functions within such area or areas or the whole of the State of Andhra Pradesh as the State Government or any authority or officer empowered by them in this behalf may assign to them.

4A. Powers of subordinate officers to be exercised by higher authorities :-

The powers conferred by this Act and the rules made thereunder on any of the officers appointed under Section 4 of this Act may also be exercised by any of the officers superior to the officers so empowered, subject to any instructions issued by the Commissioner of Commercial Taxes in this regard.

5. Levy of tax on sales or purchases of goods :-

(1) Save as otherwise provided in this Act every dealer shall pay tax under this Act for each year on every rupee of his turnover of sales or purchases of goods in each year irrespective of the quantum of his turnover at the rates of tax and at the points of levy specified in the Schedules.

(3) For the purpose of this section and the other provisions of this Act, the turnover which a dealer shall be liable to pay tax shall be determined after making such deductions from his total turnover, and in such manner as may be prescribed.

(4) The taxes under this section shall be assessed, levied and collected in such manner, as may be prescribed.

Provided that -

(i) in respect of the same transaction, the buyer or the seller but not both, as determined by such rules as may be prescribed, shall be taxed.

(ii) where a dealer has been taxed in respect of the purchase of any goods, in accordance with the rules referred to in clause (i) of this proviso, he shall not be taxed again in respect of any sale of such goods effected by him."

5A. Levy of tax on turnover :-

(1) Notwithstanding anything contained in this Act, tax shall be levied at the rate of one paise on every rupee of turnover of a dealer, other than the dealers mentioned in sub-section(1-A) whose total turnover in a year exceeds rupees ten lakhs:

Provided that the tax shall not be levied under this section on that part of the turnover of any dealer on which the dealer is liable to pay tax at the point of levy specified in the First Schedule, except petrol, diesel oil, aviation turbine fuel, engine oils, lubricating oils, greases, brake fluids, furnaces oil and all kinds of motor vehicles, Second Schedule, Fifth Schedule and Seventh Schedule to the Act;

Provided further that no tax under this section shall be payable on that part of turnover which relates to:-

- (i) sale or purchase of goods specified in Third Schedule;
- (ii) sale or purchase of goods specified in Fourth Schedule;
- (iii) sale or purchase of goods specified in Sixth Schedule;
- (iv) sale or purchase of goods in the course of inter-State trade or commerce;
- (v) sale or purchase of goods in the course of export out of the territory of India or sale or purchase in the course of import into the territory of India;
- (vi) sale or purchase of goods exempt from tax generally under sub-section (1) of Section 9 of the said Act.
- (vii) all amounts collected by way of tax under the provisions of the Central Sales Tax Act, 1956.

(1-A) Every dealer shall in addition to the tax payable under Sections 5, 5-AA and 6-C of the Act, pay for each year a turnover tax on his turnover liable to tax. --

(a) at the rate of two paise on every rupees in respect of petrol, diesel oils, aviation turbine fuel, engine oils, lubricating oils, greases, brake fluids, furance oil; and

(b) one paise on every rupees in respects of all kinds of Motor Vehicles mentioned in item 1 in the First Schedule to the Act.

(1-B) Notwithstanding anything contained in this Act, no dealer referred to in sub-section (1-A) shall be entitled to collect the turn over tax payable under the said sub-section from his purchasers.

(1-C) If any dealer collects any amount by way of turnover tax or purporting to be by way of turnover tax in contravention of the provision of sub-section (1-B), the assessing authority shall, after giving such dealer, a reasonable opportunity of being heard, by order in writing impose upon him by way of penalty, an amount equivalent to such turnover tax collected.

(2) For the purpose of this section the turnover which a dealer shall be liable to pay tax shall be determined after making such deductions from his total turnover, and in such manner as may be prescribed.

5AA. Levy of tax on trade mark holder :-

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

5B. Levy of concessional tax in respect of certain goods :-

(1) Notwithstanding anything contained in this Act, every dealer shall pay tax at the rate of 4 paise in the rupee or at the rates specified in Section 5 in respect of goods other than declared goods, or under Section 6 in respect of declared goods, whichever is lower, on the turnover relating to such sale in the following circumstances, namely:- (a) when a dealer sells any goods to another dealer for use by the latter as raw material, component part, sub-assembly part, intermediate part and packing material in the manufacture or processing of goods inside the State: (b) when a dealer sells to another dealer any goods other than those falling under Clause (a) which are notified by the Government from time to time for use by the latter in the manufacture or processing of the goods inside the State. The Government may also notify the goods which are not eligible for concessional rate of tax under this section: Provided that the provisions of this section shall not apply to any sale unless the dealer selling the goods furnished to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in the prescribed form obtained from the prescribed authority on payment of prescribed fee.

(2) If any dealer,

(i) not having his manufacturing unit within the State purchases any goods by furnishing a declaration under the proviso to sub section (1); or

(ii) having his manufacturing unit within the State and having purchased goods by furnishing a declaration under the proviso to sub section (1) sells such goods contrary to such declaration, the assessing authority, may after giving such dealer a reasonable

opportunity of being heard, by order in writing, impose upon him by way of penalty a sum which shall not be less than three times but which may extend to five times the amount of tax leviable on the sale of such goods so purchased.

(3)

(a) Every dealer who, during the course of the year purchases goods by furnishing a declaration under the proviso to sub section (1) shall maintain, -

(i) an account of the receipt and issue of such declaration forms in the prescribed manner;

(ii) a separate stock account for each of the goods purchased by him showing such particulars as may be prescribed.

(b) if any dealer, fails to maintain true and complete accounts in accordance with clause (a) and the rules made thereunder, the assessing authority may, after giving such dealer a reasonable opportunity of being heard, by order in writing -

(i) disentitle such dealer from making use of any declaration forms prescribed under the proviso to sub section (1) and require him to surrender forthwith the declaration forms already issued to him, if any, and

(ii) impose upon him by way of penalty a sum which shall not be less than three times but which may extend to five times the amount of tax leviable on the turnover of the goods purchased by him on the basis of the declaration forms furnished by him under the proviso to sub section (1), upto the date of surrender by him of the unused forms;

(c) If any dealer, in respect of whom an order has been passed under clause (b) of this sub section pays the penalty and complies with such conditions as the assessing authority may deem fit to impose in this behalf, the assessing authority may in his discretion permit such dealer to obtain the prescribed declaration forms afresh and make use of the same for the purchase of goods in the State at the concessional rate of tax.

Explanation :- for the purpose of this section, -

(i) The words "raw material" means any material from which another product can be made through the process of manufacture

either by itself or in combination with other raw materials:

(ii) the words "component part", "sub assembly part" and "intermediate part" mean the article which forms an identifiable constituent of the finished product and which along with other goods make up the finished product".

5C. Tax in respect of supply of articles of food or drink in restaurants or catering houses or hotels :-

Notwithstanding anything contained in Ssection 5 or Section 6, Every dealer running any restaurant or eating house or hotel (by whatever name called), who supplies, 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) and whether or not such goods have suffered tax under the Act. where such supply or service is for cash, deferred payment or other valuable consideration shall on the total amount charged by the said dealer for such supply, pay a tax at the rate of eight paise on every rupee on the aggregate of such amount realised or realisable by him during the year.

Provided that no such tax shall be levied if the total turnover of the dealer including such aggregate during the year is less than Rs.2,00,000.

5D. Assessment and Re assessment in certain cases :-

(1) Notwithstanding anything in any judgment, decree or order of any Court or any other authority, the assessing authority may assess or reassess the amount of tax payable by

(a) any dealer running a restaurant or any eating house or hotel (by whatever name called) in the course of business at any time on or after the 7th day of September, 1978 and before the 2nd February, 1983 or

(b) any dealer running an establishment not being a restaurant or an eating house or a hotel (by whatever name called) at any time on or after the 4th day of January, 1972 and before the 2nd February, 1983. on his turnover relating to the supply of food or any other article for human consumption or any drink (whether or not intoxicating) in accordance with the principal Act as amended by the Andhra Pradesh General Sales Tax (Amendment) Act, 1985

(2) Notwithstanding the expiry of any period of limitation specified

in section 14 or section 24 A an assessment or reassessment under sub section (1) may be made within a period of four years from the 2nd February, 1983.

5E. Tax on the amount realised in respect of any right to use goods :-

Notwithstanding anything contained in this Act; -

(a) Every dealer who transfers the right to use any goods for any purpose, whatsoever, whether or not for a specified period, to any lessee or licensee for cash, deferred payment or other valuable consideration, in the course of his business shall, on the total amount realised or realisable by him by way of payment in cash or otherwise on such transfer or transfers of the right to use such goods from the lessee or licensee, pay a tax at the rate of eight paise on every rupee of the aggregate of such amount realised or realisable by him during the year.

(b) the transfer of right to use any such goods entered into by any dealer, shall be deemed to have taken place in this State whenever the goods are used within the State, irrespective of the place where the agreement whether written or oral for such transfer of right is made. Provided that no such tax shall be levied if the total turnover of the dealer including such aggregate is less than rupees two lakhs.

5F. Levy of tax on transfer of property in goods involved in the execution of works contract :-

Notwithstanding anything contained in Section 5 or Section 6, every dealer shall pay a tax under this Act for each year, on his turnover of transfer of property in goods whether as goods or in some other form involved in the execution of works contract, at the rate of eight paise on every rupee of his turnover.

Provided that tax shall be paid at the rate of four paise on every rupee of his turnover pertaining to declared goods, if the goods have not suffered tax earlier, and no tax shall be payable on the turnover pertaining to declared goods, if such goods have suffered tax earlier under this Act and are transferred from the contractor to the contractee in the same form in which they were purchased by the contractor:

Provided further that no tax shall be levied on the turnover of transfer of property in goods, specified in the Fourth Schedule to the Act, involved in the execution of works contract, if such goods

are transferred from the contractor to the contractee in the same form in which they were purchased by the contractor.

Provided also that no such tax shall be leviable on the turnover of transfer of property in goods whether as goods or in some other form involved in the execution of works contract, if such transfer from the contractor to the contractee constitutes a sale in the course of inter State trade or commerce under Section 3 or an outside the State sale under Section 4, or a sale in the course of import or export under Section 5 of the Central Sales Tax Act, 1956 but does not include the goods either obtained or purchased from other States and used in the execution of works contract.

Provided also that no tax shall be payable under this section on the turnover relating to the amounts paid to a sub contractor as consideration for the execution of works contract whether wholly or partly subject to the production of proof that such sub contractor is a registered dealer liable to tax under the Act and that the turnover of such amount is included in the return of turnover filed by such sub contractor.

5G. Composition of tax payable under Section 5F :-

(1) Subject to such conditions and in such circumstances as may be prescribed if a dealer, who executes any works contract other than the category of contracts notified by the Government under sub-section (2), so opts, the assessing authority of the area may accept, in lieu of the amount of tax payable by him under the Act during the year, by way of composition, an amount at the rate of four paise on every rupee of the total amount paid or payable to the dealer towards execution of the works contract:

Provided that no tax shall be payable under this section on the turnover relating to the amounts paid to a sub-contractor as consideration for the execution of the works contract whether wholly or partly subject to the production of proof that such sub-contractor is a registered dealer liable to tax under the Act and that the turnover of such amounts is included in the return of the turnover filed by such sub-contractor.

Provided further that if a dealer who executes a works contract of construction of apartments or buildings, so opts, the assessing authority of the area may accept, by way of composition an amount calculated at the rate of rupees 4/- (Rupees four only) per square

foot of the constructed area.

(2) The Government may notify from time to time the category of works contract for which the scheme of payment of tax by composition under sub-section (1) does not apply.

(3) Every dealer who elects to pay tax under sub-section (1) shall apply in the prescribed form to the assessing authority to be permitted to pay the amount of tax under sub-section (1), and on being so permitted, in the prescribed form, he shall pay tax as specified under Section 13 and 15 of the Act.

5H. Deduction of tax at Source :-

(1) Notwithstanding anything contained in this Act the Central Government or the State Government or an industrial, commercial or trading undertaking of the Central Government or of the State Government or a local authority or a statutory body; or a company registered under Companies Act, 1956 or any other person which the Government may notify from time to time, shall deduct from out of the amounts payable by them to a dealer in respect of works contract executed for them, an amount calculated at such rate as may be prescribed, but not exceeding four percent of the total turnover;

(2) The tax deducted under sub-section (1) shall be remitted to Government in such manner and within such time as may be prescribed.

(3) The authority making deduction under sub section (1) shall furnish to the dealer from whom such deduction is made, a certificate, containing such particulars as may be prescribed.

(4) If any such authority defaults to deduct the tax specified under sub section (1) or defaults to remit the amount so deducted or any portion thereof as required under sub section (2), it shall be liable to pay, in addition to the amount so deducted, interest at the rates specified in sub section (3) of Section 16 of the Act on the amount with respect to which the default has taken place from the date of default to the date on which such amount is remitted.

(5) Payment by way of deduction in accordance with sub section (2) shall be without prejudice to any other mode of recovery of tax due under this Act from the dealer executing the works contract.

(6) Where, tax in respect of works contract is remitted under sub

section (2), the tax payable by the dealer in respect of such works contract shall be reduced by the amount of tax already remitted under the said sub section:

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

6. Tax in respect of declared goods :-

Notwithstanding anything contained in section 5, the sales or purchases of declared goods by a dealer shall be liable to tax at the rate, and only at the point of sale or purchase specified against each in the third Schedule on his turnover of such sales or purchases for each year irrespective of the quantum of his turnover in such goods; and the tax shall be assessed levied and collected in such manner as may be prescribed.

Provided that where any such goods on which a tax has been so levied are sold in the course of inter State trade or commerce. and tax has been paid under the Central Sales Tax Act, 1956 in respect of the sale of such goods in the course of inter State trade or commerce the tax so levied, (shall be reimbursed to the person making such sale in the course of inter State trade or commerce,) in such manner and subject to such conditions as may be prescribed.

6A. Levy of tax on turnover relating to purchase of certain goods :-

Every dealer, who in the course of business:

(i) purchases any goods (the sale or purchase of which is liable to tax under this Act) from a registered dealer in circumstances in which no tax is payable under section 5 or under section 6, as the case may be, or.

(ii) purchases any goods (the sale or purchase of which is liable to tax under this Act) from a person other than a registered dealer, and

(a) consumes such goods in the manufacture of other goods for sale or consumes them otherwise, or:

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

(c) despatches them to a place outside the State except as a direct result of sale or purchase in the course of inter State trade or commerce, shall pay tax on the turnover relating to purchase aforesaid at the same rate at which but for the existence of the aforementioned circumstances, the tax would have been leviable on such goods under Section 5 or Section 6

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6C. Levy of tax on packing material :-

Notwithstanding anything contained in Section 5, Section 5F Section 6 and Section 6A, the rate of tax on packing material sold with the goods shall be the same as that of the goods packed or filled, whether or not there is separate sale or agreement for sale for the packing material and the goods packed or filled.

7. Stage of levy of taxes in respect of imported and exported goods :-

Where in the case of any goods tax is leviable at one point in a series of sales or purchases, such series shall

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

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

Explanation :- The provision contained in sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall apply for the purpose of clause (b);

7A. . :-

Burden of proof and liability of the dealer to pay tax and penalty

(1) In the case of an assessment made under sub section (2) of section 5, section 6 or the notification issued under section 9, the burden of proving that any sale or purchase effected by a dealer is not liable to any tax or is liable to be taxed at a reduced rate shall lie on the dealer.

(1-A) Notwithstanding anything contained in this Act, or in any

other law, a dealer in any of the goods liable to tax in respect of the sale or the purchase in the State shall be deemed to be the seller or purchaser, as the case may be of such goods and shall be liable to pay tax accordingly on his turnover of sales or purchases relating to such goods, unless he proves to the satisfaction of the assessing authority that the goods sold or purchased as the case may be, have already suffered tax under this Act.

(2) Where a dealer issues or produces a false bill, voucher, declaration, certificate or other document with a view to support or make any claim that a transaction of sale or purchase effected by him or any other dealer, is not liable to be taxed or is liable to be taxed at reduced rate, the assessing authority shall on detecting such issue or production, direct the dealer issuing or producing such document to pay as penalty:

(i) in the case of first such detection, three times the tax due in respect of such transaction; and

(ii) in the case of a second or subsequent detection, five times the tax due in respect of such transaction:

Provided that before issuing any direction for the payment of the penalty under this section, the assessing authority shall give to the dealer an opportunity of making representation against the levy of such penalty.

8. Exemption from tax in respect of certain goods :-

Subject to such restrictions and conditions as may be prescribed a dealer who deals in the goods specified in the Fourth Schedule shall be exempt from tax under this Act in respect of such goods.

9. Power of State Government to notify exemptions and reductions of tax or interest :-

(1) The State Government may, by notification in the Andhra Pradesh Gazette, make an exemption, or reduction in rate, in respect of any tax or interest payable under this Act -

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

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

(2) Any exemption from tax or interest or reduction in the rate of tax or interest notified under sub section (1)

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

(b) may be subject to such restrictions and conditions as may be specified in the notification, including conditions as to licences and licence fees.

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12. Registration of Dealers :-

(1) Every dealer (other than casual trader) whose total turnover in any year is not less than Rs.50,000 shall and any other dealer may get himself registered under this Act.

(1-A) Notwithstanding anything contained in this section any dealer who purchases goods inside the State and sells the same to consumers on retail basis and who does not issue declarations in Form-X in respect of sales or purchases effected by him and who is not registered under Central Sales Tax Act, 1956 (Act No.74 of 1956) shall be registered as a special category dealer and certificate of the registration shall be issued to him in such manner and in such form as may be prescribed.

(2) Notwithstanding anything contained in sub section (1) every dealer

(a) carrying on business in all or any of the goods mentioned in the First, Second, Third, Fifth and sixth Schedules;

(b) carrying on or executing any works contracts:

(c) who transfers the right to the use of any goods for any purpose whatsoever (whether or not for a specified period) in the course of business to any other person;

(d) registered under sub section (3) of section 7 of the Central Sales Tax Act, 1956;

(e) residing outside the State, but carrying on business in this State;

(f) every agent of non resident dealer;

(g) every commission agent, broker, del credere agent, auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying distributing or delivering the goods on behalf of any principal: shall get himself registered under this Act irrespective of the quantum of his turnover.

Provided that the State Government may by notification, and for reasons to be specified therein exempt any dealer or class or dealers from registration under this section.

(3) Every miller whether he is a dealer or not shall get himself registered under this Act.

(4) Where a registered dealer

(i) dies, or

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

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

(5) No dealer who is liable to get himself registered under sub section (1) or sub section (2) or sub section (4) shall carry on business as a dealer unless he has been registered and is in possession of a certificate of registration.

(6) An application for registration shall be made to the prescribed authority, in such manner and within such time as may be prescribed and shall be accompanied by a fee of five hundred rupees.

(7) Where it appears necessary to the authority to whom an application is made under sub section (6) so to do for the proper realisation of the tax and other dues payable under this Act, or for the proper custody and use of the forms referred to in this Act, the rules made and the notifications issued thereunder, he may by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement

that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be specified for all or any of the aforesaid purposes.

(8) If the authority to whom an application is made under sub section (6) is satisfied that the application is bonafide and is in order and in conformity with the provisions of this Act and the rules made thereunder and conditions, if any, imposed under sub section (7) has been complied with, he shall register the applicant and grant him a certificate of registration in the prescribed form.

(9) Where any such dealer has more than one shop or place of business (other than a place used merely for the storage of goods) he shall apply for registration and obtain a separate registration certificate in respect of each such shop or place of business on payment of a sum of one hundred rupees for each such shop or place of business.

(10) Where it appears necessary to the authority granting a certificate of registration under this section so to do for the proper realisation of tax and other dues payable under this Act or for the proper custody and use of the forms referred to in sub section (7) he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate of registration has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security, or, if the dealer has already furnished any security in pursuance of an order under this sub section or sub section (7) such additional security, as may be specified in the order for all or any of the aforesaid purposes.

(11) No dealer shall be required to furnish any security under sub section (7) or any security or additional security under sub section (10) unless he has been given an opportunity of being heard and the amount of such security or additional security that may be required to be furnished shall not exceed the amount equal to tax payable under this Act, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security or as the case may be, additional security is required to be furnished.

(12) Where the security furnished by a dealer under sub section (7) or sub section (10) is in the form of a surety bond and the surety dies or becomes insolvent, the dealer shall, within thirty days of the

occurrence of such event, inform the prescribed authority and shall, within ninety days of such occurrence execute a fresh surety bond for the amount of the bond.

(13) The authority granting the certificate of registration under this section may by order and for good and sufficient cause, and after giving the dealer an opportunity of being heard, forfeit the whole or any part of the security furnished by a dealer, - (a) for realising any amount of tax or penalty or interest or other dues payable by the dealer; (b) if the dealer is found to have misused any of the forms referred to in sub sections (7) and (10) or to have failed to keep them in proper custody.

(14) Where, by reason of an order under sub section (3) the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(15) The authority issuing the forms referred to in sub section (7) may refuse to issue such forms to a dealer who has failed to comply with an order under that sub section or sub section (10) or with the provisions of sub section (12) or sub section (14) until the dealer has complied with such order or such provisions as the case may be.

(16) The authority granting a certificate of registration under this section may on an application by the dealer to whom a certificate of registration has been granted order the refund of any amount or part thereof deposited by the dealer by way of security under this section, if it is not required for the purposes of this Act.

(17) The prescribed authority shall have power for good and sufficient reasons to cancel, modify or amend any certificate of registration issued by him.

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

(18) A dealer shall, until his registration is cancelled be liable to pay the fees prescribed therefor for every year subsequent to that in which he applied for registration.

Provided that when a dealer has ceased to do business in any year, he shall not be liable to pay any registration fee from the commencement of the following year unless he resumes business.

(19) Nothing contained in this section shall apply to the State Government or Central Government or any department of any such Government carrying on business as a dealer.

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13. Submission of return of turnover by dealer :-

Every dealer who is liable to get himself registered under Section 12 under this Act shall submit such return or returns relating to his turnover, in such manner, within such period, and to such authority as may be prescribed.

13A. Penalty for failure to submit returns :-

If any dealer who is not liable to pay tax under this Act, fails to submit a return as required by the provisions of this Act or the rules made thereunder, the assessing authority may after giving the dealer a reasonable opportunity of being heard direct him to pay by way of penalty a sum calculated at the rate of one hundred rupees for every day of delay in filing return.

13B. Submission of returns by Banks :-

Every scheduled bank including any branch of such bank or any banking institution in the State shall, at the request of the assessing authority concerned, submit in each month a return in the prescribed form, of all bills relating to goods discounted, cleared or negotiated and the payment and receipts relatable to the sale or purchase of goods transacted by or through it during the preceding month, in such manner and within such period as may be prescribed.

13C. Issue of Bills :-

(1) Every dealer whose total turnover is not less than rupees two lakhs in a year, shall issue a bill or cash memorandum in such form and with such details of tax collected as may be prescribed, for every sale involving an amount not less than rupees one hundred: Provided that every dealer including a dealer whose turnover is less than rupees two lakhs shall issue a sale bill in the proforma prescribed, irrespective of the amount of sale, when demanded by the buyer.

(2) Every dealer who violates the provision of sub-section (1) and rules made thereunder shall be liable to pay a penalty.

(3) The penalty leviable under sub-section (2),-

(a) shall be of Rs. 250/- or an amount calculated as a multiple of tax due on each such bill, subject to maximum of five times of the tax due whichever is higher for every one of such lapse;

(b) shall be of Rs. 1,000/- or an amount calculated as a multiple of tax due on each such bill, subject to maximum of five times of the tax due whichever is higher for every one of such subsequent lapse;

Provided that where such violation to issue bills was noticed for the first time such dealer shall be let off with a warning.

14. Assessment of tax :-

(1) If the assessing authority is satisfied that any return submitted under section 13 is correct and complete, he shall assess the amount of tax payable by the dealer on the basis thereof, but if the return appears to him to be incorrect or incomplete he shall, after giving the dealer a reasonable opportunity of proving the correctness and completeness of the return submitted by him and making such inquiry as he deems necessary, assess to the best of his judgment, the amount of tax due from the dealer. An assessment under this section shall be made only within a period of three years from the expiry of the year to which the assessment relates.

Provided that notwithstanding the amendment made to sub section (1) by the Andhra Pradesh General Sales Tax (Third Amendment) Act, 1995 the period for assessment under this sub section shall continue to be four years for the years preceding to the year 1992 93.

Provided further that the period for assessments under this sub-section shall be two years for the assessments relating to the year 1999-2000 and one year for the assessments relating to 2000-2001 and 2001-2002

(1-A) Where the return submitted by a dealer includes the turnover or any of the particulars thereof which would not have been disclosed but for an inspection of accounts, registers or other documents of the dealer made by an officer authorised under this

Act before the submission of such return, the assessing authority may, after giving an opportunity to the dealer for making a representation in this behalf, treat such return to be an incorrect or incomplete return within the meaning of sub section (1) and proceed to take action on that basis.

(1-B) Central Act 38 of 1949:-- Every dealer whose turnover is not less than rupees forty lakhs in a year, shall, within such time as may be prescribed, furnish a certified of audit along with the other statements as may be prescribed duly certificate by a Chartered Accountant within the meaning of the Chartered Accounts Act, 1949; and if any dealer who fails to furnish the same shall be liable for penalty of rupees one lakh or an amount equivalent to one-half per cent of the total turn over relating to the relevant assessment year whichever is less:

Provided that before levying such penalty, the assessing authority shall give the dealer a reasonable opportunity of being heard.

(2) When making an assessment to the best of judgment under sub section (1), the assessing authority may also direct the dealer to pay in addition to the tax assessed a penalty as specified in sub section (8) on the turnover that was not disclosed by the dealer in his return.

(3) Where any dealer liable to tax under this Act -

(i) fails to submit return before the date prescribed in that behalf, or

(ii) produces the accounts, registers and other documents after inspection or

(iii) submits a return subsequent to the date of inspection, the assessing authority may, at any time within a period of six years from the expiry of the year to which assessment relates, after issuing a notice to the dealer and after such enquiry as he considers necessary, assess to the best of his judgment, the amount of tax due from the dealer on his turnover for that year, and may direct the dealer to pay in addition to the tax so assessed penalty as specified in sub section (8).

(4) In any of the following events, namely, where the whole or any part of the turnover of a business of a dealer has escaped assessment to tax, or has been under assessed or assessed at a

rate lower than the correct rate, or where the licence fee or registration fee has escaped levy or has been levied at a rate lower than the correct rate, the assessing authority may, after issuing a notice to the dealer, and after making such enquiry as he may consider necessary, by order, setting out the grounds therefor -

(a) determine to the best of his judgment the turnover that has escaped assessment and assess the turnover so determined;

(b) assess the correct amount of tax payable on the turnover that has been under assessed;

(c) assess at the correct rate the turnover that has been assessed at a lower rate;

(cc) assess the correct amount of tax payable, in case where any deduction or exemption has been wrongly allowed;

(d) levy the licence fee after determining to the best of his judgment the turnover on which such fee is payable.

(e) levy the registration fee that has escaped levy;

(f) levy the correct amount of licence fee or registration fee in a case where such fee has been levied at a rate lower than the correct rate. In addition to the tax assessed or fee levied under this sub section, the assessing authority may also direct the dealer to pay a penalty as specified in sub section (8)

(4-A) Any assessment or levy under sub section (4) shall be made within a period of four years from the date on which any order of assessment or levy was served on the dealer.

(4-B) Before issuing any direction for the payment of any penalty under sub section (2) sub section (3) or sub section (4), the assessing authority shall give the dealer a reasonable opportunity to explain the omission to disclose the turnover or to furnish correctly any particulars and shall make such enquiry as he considers necessary.

(4-C) The powers conferred by sub section (4) on the assessing authority may, subject to the same conditions as are applicable in the case of that authority; be exercised also by any of the authorities higher than the assessing authority including the Assistant Commissioner (Intelligence), the Deputy Commissioner and the Joint Commissioner.

(5) Where an assessment under this section has been deferred on account of any stay order granted by the Special Appellate Tribunal in any case, or by reason of the fact that an appeal or other proceedings is pending before the Special Appellate Tribunal or the Supreme Court involving a question of law having a direct bearing on the assessment in question, the period during which the stay order was in force or such appeal or proceeding was pending shall be excluded in computing the period of four years or six years as the case may be specified in this section for the purpose of making the assessments.

(6) It shall be lawful for the Commissioner of Commercial Taxes to direct, by general or special order, any assessing authority to defer assessment in respect of any class of goods or any class of dealers pending clarification by it of any question referred to it, if such question has a direct bearing on such assessment. The period between the date of such direction and the date on which such clarification has been received shall be excluded in computing the period of four years or six years, as the case may be, specified in this section for the purpose of making the assessment.

(7) Where an assessment made under this section has been set aside by any court or other competent authority under this Act for any reason) the period between the date of such assessment and the date on which it has been set aside shall be excluded in computing the period of four years or six years, as the case may be, specified in this section for the purpose of making any fresh assessment.

(7-A) Where there has been delay on the part of the dealer in the production of accounts and statements for the purpose of making the assessment, in the submission of reply or objections to the notice of assessment.

(a) the period between the date of issue of first notice by the assessing authority calling for production of accounts and statements and the date of actual production of such accounts and statements; and

(b) the period between the date of issue of notice of assessment and the date of actual submission of reply or objections; shall be excluded in computing the period of four years or six years, as the case may be, specified in this section for the purpose of making the assessment.

(8) The penalty leviable under sub section (2), sub section (3) or sub section (4)

(a) shall not be less than three times but which may extend to five times the tax or the fee due in a case where the assessing authority is satisfied that the failure of the dealer to disclose the whole or part of the turnover or any other particulars correctly, or to submit the return before the prescribed date, was wilful; and

(b) shall not exceed one half of the tax or the fee due in a case where such failure was not wilful;

Provided that where such failure occurred due to a bona fide mistake on the part of the dealer, no such penalty shall be levied.

Explanation :- The expression assessing authority occurring in this section shall, in relation to licence fee or registration fee, be construed as referring to the licensing or registering authority, as the case may be, under this Act.

14A. Assessment in cases of price variations :-

(1) Notwithstanding anything contained in Section 14--

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

(b) If the assessing authority is satisfied that any return submitted under clause (a) is correct and complete, he shall assess the amount of tax payable by the dealer on the basis thereof, but if such return appears to him to be incorrect or incomplete, he shall after giving the dealer an opportunity of proving the correctness and completeness of the return submitted by him and after making such inquiry as he considers necessary and taking into account all relevant materials gathered by him, assess to the best of his judgment, the amount of tax due from the dealer. An assessment under this clause, shall be made only within a period of three years from the expiry of the period within which such return ought to have been submitted; and

(c) if no return is submitted by the dealer under clause (a) within

the period of thirty days aforesaid, the assessing authority may at any time within a period of six years from the expiry of the period within which such return ought to have been submitted after issuing a notice to the dealer and after making such inquiry as he considers necessary, assess to the best of his judgment the amount of tax due from the dealer on the amount referred to in clause (a).

(2) The provisions of section 14 including penalty shall apply to assessment and re assessment of escaped turnover under this section.

14B. Assessment of sales shown in accounts at low prices :-

(1) If the assessing authority is satisfied that a dealer has, with a view to evade the payment of tax, shown in his account sales or purchases of any goods at price which is less than fair market price of such goods, it may, at any time within a period of three years from the date on which any order of assessment was served on the dealer, assess or re assess the dealer to the best of the judgment on the turnover of such sales or purchases after making such enquiry as may be necessary and after giving the dealer a reasonable opportunity to show cause against such assessment.

(1-A) While making the assessments under sub-section (1) above , the assessing authority shall adopt the highest value of the goods disclosed by the dealer to various statutory bodies or departments etc.

(2) The provisions of section 14 including penalty shall apply to assessment and re assessment of escaped turnover under this section.

14C. Special provision to pay tax on total turnover :-

(1) Subject to the conditions specified in sub sections (2) to (5) of this section any dealer other than a casual trader or an agent of a non resident dealer or a dealer who is registered under Section 7 of the Central Sales Tax Act, 1956 whose total turnover does not exceed rupees five lakhs for the assessment year concerned, may at his option. pay the amount of tax at the rate of two percent of the total turnover, in lieu of tax payable under the other provisions of this Act.

(2) The provisions of this section shall not apply to dealers dealing in such commodities as may be notified by the Government form

time to time.

(3) No dealer shall be eligible to opt to pay tax under sub section (1) for two years from the date of registration under this Act.

(4) If in any one of the preceding two years, the total turnover of a dealer exceeds rupees five lakhs he shall not be eligible to opt to pay tax under sub section (1)

(5) Any dealer who is in arrears in the payment of tax to the Government and any dealer against whom proceedings are pending or action was taken under Section 14 (4) of the Act, in any of the preceding two years, shall not be entitled to opt to pay tax under sub section (1).

(6) The assessment of tax under sub section (1) shall be deemed to have been completed when the dealer files his return in such manner and with such particulars and proof as may be prescribed.

(7) If the return filed by a dealer under sub section (1) appears to be incorrect or incomplete or the dealer has not paid in full the tax payable under sub section (1), the authority prescribed shall cancel the option exercised and also the assessment that was deemed to have been completed under sub section (6) and proceed to assess the total turnover under Section 14 of the Act.

14D. Self Assessment :-

(1) Every dealer (other than a casual trader or a dealer who opted for payment of tax under Section 14C or agent of a non resident dealer) whose total turnover in a year exceeds rupees ten lakhs but does not exceed rupees twenty five lakhs, in addition to the returns to be filed under Section 13 shall, submit to the assessing authority concerned a return of his total and net turnovers and tax due thereon at all places of his business in the preceding year within such time in such form and in such manner, as may be prescribed along with the tax due has been completed when the dealer files his return in such manner and with such particulars and proof as may be prescribed along with the tax due.

(2) Every such dealer liable to submit a return of self assessment under sub section (1) shall assess the correct amount of tax due on the turnover liable to tax:

Provided that no dealer shall be eligible to assess the tax under this section due for two years form the date of Registration under this

Act,.

(3) among the cases where the return is filed under sub section (1) the assessing authority shall take up assessment under Section 14 in respect of the following cases, namely:

(i) where the return filed by the dealer under sub section (1) does not appear to be correct and complete; or the dealer has not paid the tax due under sub section (1) in full; or

(ii) where the increase in net taxable turnover during assessment year is less than such percentage as may be prescribed when compared to that of preceding year; or

(iii) where in any one of the preceding two years the total turnover of a dealer exceeds rupees twenty five lakhs; or

(iv) where a dealer is in arrears of tax to the Government; or

(v) where on inspection of the business premises of a dealer or otherwise there is reason to believe that the dealer has suppressed a part or whole of the turnover of his business or that the dealer is evading payment of tax; or

(vi) where in any one of the preceding two years, any proceedings are pending or action was taken under Section 14 (4) or Section 14 (8) of the Act; or

(vii) where the dealer fails to furnish the details of usage of statutory forms like Way Bills, C Forms, F Forms, H Forms and G Forms during the relevant year.

(4) It shall be competent for the assessing authority to take up the returns filed by such number of dealers for assessment under Section 14 as it may deem necessary for detailed scrutiny and verification.

(5) In all the cases where a return filed under sub section (1) is not taken up for assessment either under sub section (3) or sub section (4), the return so filed shall be deemed to have been accepted and orders shall be passed in the manner prescribed.

(6) the provisions of sub section (4) of Section 14 shall mutatis mutandis apply to the assessment under this Section

14E. Self assessment of dealers with a turnover less than rupees ten lakhs :-

(1) Any dealer whose turnover in a year does not exceed rupees twenty lakhs or a dealer registered under sub-section (1-A) of Section 12 and liable to file a return under Section 15, shall submit to the assessing authority, within ninety days from the close of year, a return of self assessment in such form and in such manner as may be prescribed and in such return he shall assess the turnover at all places of his business during the year and tax due thereon correctly:

Provided that any return filed after the expiry of sixty days from the close of the year may be received if the return is accompanied by a treasury receipt or cheque or demand draft for payment of a penalty equivalent to the amount calculated at the rate of rupees one hundred for every day of delay.

(2) The Commissioner of Commercial Taxes shall issue guidelines from time to time, for identifying from among the dealers who filed returns under sub-section (1), the dealers whose assessments shall be taken up for assessment under Section 14.

(3) From among the dealers who filed returns under sub-section (1), the Deputy Commissioner shall on the basis of the guidelines issued by the Commissioner of commercial Taxes from time to time, identify within such time as may be prescribed, the dealers whose assessments shall be taken up under Section 14.

(4) Except in the cases which are identified by the Deputy Commissioner under sub-section (4) for taking up assessment under Section 14 and subject to the conditions that may be prescribed, the assessments of the dealers who file a correct and complete return under sub-section (1) shall be deemed to have been completed on such date as may be prescribed.

(5) The provisions of sub-sections (4) and (8) of Section 14 shall apply mutatis mutandis to the assessment deemed to have been completed under sub-section (5) of this section

15. Provisional assessment of tax :-

(1) The tax payable under this Act for each year may be provisionally assessed in advance during the year in monthly or other prescribed instalments on the basis of estimated or actual turnover of the dealer; and for that purpose a dealer may be required to submit a return or periodical return of estimated or actual turnover and pay the tax on the basis of such return or

periodical returns, in such manner as may be prescribed.

(2) If the assessing authority has reason to believe that the provisional assessment for any period was made on too low a turnover or at too low a rate, or on too high a turnover or too high a rate, he may enhance or reduce, as the case may be, such provisional assessment: Provided that before making an enhancement of the provisional assessment as aforesaid the assessing authority shall, except where such enhancement is based on the turnover finally determined for the preceding year, issue a notice thereof to the dealer and make such inquiry as he considers necessary.

(3) The tax provisionally assessed may be levied and collected, either in advance during the year in monthly or other prescribed instalments or any time thereafter in one lumpsum.

(4) Any dealer who is liable to pay tax fails to submit a return as required by the provisions of this Act or the rules made thereunder or any dealer who fails to pay the tax due on the basis of the return submitted by him under section 13 or fails to pay the tax provisionally assessed shall be liable to pay by way of penalty:

(a) an amount equal to thirty per cent (30%) of the tax where the dealer has charged the tax from the purchaser; and

(b) in any other case, an amount equivalent to twenty per cent (20%) of the amount of tax:

Provided that before levying such penalty the assessing authority shall give the dealer a reasonable opportunity of being heard

15A. Assessment of tax on Casual Traders :-

Notwithstanding anything in sections 14 and 15, it shall be open to an assessing authority, including the officer in charge of the check post or barrier referred to in Section 29 to make a provisional or final assessment on a casual trader on the turnover of the purchase, or the sale of the goods, effected by him , in accordance with such rules as may be made in this behalf.

15B. Discontinuance of business or dissolution :-

(1) Where any business carried on by a firm, a Hindu undivided family or an association has been discontinued or the firm, Hindu undivided family or association has been dissolved, the assessing authority shall make an assessment of the turnover of the firm,

Hindu undivided family, or association, as the case may be, as if no such discontinuance or dissolution had taken place and all the provisions of this Act, including the provisions relating to the levy of a penalty or any other sum chargeable under any provision of this Act, shall, so far as may be, applied to such assessment.

(2) Where such discontinuance or dissolution takes place after any proceeding in respect of an assessment for any year has commenced, the proceeding may be continued against every person who was, at the time of such discontinuance or dissolution, a partner of such firm or a member of such Hindu undivided family or association, as the case may be, or the legal representative of any such person who is deceased, from the stage at which the proceeding stood at the time of such discontinuance or dissolution, and all the provisions of this Act shall, so far as may be, applied accordingly.

16. Payment of tax and other dues payable under the Act :-

(1) The tax assessed, whether provisionally or finally and the penalty levied under the provisions of this Act shall be paid by the dealer in such manner, and within such time, not being less than fifteen days from the date of service of the notice of assessment or of the levy of penalty, as may be specified in such notice:

Provided that the time limit of fifteen days for a notice under this sub section shall not apply to casual traders.

Provided further that the assessing authority may, for good and sufficient reasons to be recorded in writing, require the dealer to pay the tax assessed or the penalty levied within such time, not being less than seven days from the date of service of the notice of assessment, as may be specified in the notice.

Provided also that the assessing authority shall require the dealer to pay the tax due as per the return filed by him in case such return is not accompanied by the proof of payments of tax and it shall not be necessary to give minimum time of fifteen days for payment of tax as mentioned in this section;

(2)

(a) Notwithstanding anything contained in sub section (1), on an application made by the assessee, the Deputy Commissioner may, by an order, allow extension of time for payment of any tax,

penalty or other amount due under this Act, or permit the payment thereof in such instalments, within such intervals and subject to such conditions as he may specify in the said order, having regard to the circumstances of each case;

(b) in every case where extension of time for such payment is allowed or where such payment in instalments is permitted, the dealer shall pay, in addition to such tax, penalty, instalment or other amount, interest at the rate of one rupee and fifty paise for every one hundred rupees or part thereof for each month or part thereof, from the date specified for its payment for the period so extended or on the instalments so permitted.

Provided that as a measure to revive the sick industries, interest at the rate of ten per cent per annum only shall be levied against the amount of sales tax deferred as per the revival package.

(3)

(a) If the tax assessed or penalty levied or any other amount due under this Act or any instalment thereof is not paid by any dealer or other person within the time specified therefor in the notice of demand or in the order permitting the payment in instalments or in any other provision of the Act or the rules made thereunder, the dealer or other person, shall pay in addition to the amount of such tax, penalty, instalment or any other amount, interest calculated per every one hundred rupees or part thereof at the rates mentioned below for the period of delay from the due date or date specified for its payments.

(i) within 30 days of delay .. at the rate of 18% of the tax due.

(ii) above 30 days but below 90 days of delay .. at the rate of 24% of the tax due.

(iii) above 90 days but below 365 days of delay .. at the rate of 30% of the tax due.

(iv) for delay exceeding one year .. at the flat rate of 36% of the tax due per annum

(b) If any dealer fails to pay tax along with the return due to be filed by him, interest calculated at the rates mentioned in sub-clause (a) of this sub-section shall be levied for the period of delay commencing from the date on which the return is due to be filed by that dealer to the assessing authority;

(c) The dealer shall calculate the interest at the rates mentioned above for the period of delay and shall remit it along with the tax due to be paid by him;

(d) If any new dealer fails to file a return he shall be liable to pay interest on the amount of tax due or as assessed by the assessing authority for the period of delay commencing from the date on which the return is due to be filed by him.

(4) If the tax assessed or penalty levied or interest payable under this Act or any instalment therefor, and the fees payable towards licence or registration, are not paid by a dealer within the time specified thereof, the whole of the amount then remaining unpaid may be recovered from him as if it were an arrear of land revenue.

(5) The penalty Payable under this Act shall be without prejudice to the institution of any proceeding for an offence under this Act, or for the recovery of the entire amount remaining unpaid under sub section (4).

16A. Liability in case of firms :-

Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

16B. Liability of directors of private company in liquidation :-

When any private company is wound up and any tax assessed on the company under this Act for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax, unless he proves that the non recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

16C. Liability under this Act to be the first charge :-

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

17. Recovery of tax and other dues payable under the Act

from persons from whom money is due to the dealer :-

(1) The assessing authority, may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority) require any person from whom money is due or may become due to the dealer, or any person who holds or may subsequently hold money for, or on account of the dealer, to pay to the assessing authority either forthwith if the money has become due or is so held, or within the time specified in the notice (but not before the money becomes due or is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax, interest, penalty or fee or the whole of the money when it is equal to or less than that amount.

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

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

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

(5) Where any person to whom a notice under this section is sent proves to the satisfaction of the assessing authority that the sum demanded or any part thereof is not due by him to the dealer or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.

(5-A) Where any person to whom a notice under sub section (1) is sent, fails to pay to the assessing authority the sum demanded or any part thereof as required in the said notice, such sum shall be recoverable from such person as if it were an arrear of land revenue due from him

(6) The provisions of this section shall be without prejudice to any action that may be taken for the recovery of the money due from the assessee.

17A. Transfers to defraud revenue void :-

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

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

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

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

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

17B. Provisional attachment of property to protect revenue in certain cases :-

(1) Where, during the pendency of any proceeding for the assessment of any turnover or for the assessment or reassessment of any turnover which has escaped assessment, the assessing authority is of the opinion that for the purpose of protecting the interest of the revenue it is necessary so to do, he may with the previous approval of the Commissioner, by order in writing, attach provisionally in the prescribed manner any property belonging to the assessee.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub section (1):

Provided that the Commissioner may, for reasons to be recorded in

writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

17C. Special powers of Deputy Commissioner under the Revenue Recovery Act :-

(1) A Deputy Commissioner shall have the powers of a Collector under the Andhra Pradesh Revenue Recovery Act, 1864 for the purpose of recovery of any amount due under this Act.

(2) Subject to the provisions of sub section (3) all Deputy Commercial Tax Officers shall, for the purposes of recovery of any amount due under this Act, have the powers of the Mandal Revenue Officer under the Andhra Pradesh Rent and Revenue Sales Act, 1839 for the sale of property distrained for any amount due under this Act.

(3) Notwithstanding anything contained in the Andhra Pradesh Rent and Revenue Sales Act, 1839, the Deputy Commercial Tax Officer in the exercise of the powers conferred by sub section (2) shall be subject to the control and superintendence of the Deputy Commissioner.

18. Recovery of tax where business of a dealer is transferred :-

Where ownership of the business of a dealer liable to pay tax is transferred, any tax or other amount payable under this Act in respect of such business and remaining unpaid at the time of the transfer, may without prejudice to any action that may be taken for its recovery from the transferor, be recoverable from the transferee as if he were the dealer liable to pay such tax or other amount.

19. Appeals :-

(1) Any dealer objecting to any order passed or proceeding recorded by any authority under the provisions of this Act other than an order passed or proceeding recorded by an Additional Commissioner or Joint Commissioner, Deputy Commissioner under sub section (4 C) of Section 14 may within thirty days from the date on which the order or proceeding was served on him, appeal to such authority as may be prescribed:

Provided that the appellate authority may within a further period of thirty days admit an appeal preferred after a period of thirty days if

he is satisfied that the dealer had sufficient cause for not preferring the appeal within that period:

Provided further that an appeal so preferred shall not be admitted by the appellate authority concerned unless the dealer produces proof of payment of tax admitted to be due, or of such instalments as have been granted, and the proof of payment of twelve and half per cent of the difference of the tax assessed by the assessing authority and the tax admitted by the appellant, for the relevant assessment year, in respect of which the appeal is preferred.

(2) The appeal shall be in such form, and verified in such manner, as may be prescribed and shall be accompanied by a fee which shall not be less than fifty rupees but which shall not exceed one thousand rupees as may be prescribed.

(2-A) Where an appeal is admitted under sub section (1), the appellate authority may, on an application filed by the appellant and subject to furnishing of such security or on payment of such part of the disputed tax within such time as may be specified order stay of collection of the tax under dispute pending disposal of the appeal.

(2-B) Against an order passed by the appellate authority refusing to order stay under sub section (2-A) the appellant may prefer a revision petition within thirty days from the date of the order of such refusal to the Additional Commissioner or Joint Commissioner who may, subject to such terms and conditions as he may think fit, order stay of collection of the tax under dispute pending disposal of the appeal by the appellate authority.

(2-C) Notwithstanding anything in sub section (2-A) or sub-section (2-B), where a dealer has preferred an appeal to the Appellate Tribunal under Section 21, the stay, if any, ordered under sub section (2-B) shall be operative till the disposal of the appeal by such Tribunal, and, the stay, if any ordered under sub section (2-A) shall be operative till the disposal of the appeal by such Tribunal, only in case where the Additional or Joint Commissioner on an application made to him by the dealer in the prescribed manner, makes specific order to that effect.

(3) The appellate authority may, after giving the appellant an opportunity of being heard and subject to such rules of procedure as may be prescribed:

(a) confirm, reduce, enhance or annul the assessment or the penalty, or both; or

(b) set aside the assessment or penalty, or both, and direct the assessing authority to pass a fresh order after such further enquiry as may be directed; or

(c) pass such other orders as it may think fit.

(4) Before passing orders under sub section (3), the appellate authority may make such enquiry as it deems fit or remand the case to any subordinate officer or authority for an inquiry and report on any specified point or points.

(5) Every order passed in appeal under this section shall, subject to the provisions of sections 20,21,22 and 23 be final.

20. Revision by (Commissioner of Commercial Taxes) and other prescribed authorities :-

(1) The (Commissioner of Commercial Taxes) may suo motu call for and examine the record of any order passed or proceeding recorded by any authority, officer or person subordinate to it, under the provisions of this Act, including sub section (2) of this section and if such order or proceeding recorded is prejudicial to the interests of revenue, may make such enquiry, or cause such enquiry to be made and subject to the provisions of this Act, may initiate proceedings to revise, modify or set aside such order or proceeding and may pass such order in reference thereto as it thinks fit.

(2) Powers of the nature referred to in sub section (1) may also be exercised by Additional Commissioner, or the joint Commissioner, Deputy Commissioner or Assistant Commissioner and the Commercial Tax Officer in the case of orders passed or proceedings recorded by authorities, officers or persons subordinate to them.

(2-A) The power under sub section (1) or sub section (2) shall not be exercised by the authority specified therein in respect of any issue or question which is the subject matter of an appeal before, or which was decided on appeal by, the Appellate Tribunal under Section 21.

(3) In relation to an order of assessment passed under this Act, the powers conferred by sub sections (1) and (2) shall be exercisable only within such period not exceeding four years from the date on which the order was served on the dealer, as may be prescribed.

(4) No order shall be passed under sub section (1) or sub section (2) enhancing any assessment unless an opportunity has been given to the assessee to show cause against the proposed enhancement.

(5) Where an order passed under this section has been set aside by any Court or other competent authority under this Act for any reason) the period between the date of such order and the date on which it has been so set aside shall be excluded in computing the period of four years specified in sub section (3) for the purpose of making a fresh revision, if any, under this section.

(6) Where any proceeding under this section has been deferred on account of any stay order granted by the Special Appellate Tribunal in any case, or by reason of the fact that an appeal or other proceeding is pending before the Special Appellate Tribunal or the Supreme Court involving a question of law having a direct bearing on the order or proceeding in question, the period during which the stay order was in force or such appeal or proceeding was pending shall be excluded in computing the period of four years specified in this section for the purposes of exercising the power under this Section.

21. Appeal to the Appellate Tribunal :-

(1) Any dealer objecting to an order passed or proceeding recorded -

(a) by any prescribed authority on appeal under Section 19, or

(b) by a Additional Commissioner or joint Commissioner or Deputy Commissioner suo motu under sub section (4-C) of Section 14 or under sub section (2) of section 20, may appeal to the Appellate Tribunal within sixty days from the date on which the order or proceeding was served on him.

(2) The Appellate Tribunal may within a further period of sixty days admit an appeal preferred after the period of sixty days mentioned in sub section (1), if it is satisfied that the dealer had sufficient cause for not preferring the appeal within that period.

Provided that no appeal against the order passed under Section 19 shall be admitted under sub-section (1) or sub-section (2), unless it is accompanied by satisfactory proof of the payment of fifty per cent of the tax as ordered by the appellate Deputy Commissioner

under Section 19:

Provided further that no appeal against the order passed under sub-section (2) of Section 20 shall be admitted under sub-section (1) or sub-section (2), unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or in such instalments thereof as might have become payable as the case may be, and twenty five per cent of the difference of the tax ordered by the revisional authority under sub-section (2) of Section 20 and the tax admitted by the appellant:

Provided also that the assessing authority shall refund the said amount of twelve and half per cent or twenty five per cent or fifty per cent of the difference of tax assessed by the assessing authority or revisional authority as the case may be and the tax admitted and paid by the appellant, with simple interest calculated at the rate of 18% per annum if the refund is not made within 60 days from the date of receipt of the order passed under Section 19 or Section 21.

(3) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by such fee which shall not be less than one hundred rupees but which shall not exceed two thousand rupees as may be prescribed.

(4) The Appellate Tribunal may, after giving both parties to the appeal a reasonable opportunity of being heard -

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

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

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

Provided that if the appeal, involves a question of law, a decision on which is pending in any proceeding before the High Court or the Supreme Court, the Appellate Tribunal may defer the hearing of the appeal before it, till such proceeding is disposed of.

(5) Before passing any order under sub section (4), the Appellate Tribunal may make such inquiry as it deems fit or remand the case to the appellate authority against whose order the appeal was preferred or to the assessing authority concerned, for an inquiry

and report on any specified point or points.

(5-A) Notwithstanding anything in sub section (4), where the dealer who has filed an appeal under this section to the Appellate Tribunal fails to appear before the Appellate Tribunal either in person or by counsel when the appeal is called on for hearing, it shall be open to the Tribunal to make an order dismissing the appeal.

Provided that the Appellate Tribunal may, on an application made by the dealer within thirty days from the date of communication of the order of dismissal and on sufficient cause being shown by him for his non appearance when the appeal was called on for hearing, re admit the appeal on such terms as it thinks fit, after giving notice thereof to the authority against whose order or proceeding the appeal is preferred.

(6) Where a dealer, objecting to an order passed or proceeding recorded by a Deputy Commissioner of Commercial Taxes under sub section (4 C) of section 14 or suo motu under sub section (2) of section 20 has preferred an appeal to the Appellate Tribunal, the Additional Commissioner or the Joint Commissioner may, on an application filed by the dealer, subject to such terms and conditions, as he may think fit, order stay of collection of the tax under dispute pending disposal of the appeal by the Appellate Tribunal.

(6-A) The payment of tax and penalty, if any, due in accordance with the order of the first appellate authority or of the Deputy Commissioner suo motu under sub section (4 C) of section 14 or in revision under section 20, in respect of which an appeal has been preferred under sub section (1), shall not be stayed pending disposal of the appeal.

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

(8) Every order passed by the Appellate Tribunal under sub section (4) shall be communicated by it to the dealer, the authority against whose order the appeal was preferred, the Commissioner of Commercial Taxes and such other authorities as may be prescribed.

(9) Every order passed by the Appellate Tribunal under sub section (4) shall, subject to the provisions of section 22, be final.

21A. Constitution of Special Appellate Tribunal under Article 323-B of the Constitution of India in regard to sales tax matters :-

(1) The State Government may, by notification, constitute for the State a special Appellate Tribunal called "The Andhra Pradesh Sales Tax Special Appellate Tribunal" for the purposes of this Act.

(2) The Special Appellate Tribunal shall exercise the functions conferred on it by or under this Act.

(3) The Special Appellate Tribunal shall consist of a Chairman, a Vice-Chairman, and a Member to be appointed by the Government: Provided that where a sitting or retired Judge of a High Court is to be appointed as Chairman, such appointment shall be made in consultation with the Chief Justice of the High Court.

4) No person shall be qualified for appointment,-

(a) as chairman unless he is or has been a judge of a High Court;

(b) as Vice-Chairman unless he,-

(i) is a serving or retired Secretary to Government with special knowledge and experience in law or commercial taxes matters for a period of at least one year; or

(ii) is or has been the Commissioner of Commercial Taxes for a period of atleast one year;

(c) as Member unless he,-

(i) is or has been a member of the Appellate Tribunal for a period of atleast one year by virtue of being an officer of the Commercial Taxes Department; or

(ii) is or has been a Joint Commissioner of Commercial Taxes, with experience for a period of atleast one year on the legal side in connection with the making of laws and framing of rules of the Commercial Taxes Department.

(5) Any Vacancy in the office of Chairman, Vice-Chairman or Member shall be filled in accordance with the provisions of this Act.

Explanation:- For the purposes of Section 21-A to 21-F the words "Chairman", "Vice-Chairman", and "Member" mean respectively the Chairman, Vice-Chairman and Member of the Special Appellate Tribunal.

21B. Terms and conditions of Chairman, Vice-Chairman and member :-

(1) The Chairman, Vice-Chairman, and Members shall hold office as such for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(2) The salaries and allowances payable to, and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Chairman, Vice-Chairman and the Member shall be the same as those applicable to a Judge of the High Court :

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman, Vice-Chairman or the Member shall be varied to his disadvantage after his appointment.

(3)

(a) The Chairman or Vice-Chairman or the Member shall not be removed from his office before the expiry of the term of his office, except by an order of the Government on the ground of proved misbehavior or incapacity, and except after an enquiry by a Special Tribunal in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. The Special Tribunal shall consist of three Judges of the High Court, nominated from time to time by the Chief Justice of the High Court in that behalf;

(b) The Government may regulate the procedure for the investigation and proof of the misbehaviour or incapacity of the Chairman, Vice-Chairman or the Member in such manner as may be prescribed.

21C. Powers of the Special Appellate Tribunal :-

The Special Appellate Tribunal shall have the same power as are vested in Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908) including the power to punish for contempt.

21D. Procedure of the Appellate Tribunal :-

(1) Subject to the provisions of this Act or any rule made thereunder, the Special Appellate Tribunal may, by order, regulate its practice and procedure.

(2) No appeal shall be entertained by the special Appellate Tribunal unless the assessee pays the tax admitted to be due from him.

Provided that if as a result of the appeal, any change becomes necessary in the assessment, the Special Appellate Tribunal may authorise the assessing authority to amend the assessment and on such amendment being made, the excess amount paid by the assessee shall, on his application, be refunded to him with simple interest at twelve percent per annum.

(3) Every order passed by the Special Appellate Tribunal shall be final and shall not be called in question in any Court except the Supreme Court as provided under Section 21-E.

(4) The functions of the Special Appellate Tribunal may be exercised :-

(i) by a Bench consisting of Chairman, Vice-Chairman and the Member ; or

(ii) by a Bench consisting of the Vice-Chairman and the Member constituted by the Chairman and the Member constituted by the Chairman; or

(iii) by a Single Member in such cases as the Chairman may deem fit.

Explanation :- The Single Member referred to in clause (iii) may be either the Chairman or the Vice-Chairman or the Member.

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

(5) Where an appeal or application or revision is heard by a Bench consisting of the Chairman, Vice-Chairman and the Member and members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority and where the members of a Bench consisting of Vice-Chairman and Member differ in opinion on any point, the matter shall be referred to the Chairman, whose decision thereon shall be final.

21E. Bar of jurisdiction of all Courts except the Supreme Court :-

Notwithstanding any thing contained in any other law, the jurisdiction of all Courts except the Supreme Court, is excluded with respect to any matter which is by or under this Act required to be decided or dealt with by the assessing authority, the Assistant Commissioner, the Appellate Deputy Commissioner, the Joint Commissioner of Commercial Taxes, The Commissioner of Commercial Taxes, the Appellate Tribunal or the Special Appellate Tribunal.

21F. Bar of writ in High Court :-

No writ shall lie in the High Court to set aside or modify any proceedings or order taken or made by any authority, officer or Tribunal referred to in Section 21-E under this Act or with respect to any other matter which is by or under this Act, required to be decided or dealt with by the said authority, officer or Tribunal.

22. Revision by Special Appellate Tribunal :-

(1) Within ninety days from the date on which an order under sub section (4) of section 21 was communicated to him the dealer or the authority prescribed in this behalf may prefer to the Special Appellate Tribunal against the order on the ground that the Appellate Tribunal has either decided erroneously, or failed to decide, any question of law: Provided that the Special Appellate Tribunal may admit a petition preferred after the period of ninety days aforesaid if it is satisfied that the petitioner has sufficient cause for not preferring the petition within that period

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(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, where it is preferred by the dealer, be accompanied by a fee of rupees five hundred

(3) If the Special Appellate Tribunal, perusing the petition considers that there is no sufficient ground for interfering, it may dismiss the petition summarily.

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

(4)

(a) If the Special Appellate Tribunal does not dismiss the petition summarily, it shall, after giving both parties to the petition, a

reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm, or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the Special Appellate Tribunal on the question, or questions of law raised, or pass such other order in relation to the matter as the Special Appellate Tribunal thinks fit.

(b) Where the Special Appellate Tribunal remits the matter to the Appellate Tribunal under clause (a) with its opinion on the question or questions of law raised, the Appellate Tribunal shall amend the order passed by it in conformity with such opinion.

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

(6) Notwithstanding that a petition has been preferred under sub-section (1) tax shall be paid in accordance with the assessment made in the case:

Provided that the Special Appellate Tribunal may, in its discretion permit the petitioner to pay the tax in such number of instalments, or give such other direction in regard to the payment of tax as it thinks fit:

Provided further that if, as a result of the petition, any change becomes necessary in such assessment, the Special Appellate Tribunal may authorise the assessing authority to amend the assessment, and on such amendment being made the excess amount paid by the dealer shall be refunded to him without interest, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(6-A) The payment of tax and penalty, if any due in accordance with the order of the Appellate Tribunal in respect of which a petition has been preferred under sub section (1) shall not be stayed pending the disposal of the petition, but if such amount is reduced as a result of such petition, the excess tax paid shall be refunded in accordance with the provisions of section 33 B

(7)

(a) The Special Appellate Tribunal may, on the application of the dealer or the prescribed authority review any order passed by it under sub section (4) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be preferred within such time, and in such manner as may be prescribed and shall, where it is preferred by the dealer, be accompanied by a fee of rupees one hundred.

(8) In respect of every petition or application preferred under sub section (1) or sub section (7), the costs shall be in the discretion of the High Court.

23. Appeal to Special Appellate Tribunal :-

(1) Any dealer objecting to an order relating to assessment passed by the (Commissioner of Commercial Taxes suo motu under sub-section (1) of Section 20 Joint Commissioner suo motu under sub-section (4-C) of section 14 or under sub-section (2) of section 20 may appeal to the Special Appellate Tribunal within sixty days from the date on which the order was communicated to him.

Provided that the Special Appellate Tribunal may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the dealer had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form, shall be verified in the prescribed manner and shall be accompanied by a (fee which shall not be less than five hundred rupees but which shall not exceed two thousand rupees as may be prescribed.

(3) The Special Appellate Tribunal shall, after giving both parties to the appeal, a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

(4) The provisions of sub sections (6), (7) and (8) of section 22, shall apply in relation to appeals preferred under sub section (1) as they apply in relation to petitions preferred under sub section (1) of section 22.

24. Petitions, applications and appeals to High Court to be heard by a Bench of not less than two judges :-

Every petition, application or appeal preferred to the High Court under sections 22 and 23 shall be heard by a Bench of not less

than two judges, and in respect of such petition, application or appeal, the provisions of Section 98 of the Code of Civil Procedure, 1908 (Central Act v of 1908), shall, so far as may be, applied.

24A. Limitation in respect of certain assessments or re-assessments orders :-

Notwithstanding anything in sections 14 and 20 where an assessment, re assessment, rectification in or revision of an assessment is made in respect of an assessee or any person, in pursuance or in consequence of or to give effect to any finding or direction contained in an order under section 19, section 20, section 21, section 22 or section 23 or in an order of any court in a proceeding, otherwise than by way of appeal or revision under this Act, such assessment, re assessment, rectification in or revision of an assessment shall be made within three years from the date of receipt of such order by the assessing or revising authority as the case may be.

25. Maintenance of true and correct accounts and records by dealers, etc :-

Every person licenced or registered under this Act, every dealer liable to get himself registered under this Act, and every other dealer who is required so to do by the prescribed authority by notice served in the prescribed manner, shall keep and maintain a true and correct account promptly in any of the languages specified in the Eighth Schedule to the Constitution, or in English showing such particulars as may be prescribed; and different particulars may be prescribed for different classes of persons or dealers

26. Possession and submission of certain records by owners, etc. of boats :-

The owner or other person in charge of a boat shall carry with him,
-

(i) bill of sale or delivery note.

(ii) log book, and

(iii) such other documents as may be prescribed, relating to the goods under transport and containing such particulars as may be prescribed and shall submit to the Commercial Tax Officer, having jurisdiction over the area in which the goods are delivered, the documents aforesaid or copies thereof within such time as may be prescribed.

27. Possession and submission of certain records by owners, etc. of goods vehicles :-

The owner or other person in charge of a goods vehicle shall carry with him

- (i) bill of sale or delivery note,
- (ii) goods vehicle record or trip sheet, and
- (ii) such other documents as may be prescribed.

relating to the goods under transport and containing such particulars as may be prescribed and shall submit to the Commercial Tax Officer, having jurisdiction over the area in which the goods are delivered the documents aforesaid or copies thereof within such time as may be prescribed.

28. Powers to order production of accounts and powers of entry, Inspection, etc :-

(1) Any Officer not below the rank of an Assistant commercial Tax Officer authorised by the State Government in this behalf may for the purposes of this Act, require any dealer to produce before him the accounts, registers and other documents, and to furnish any other information relating to his business.

(2) All accounts, registers and other documents maintained by a dealer in the course of his business, the goods in his possession, and his offices, shops, godowns, vessels or vehicles shall be open to inspection by such officer at any time during the business hours prescribed under the relevant law for the time being in force or where no such hours are prescribed at all reasonable times;

(3) If any such officer has reason to suspect that any dealer is attempting to evade the payment of any tax or other amount due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or other documents of the dealers as he may consider necessary and shall give the dealer a receipt for the same. The accounts, registers and documents so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act. Provided that such accounts, registers and documents shall not be retained for more than thirty days at a time except with the permission of the next higher authority.

(4) For the purposes of sub section (2) or sub section (3), any such officer shall have power to enter and search at any time during the

business hours prescribed under the relevant law for the time being in force, or where no such hours are prescribed, at all reasonable times, any office, shop, godown, vessel, vehicle or any other place of business or any building or place where such officer has reason to believe that the dealer keeps or is, for the time being, keeping any goods, accounts, registers or other documents of his business:

Provided that no residential accommodation not being a shop-cum-residence shall be entered into and searched by any officer below the rank of Deputy Commissioner except on the authority of an order issued by any officer not below the rank of a Deputy Commissioner having jurisdiction over the area; or an officer not below the rank of Deputy Commissioner of Commercial Taxes Department working in Vigilance and Enforcement Department having jurisdiction over the entire State of Andhra Pradesh. and all searches under this sub section shall so far as may be, made in accordance with the provisions of the Code of Criminal procedure, 1973 subject to the rules if any, made in this behalf.

(5) The power conferred by sub section (4) shall include the power to break open any box or receptacle in which any goods, accounts, registers or other documents of the dealer may be contained, or to break open the door of any premises, where any such goods, accounts, registers or other documents may be kept:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, fails or refuses to open the door on being called upon to do so.

(5-A) The power conferred by sub section (4) shall also include the power to:

(a) seal for a period of not exceeding twenty four hours, any box, receptacle, godown or building where any goods, accounts, registers or other documents of the dealer are, or reasonably believed to be kept, if the owner or any other person in occupation, leaves the premises or refuses to open any box, receptacle, godown or building or is not readily available;

(b) search any person (other than a customer or a visitor) who has got out of or is about to get into, or is in, any building, vessel or vehicle, if the officer has reason to suspect that such person has secreted about any goods, accounts, registers or other documents.

(6) any such officer shall have power to seize and confiscate any goods which are found in any office, shop, godown, vehicle, vessel or any other place of business or any building or place of the dealer, but not accounted for by the dealer in his accounts, registers and other documents maintained in the course of his business:

Provided that before taking action for the confiscation of goods under this sub section, the officer shall give the person affected an opportunity of being heard and make an inquiry in the prescribed manner:

Explanation :- It shall be open to the State Government to authorise different classes of officers for the purpose of taking action under sub sections (1), (2) and (3).

28A. Acquisition of the goods :-

(1) Where the authority prescribed has reason to believe that any goods of a fair market value exceeding five thousand rupees have been sold or purchased by a dealer, to or from another dealer or person, as the case may be, for a consideration which is less than fair market price of the goods and that consideration for such sale or purchase as agreed to between the parties has not been truly stated in the invoice or delivery challan or any other document relating thereto, with the object of facilitating the reduction or evasion of the tax payable under this Act, the authority prescribed may, subject to the provisions of this section initiate proceedings for the acquisition of such goods.

(2) The powers conferred under sub-section (1) shall be exercised by the prescribed authority in respect of goods sold or purchased which, are in transit or in the possession of the seller or buyer or their agents.

(3) In any proceedings under this section in respect of any goods which has been sold or purchased for a consideration which is less than its fair market price, it shall be presumed, unless the contract is proved, that the consideration for such sale as agreed to between the parties has not been truly stated in the invoice, or sale bill or other documents related thereto with such object as is referred to in sub-section (1).

(4) Before initiating such proceedings, the authority prescribed shall record his reasons for doing so and no orders shall be passed

under sub-section (1) without giving the dealer an opportunity of being heard.

(5) No such proceedings shall be initiated unless the authority prescribed has reason to believe that the fair market price of the goods exceeds the consideration therefor by more than twenty per cent.

(6) Where any goods are acquired under this section the authority prescribed shall pay for such acquisition compensation which shall be a sum equal to the aggregate of the amount of sale price of the goods mentioned in the invoice or delivery challan or any document related thereto and any expenditure incurred on freight or any other incidental expenses incurred by the dealer in relation to those goods.

29. Establishment of check post or barrier and inspection of goods while in transit :-

(1) If the State Government or the Commissioner of Commercial Taxes consider it necessary that with a view to prevent or check evasion of tax under this Act in any place or places in the State, it is necessary so to do, the State Government or the Commissioner of Commercial Taxes may by notification direct the setting up of a check post or the erection of barrier, or both, at such place or places as may be notified.

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

(a) whether such tax has been paid; or

(b) whether the sale or purchase of the goods carried has, for the purpose of payment of tax under this Act, been properly accounted

for in the bills of sale, or delivery notes or such other documents as may be prescribed.

(3) If on such examination and inspection it appears

(a)

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

(ii) that the sale or purchase of the goods carried has, for the purpose of payment of tax under this Act, been properly accounted for in the documents referred to in clause (b) of Sub section (2); the said officer shall release the goods vehicle or boat with the goods carried; of

(b)

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

(ii) that the sale or purchase of the goods carried has, for the purpose of payment of tax under this Act, not been properly accounted for in the documents referred to in clause (b) of Sub section (2); and if the said officer is satisfied, after making such enquiry as he deems fit, that with a view to prevent the evasion of tax payable in respect of the sale or purchase of the goods, carried, it is necessary to detain the goods, he shall detain the goods and direct the driver or any other person in charge of the goods vehicle or boat (1) to pay such tax, or (ii) to furnish security for an amount equal to five times the amount of tax payable) in such form and in such manner and to such authority as may be prescribed, on behalf of the person liable to pay such tax

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

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

(6) If the tax directed to be paid and the security directed to be furnished under Sub section (3) is not paid and furnished and if the said officer is satisfied, after making such enquiry as he deems fit,

that with a view to prevent the evasion of tax payable in respect of the sale or purchase of the goods carried, it is necessary to detain the goods, he shall detain so much of the goods as are approximately equal in value to the amount of tax directed to be paid and security directed to be furnished under Sub section (3) as long as may reasonably be necessary.

Provided that no such goods shall be detained by the said officer for more than three days except with the permission of the next higher authority.

(6-A) Where goods are carried without paying tax, if any, payable under this Act, or goods are carried without being properly accounted for in the documents referred to in clause (b) of Sub section (2), the said officer shall collect the tax payable on the goods so carried and in addition levy a penalty not exceeding five times the amount of tax payable on such goods after giving a reasonable opportunity to the person likely to be affected, against the proposed penalty.

(6-B) Any such officer shall have power to seize and confiscate any goods where such goods are carried in the goods vehicle without any documents or covered by fictitious documents.

Provided that before taking action for the confiscation of goods under this sub-section, the officer shall give the person affected an opportunity of being heard.

(7) In case the goods detained under Sub section (6) are subject to speedy and natural decay, and in the case of the goods, where no claim is made within the prescribed period, the said officer shall, subject to such conditions as may be prescribed, sell such goods in open auction and remit the sale proceeds thereof in a Government treasury:

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

(8) Any person entitled to such sale proceeds shall, on application to the prescribed authority and upon sufficient proof, be paid the sale proceeds mentioned in Sub section (7), after deducting the expenses of the sale and other incidental charges and the amount of sales tax and penalty due under this Act in respect of the sale or

purchase of the goods in question.

Explanation :- For the purpose of this Section, the explanation said officer means the officer in charge of the check post or barrier or the officer empowered under Sub section (2).

29A. Power to inspect goods delivered to a carrier or bailee

:-

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

Explanation :- For the purpose of this Section, where goods are delivered to a carrier or a bailee for transmission, the movement of goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee.

(2) Any such officer shall have power to seize and confiscate any goods which are found in any office, shop, godown, vehicle, vessel or any other place of business or any building or place of a carrier or a bailee for transmission where such goods are not covered by any documents or covered by fictitious documents.

Provided that before taking action for the confiscation of goods under this sub-section, the officer shall give the person affected an opportunity of being heard.

29B. Transit of goods by road through the State and issue of transit pass :-

Where a vehicle, carrying goods, coming from any place outside the State and bound for any other place outside the State, pass through the State, the driver or other person in charge of such vehicle shall obtain in the prescribed manner a transit pass from

the officer in charge of the first check post barrier after his entry into the State or delivery and it to the officer in charge of the last check post or barrier before his exit from the State, failing which it shall be presumed that the goods carried thereby have been sold within the State by the owner or person in charge of the vehicle and accordingly the tax is assessed and penalty, if any levied in accordance with the provisions of this Act:

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

Explanation :- If a vehicle is hired for transportation of goods by any person, the hirer of that vehicle shall, for the purposes of this Section, be deemed to be the owner of the vehicle"

30. Offences and penalties :-

(1) Any person who--

(a) fails to pay within the time allowed, any tax assessed on him or any penalty levied, or any fee due from him, under this Act; or

(b) being a person obliged to register himself as a dealer under this Act, does not get himself so registered; or

(c) wilfully acts in contravention of the provisions of this Act or the rules made thereunder shall on conviction be liable to be punished with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees.

(2) Any person who - (a) prevents or obstructs inspection, entry, search or seizure by an officer authorised under Section 28, in contravention of the terms thereof; or (b) prevents or obstructs inspection of any goods vehicle or boat carrying goods, by an officer in charge of check post or barrier or any officer empowered under Section 29, shall on conviction, be liable to be punished with simple imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees. Provided that the minimum sentence of imprisonment shall not be applicable to offences other than the offence of assault on officer while discharging his duties under Section 28 or Section 29.

(3) Any person who

(a) wilfully submits an untrue return or fails to submit a return as required by the provisions of this Act, or the rules made thereunder;

(b) fraudulently evades the payment of any tax, fee or other amount, not exceeding rupees one lakh, due from him under this Act;

(c) knowingly produces incorrect or false accounts, registers or other documents or furnishes incorrect or false information in any proceedings under this Act;

(d) wilfully fails to issue a bill or cash memorandum in respect of a sale as prescribed under any provision of this Act; or

(e) prevents inspection or examination or wilfully fails to produce documents or to give information as required by Section 28; shall on conviction be liable to be punished if it is a first offence, with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees and if it is a second offence with simple imprisonment which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees; and if it is third or subsequent offence or an offence falling under Clause (b) involving an amount exceeding rupees one lakh with simple imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees.

(4) Any person who after purchasing any goods in respect of which he has made a declaration under the proviso to Sub section (1) of Section 5 B fails, without reasonable excuse, to make use of the goods for the declared purpose shall, on conviction, be liable to be punished if it is a first offence with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees and if it is a second offence with simple imprisonment which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees and if it is a third or subsequent offence with simple imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees.

(5)

(a) An owner or other person in charge of a boat or goods vehicle who fails to carry with⁴⁰ him any of the records or documents specified in Section 26 or Section 17, as the case may be, shall on conviction be liable to be punished with simple imprisonment (which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees).

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

(6) If the driver or any other person in charge of any boat or goods vehicle refuses on demand by the officer in charge of the check post or barrier or the officer empowered under Sub section (2) of Section 29 to give his name and address or the name and address of the owner of the boat or goods vehicle or of the consignor and consignee of the goods or gives any name and address which he knows or has reason to believe to be false, he shall, on conviction, be liable to be punished with simple imprisonment which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees.

(7) Any person who makes any statement or declaration in any of the records or documents specified in Section 26 of Section 27, as the case may be, which statement or declaration he knows or has reason to believe to be false, he shall, on conviction, be liable to be punished with simple imprisonment which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees.

(8) Any person who is in any way knowingly concerned in any fraudulent evasion or attempt at evasion or abetment of evasion of any tax, payable in respect of the sale or purchase of any goods under this Act, shall, on conviction, be liable to be punished with simple imprisonment which may extend to one year and with fine which shall not be less than five hundred rupees but which may extend to two thousand rupees.

(9) Any person who is in possession of any form as may be notified which has not been obtained by him or by his principal or by his agent in accordance with the provisions of this Act or any rule made thereunder, shall be punishable with simple imprisonment which may extend to six months or with fine or with both and when the offence is a continuing offence with a fine which may extend to fifty rupees for every day during which the offence continues

30A. Imposition of penalty for failure to keep and maintain true and correct accounts :-

If any dealer who is required so to do by the prescribed authority by a notice served on him fails in contravention of section 25, to keep true and correct account of the value of goods purchased or sold by him or fails when directed so to do under that section, to keep any account or records in accordance with the directions, he shall be liable to pay, in addition to any tax for which may be liable, a penalty of an amount not exceeding rupees two thousand or double the amount of tax which would have been payable had there been no such failure, whichever is less.

30B. Prohibition against collection of tax in certain cases :-

(1) No dealer shall collect any sum by way of tax, in respect of sale or purchase of any goods which are not liable to tax under this Act.

(2) No person, other than a dealer, shall collect on the sale or purchase of any goods, any sum by way of tax from any other person and no dealer shall collect any amount by way of tax in excess of the amount of tax already paid by him, if any, at the time of purchase by him and payable by him on the sale by him under the provisions of this Act.

(3) Nothing in sub section (2) shall apply to a person where he is required to collect separately any amount of tax under the provisions of any other law for the time being in force.

30C. Imposition of penalty for contravening certain provisions :-

(1) If any person collects tax in contravention of the provisions of Section 30B, any sum so collected shall be forfeited either wholly or partly to the State Government and in addition he shall be liable to pay a penalty of an amount not exceeding two thousand and five hundred rupees:

Provided that the assessing authority shall not levy penalty if it is evident that due to bona fide mistake the dealer collected tax in contravention of the provisions of Section 30-B and the tax so collected in excess has been remitted to the Government along with the tax payable for that month:

Provided further that the assessing authority shall while imposing that penalty or forfeiture, take into consideration the amounts refunded to the purchaser from out of the amounts collected by way of tax in contravention of Section 30-B or for the refund of which satisfactory arrangement has been made.

(2) No order for the forfeiture under this Section, shall be made after the expiration of three years from the date of collection of the amount referred to in sub section (1):

Provided that in computing the period of three years under this sub section, the period during which any stay order was in force or any appeal or other proceeding in respect thereof was pending shall be excluded.

(3) If the assessing authority in the course of any proceeding under this Act, or otherwise has reason to believe that any person has become liable to penalty with or without forfeiture of any sum under sub section (1) such authority shall serve on such person a notice in the prescribed form requiring him on a date and at a place specified in the notice to attend and show cause why a penalty with or without forfeiture of any sum as provided in sub section (1) shall not be imposed on him.

(4) The assessing authority shall thereupon hold an enquiry and shall make such order as he thinks fit.

(5) No prosecution for an offence under this Act, shall be instituted in respect of the same facts on which a penalty has been imposed under this section

30D. Penalty for abettors :-

Whoever abets the commission of any offence under this Act, shall be punished with the punishment provided for the offence.

31. Cognizance of offences :-

(1) No Court other than the Court of a Magistrate of the first class shall take cognizance of, or try an offence under this Act.

(2) No prosecution for offence under sub section (2) of section 30, or for any second or subsequent offence under sub section (3) of that section, shall be instituted except with the written consent of the Deputy Commissioner having jurisdiction over the area.

32. Composition of offences :-

(1) the prescribed authority may accept, from any person who has committed or is reasonably suspected of having committed an offence under this Act, by way of composition of such offence

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

(b) in other cases a sum of money not exceeding three thousand rupees.

(2) Any order passed or proceeding recorded by the prescribed authority under sub section (1) shall be final and no appeal or application for revision shall lie therefrom

33. Refunds :-

The assessing authority or the licensing authority, as the case may be, shall refund the tax or the licence fees, if any, paid provisionally by an assessee or licensee for any particular period, if it is found to be in excess of the tax or the licence fees payable by him for the said period, or at the option of the assessee or licensee, adjust such excess towards any tax or licence fees due in respect of any other period:

Provided that the assessing or licensing authority, as the case may be, may first apply the excess paid in respect of any period towards the recovery of any amount, in respect of which a notice of demand may have been issued, and shall then refund the balance, if any.

33A. Form of claim for refund and limitation :-

(1) Every claim for refund under section 33 shall be made by the assessee or licensee in such form and verified in such manner as may be prescribed, on or after the date on which the tax or the licence fees in respect of which the claim is made was directed to be refunded.

(2) No such claim shall be allowed unless it is made within three years from the date specified in sub section (1).

33B. Refund on appeal etc :-

Where as a result of any order passed in appeal or other proceeding under this Act, refund of any amount becomes due to the assessee or licensee, the assessing or licensing authority shall refund the amount to the assessee or licensee without his having to make any claim in that behalf, or adjust or apply, such amount as provided in section 33.

33BB. Non refund of tax in certain cases :-

Where a levy and collection of tax is held invalid by any judgment or order of a Court or Tribunal, it shall not be necessary to refund any such tax to the dealer unless it is proved by the dealer to the satisfaction of the assessing authority that the tax has not been collected from the purchaser

33C. Power to withhold refund in certain cases :-

Where an order giving rise to a refund to an assessee or licensee is the subject matter of an appeal or further proceeding, or where any other proceeding under this Act is pending, and the assessing or the licensing authority is of the opinion that the grant of the refund is likely to adversely affect the revenue, the assessing or the licensing authority may, with the previous approval of the Deputy Commissioner, withhold the refund till such time as the Deputy Commissioner may determine.

33D. Correctness of assessment not to be questioned :-

In a claim for refund under section 33, it shall not be open to the assessee or the licensee to question the correctness of any assessment or other matter decided, which has become final and conclusive, or seek for a review in respect thereof, and the assessee or the licensee shall not be entitled to any relief on such claim except the refund of tax or licence fees wrongly paid or paid in excess.

33E. Interest on delayed refunds :-

(1) If the assessing authority or the licensing authority does not grant the refund within six months from the date on which the claim for refund is made by the assessee or licensee under section 33 A, the State Government shall pay the assessee or licensee simple interest at twelve percent per annum on the amount directed to be refunded from the date immediately following the

expiry of the period of six months aforesaid to the date of the order granting the refund.

Explanation :- If the delay in granting the refund within the period of six months aforesaid is attributable to the assessee or licensee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

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

33F. Interest on refund where no claim need be made :-

(1) Where a refund is due to the assessee or licensee in pursuance of an order referred to in section 33 B and the assessing or the licensing authority does not grant the refund within a period of six months from the date of such order, the State Government shall pay to the assessee or the licensee simple interest at twelve percent per annum on the amount of refund due from the date immediately following the expiry of the period of six months aforesaid to the date on which the refund is granted.

(2) Where the refund is withheld under the provisions of section 33 C the State government shall pay interest at the aforesaid rate on the amount of the refund ultimately determined to be due as a result of the appeal or further proceeding for the period commencing after the expiry of six months from the date of the order referred to in section 33 C to the date the refund is granted.

34. Power to summon witnesses and production of documents :-

(1) an assessing authority or an appellate or revising authority including the Appellate Tribunal or any Officer of the Commercial Taxes Department not lower in rank than an Assistant Commercial Tax Officer shall, for the purpose of this Act, have all the powers:

(a) to summoning and enforcing the attendance of any person and examining him on oath or affirmation and

(b) compelling the production of any document.

(2) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is issued

either to attend to give evidence, or produce accounts, registers, records or other documents at a certain place and time intentionally omits or fails to attend or produce accounts, registers, records or other documents at such place or time the authority or officer mentioned in sub section (1) may after giving the person concerned a reasonable opportunity of being heard impose upon him by way of penalty a sum not exceeding five hundred rupees as it or he thinks fit.

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

34A. Power to get information :-

(1) Any assessing authority or appellate or revising authority under this Act may, by writing, require any person or authority to furnish such information, particulars or records available with that person or authority as will be useful or relevant to any proceeding under this Act.

(2) The person or authority from whom such information, particulars or records is or are required under Sub section (1) shall furnish, within a reasonable time, the information, particulars or records available.

35. Appearance before any authority in proceedings :-

Any person who is entitled to appear before any authority other than the High Court in connection with any proceedings under this Act, may be represented before such authority

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

(b) by a legal practitioner; or

(c) subject to such conditions as may be laid down by the rules in that regard by a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 or by a person who was enrolled as a Sales Tax Practitioner by such authority on payment of such fees and possessing such qualification as may be prescribed, if such Accountant or Sales Tax Practitioner is duly authorised in writing in

this behalf.

36. Bar of Jurisdiction of Courts :-

Save as otherwise expressly provided in this Act, no Court shall entertain any suit, or other proceeding to set aside or modify, or question the validity of any assessment, order or decision made or passed by any officer or authority under this Act or any rules made thereunder, or in respect of any other matter falling within its or his scope.

37. Protection of acts done in good faith :-

(1) No suit, prosecution or other proceeding shall lie against any officer or servant of the State Government for any act done or purporting to be done under this Act without the previous sanction of the State Government, and no such suit, prosecution or other proceeding shall be instituted after the expiry of six months from the date of the act complained of.

(2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties imposed on him or the discharge of functions entrusted to him by or under this Act.

38. Act not to apply to sales or purchases outside the State, in the course of import or export, etc. :-

Nothing contained in this Act shall be deemed to impose or authorise the imposition of a tax on the sale or purchase of any goods, where such sale or purchase takes place,

(i) outside the State; or

(ii) in the course of the import of the goods into, or export of the goods out of the territory of India; or

(iii) in the course of inter State trade or commerce.

Explanation :- The provisions of Chapter II of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall apply for the purpose of determining when a sale or purchase takes place in the course of inter State trade or commerce or outside a State or in the course or import or export.

38A. Provision in the case of defective or irregular proceedings :-

No assessment made, penalty or compounding fee levied or other order passed by any officer or authority under this Act, shall be set aside merely on account of any defect or irregularity in the procedure relating thereto, unless it appears that such defect or irregularity has in fact occasioned material hardship or failure of justice.

38AA. Rounding off of turnover :-

The amount of turnover shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if that last figure in the amount is five or more, the amount shall be increased to the next higher amount which is multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be total turnover of the assessee for the purposes of this Act.

38B. Rounding of tax, etc :-

The amount of tax, interest, penalty, or any other sum payable and the amount of refund due under the provisions of this Act shall be rounded off to the nearest rupee and for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, and it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

39. Power to make rules :-

(1) The State Government may 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

(a) all matters expressly required or allowed by this Act to be prescribed;

(aa) the manner of determination of the amount payable by the dealer in respect of :

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

(ii) any delivery of goods on hire purchase or any system of payment by instalments;

- (iii) any 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;
- (iv) any transfer of property in goods involved in lucky gift scheme.
- (b) the term of office, and the conditions of service, of the members of the Appellate Tribunal;
- (c) the issue of licences and permits to persons engaged in the sale or purchase of goods, the fees payable therefor and the imposition of conditions in respect of the same for the purpose of enforcing the provisions of this Act;
- (d) the rectification of mistakes apparent from the record of any assessment, appeal or revision and the period within which such rectification may be made;
- (e) the administration of the check posts set up and barriers erected under this Act and the regulation of the work therein;
- (ee) the form of, and the particulars to be contained in, any declaration to be furnished under Sub section (1) of Section 5 B, the authority from whom, and the fees subject to payment of which, the form of declaration may be obtained and the manner in which the declaration and the records relating thereto shall be kept and maintained;
- (f) the disposal of goods confiscated under this Act and of the proceeds thereof;
- (g) the issue of bills or cash memoranda, the class or classes of dealers who should maintain counterfoils for the same and the particulars to be shown in and the manner of maintenance of such counterfoils and the time for which they should be preserved;
- (h) the maintenance of purchase bills or accounts of purchases and sales by dealers carrying on business in specified goods and the time for which they should be preserved;
- (i) the issue of delivery notes in respect of goods, delivered or transported to retail dealers in pursuance of sales effected to them, the form and manner of their issue and the time for which they should be preserved;
- (j) the application of the provisions of the Code of Civil Procedure, 1908 (Central Act V of (1908), to the extent specified, in respect of

applications, appeals and other proceedings under this Act;

(jj) the transfer of assessment cases from one assessing authority to another assessing authority, and of appeals from one appellate authority to another appellate authority, and the authorities by whom such transfer shall be ordered.

(k) securing that returns furnished or accounts or documents produced, or evidence of any kind given under this Act before any assessing authority or on appeal or revision from any decision of such authority are kept confidential;

(l) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(m) the circumstances in which and the extent to which, fees paid in pursuance of Section 21 may be refunded;

(n) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act;

(o) the assessment and recovery of tax under this Act in respect of a business which is discontinued or the ownership of which has changed or in respect of a business of a deceased person;

(p) the assessment and recovery of tax under this Act in respect of business owned by minors or other incapacitated persons or by persons residing outside the State;

(q) the assessment and recovery of tax under this Act in respect of business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator General, the Official Trustee, or any receiver or manager appointed by or under any order of a Court.

(r) the taking of declarations of affidavits by a miller from a person who entrusts to him paddy for conversion into rice, the maintenance of such declarations, or affidavits and the returns to be submitted by the miller;

(s) the taking of declarations, affidavits, invoices or bills by a retail dealer from a wholesale dealer from whom rice is purchased. the maintenance of such declarations, affidavits, invoices or bills, and the returns to be submitted by the retail dealer;

(t) the maintenance of separate accounts by a wholesale dealer, in respect of his sales of rice to another wholesale dealer, a retail

dealer or other persons

(u) the taking of declarations or affidavits, by cotton ginning mills from persons who brought cotton for ginning and the maintenance of such declarations or affidavits and the registers showing the stock of cotton received, lint delivered and the balance of stock on hand.

(2A) Any rule under this Act, may be made so as to have retrospective effect.

(3) In making a rule under Sub section (1) or Sub section (2), the State Government may provide that a person guilty of a breach thereof, shall, on conviction by a Magistrate of the First class, be liable to be punished with fine which may extend to two thousand rupees.

(4) Every rule made under this Act, shall immediately after it is made, be laid before each House of the State Legislature if it is in session and, if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration 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 in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled 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.

40. Power to amend Schedules :-

(1) The Government may, by notification, alter, add to or cancel any of the Schedules.

(2) Where a notification has been issued under Sub section (1), there shall, unless the notification is in the meantime rescinded, be introduced in the Legislative Assembly, as soon as may be, but in any case during the next session of the Legislative Assembly following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the alteration, addition or cancellation, as the case may, be of the Schedule specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but

without prejudice to the validity of anything previously done thereunder;

Provided that if the notification under Sub section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Legislative Assembly, during that session;

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the expiration of the said period of six months.

(3) All references made in this Act, to any of the Schedules shall be construed as relating to the Schedules as for the time being amended in exercise of the powers conferred by this Section.

41. Repeal :-

(1) The Madras General Sales Tax Act, 1939 (Madras Act IX of 1939), The Hyderabad General sales Tax Act 1950, (Hyderabad Act XIV of 1950) The Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (Madras Act IV of 1953), The Andhra General Purchase Tax Act, 1956 (Andhra Act XIII of 1956) and Section 21 A of the Madras Prohibition Act, 1937 (Madras Act X of 1937,) are hereby repealed:

Provided that such repeal shall not affect the previous operation of the said Acts or Section or any right, title, obligation or liability already acquired, accrued or incurred thereunder, and subject thereto, anything done or any action taken (including any appointment, notification, notice, order, rule, form, regulation, certificate, licence or permit) in the exercise of any power conferred by or under the said Acts or Section shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken; and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

(2) Notwithstanding anything contained in Sub section (1), any application, appeal, revision or other proceeding made or preferred to any officer or authority under the said Acts or Section and pending at the commencement of this Act, shall, after such commencement, be transferred to and disposed of by the officer or

authority who would have jurisdiction to entertain such application, appeal, revision or other proceeding under this Act if it had been in force on the date on which such application, appeal, revision or other proceeding was made or preferred.

42. Power to remove difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the corresponding provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by order in the Andhra Pradesh Gazette, make such provisions as appear to them to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (other wise than in relation to the transition from the provisions of the corresponding Act in force before the commencement of this Act), the State Government may, by order make such provisions, not inconsistent with the purposes of this Act, as appear to them to be necessary or expedient for removing the difficulty.

42A. Instructions to Subordinate Officers :-

The Commissioner may, from time to time, issue such orders, instructions and directions not inconsistent with the provisions of this Act or the rules made there under to his subordinate officers as he may deem fit, for the proper administration of the Act and such officers and all other persons employed in the enforcement of the Act, shall comply with such orders, instructions and directions.

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

43. Non Implementation of penal provision on disclosure :-

Notwithstanding anything contained in this Act, where a dealer

(a) has prior to the detection by any officer of the Commercial Taxes Department, of the concealment of particulars of true and full turnover of his business, voluntarily and in good faith), made between the 1st January, 1987 and the 31st March, 1987;

(b) has, on or before the 31st March, 1987 paid the tax on the full turnover, and

(c) has cooperated in an enquiry if any, relating to the assessment of his turnover, the registering, assessing and revising authorities

under this Act, shall not initiate any proceeding for imposition of a penalty or impose any penalty leviable under This Act, in respect of any assessment year including the assessment year 1986 87;

Provided that the disclosure of turnover and the payment of tax due thereon is made by dealer before the Commercial Tax Officer in whose jurisdiction the dealer has his registered office and in case of nonassessee dealer within whose jurisdiction the dealer normally resides.

SCHEDULE 1

GOODS IN RESPECT OF WHICH SINGLE POINT TAX IS LEVIABLE UNDER SECTION 5

SECHEDULE 2

GOODS IN RESPECT OF WHICH SINGLE POINT PURCHASE TAX IS LEVIABLE UNDER SECTION 5

1. Manganese including manganese ore and ferro manganese At the point of purchase by the last dealer who buys in the State. 4 Paise in the rupee
2. Iron ore -do- 8 Paise in the rupee
3. Turmeric At the point of first purchase in the State. 4 Paise in the rupee
4. Omitted
5. Butter and Ghee other than that purchased from any organisation registered under the Companies Act, 1956 or the Andhra Pradesh Co-operative Societies Act, 1964 including the Co-operative Societies Act of any other State or Union Territory. At the point of purchase by the last dealer who buys in the State. 8 Paise in the rupee
6. Mica -do- 8 Paise in the rupee

7. Palmyrah fibre and stalks At the point of purchase by the last dealer who buys in the State. 8 Paise in the rupee
8. Omitted
9. Coriander when purchased within the State At the point of first purchase in the State. 4 Paise in the rupee
10. Coconuts other than those falling under item 5 of the Third Schedule. At the point of last purchase in the State. 8 Paise in the rupee
11. Omitted
12. Cashewnut (with shell) At the point of first purchase in the State. 9 Paise in the rupee
13. Wattle bark and other barks At the point of purchase by the last dealer who buys in the State. 8 paise in the rupee.
14. Tamarind when purchased within the State. At the point of first purchase in the State. 4 paise in the rupee.
15. Tamarind seed when purchased within the State. -do- 8 paise in the rupee.
16. Chillies -do- 4 paise in the rupee.
17. Pippalamodi or Pippalanalaka -do- 8 paise in the rupee.
- 18.
19. Prawns, other than prawn seed mentioned in first schedule, lobsters, frogs and frog legs At the point of first purchase in the State. 8 paise in the rupee.
20. Tapioca At the point of first purchase in the State. 8 paise in the

rupee.

21. Azwan (vamu) At the point of first purchase in the State. 8 paise in the rupee.

SCHEDULE 2

GOODS IN RESPECT OF WHICH SINGLE POINT PURCHASE TAX IS LEVIABLE UNDER SECTION 5

SCHEDULE 3

DECLARED GOODS IN RESPECT OF WHICH A SINGLE POINT TAX ONLY IS LEVIABLE UNDER SECTION 6

S.No Description of goods Point of levy Rate of tax

1. Coal including coke in all its forms,

but excluding charcoal:

Provided that during the period

commencing on the 23rd day of

February, 1967 and ending

with the 1st day of April, 1973,

the clause shall have effect subject to

the modification that the words "but

excluding charcoal" shall be omitted. At the point of first

sale in the State 4 Paise in the rupee

2. Iron and steel, that is to say:

(i) Pig iron and cast iron including

ingot, moulds, and bottom plates,

(ii) Steels semis (ingots), slabs,

blooms and billets of all qualities,

shapes and sizes);

(iii) Skelp bars, tin bars, sheet bars,

noe bars and sleeper bars

(iv) steel bars (rounds, rods, squares,

flats, octagons and hexagons; plain

and ribbed or twisted, in coil form as

well as straight length);

(v) steel structurals (angles, joints, channels, tees, sheet piling sections, Z sections or any other rolled sections). At the point of first

sale in the State 4 paise in the rupee

(vi) sheets, hoops, strips and skelp, both black and galvanised, hot and cold rolled, plain and corrugated in all qualities, in straight lengths and in coil form as rolled and in revitted condition;

(vii) plates, both plain and chequered in all qualities;

(viii) discs, rings, forgings and steel castings;

(ix) tool, alloy and special steels of any of the above categories;

(xi) steel tubes, both welded and seamless, of all diameters and lengths including tube fittings;

(xii) tin-plates, both hot dipped and electrolytic and tin free plates;

(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails - heavy and light crane rails;

(xiv) wheels, tyres, axles and wheel sets;

(xv) wire rods and wires rolled,

drawn, galvanised, aluminised,
tinned or coated such as by copper;

2-A Iron and Steel scrap, that is to
say -

(i) Iron scrap, cast-iron scrap,
runner scrap and iron skull scrap.

(ii) Steel melting scrap in all
forms including steel skull,
turnings and borings

(iii) Defectives, rejects, cuttings
or end pieces of any of the categories
of Items (i) to (xv) of Entry 2. At the point of first
sale in the State 4 paise in the rupee

3. Oil seeds, that is to say -

(i) Seasmum or Til (Orientale)

(ii) Soyabean (Glycine seja);

iii) Rape seed and mustard-

(1) Toria (Brassica campestris
vartoria)

(2) Rai (Brassica Juncea);

(3) Jamba Taramira (Eruca
satiya);

4) Sarcon yellow and brown
(brassica compestris varsarson).

(5) Banarasi Rai or True mustard
(Brassica nigra);

(iv) Linseed (linum usitatissimum);

(v) Sunflower (Helianthus annus);

(vi) Nigar seed (Guizotia
abyssinica);

(vii) Neem, vepa (Azadi rachta

indica); At the point of first
sale in the State 4 paise in the rupee

(viii) Mahua, illupai, ippe,
(Madhuca indica, M.Latifolia,
Bassia, Latifolia and Madhuca
Longifolia syn. M. Longifolia):

ix) Karanja, Pongam, Honga
(pongamia pinnata syn.P. Glabra);

(x) Kusum (Schleichera Oleosa,
syb. S.trijuga)

(xi) Punna undi (Calophyllum,
inophyllum);

(xii) Kokum (Carcinia indica);

(xiii) Sal (Shorea robusta);

(xiv) Tung (Aleurite jordi and
A.Montana);

(xv) Red Palm (Elaeis guinenensis)

(xvi) Safflower (corthanus
tinctorius);

but excluding groundnut or peanut

cotton seeds, castor and coconut

(i.e. copra excluding tender
coconuts).

4. Castor (Ricinus communis) At the point of last
purchase in the State. 4 paise in the rupee

5. Coconuts other than tender
coconuts) cocos nucifera) At the point of last
purchase in the State 4 paise in the rupee

5A. Copra At the point of last sale in
the State 4 paise in the rupee

6. Groundnut or peanut, (Arachis

hypogaea) When purchased by an oil miller other than a decorticating miller in the State, at the point of purchase by such miller and in all other cases at the point of purchase by the last daler who buys in the State.

6A) Cotton seeds. (a) At the point of first sale in the State during the period from 1st August, 1963 to the date of commencement of the Andhra Pradesh General Sales Tax (Second Amendment) Act, 1966.

1 paise in the rupee

(b) At the point of first sale in the State.) 4 paise in the rupee

7. Jute, that is to say, the fibre extracted from plants belonging to the species *corchorus capsularis* and *corchorus oiltorius* and the fibre known as Mesta or Bimil extracted from plants of the species *hibiscus cannabinus* and *Hibiscus sabdariffavar altissima* and the fibre known as sunnhemp extracted from plants of the species *Crotalaria Juncea* whether baled or otherwise.

At the point of last purchase in the State 4 paise in the rupee

8. Cotton, that is to say, all kinds of cotton (indigenous or imported) in

all its unmanufactured State,
whether ginned or unginned, baled,
pressed or otherwise but not
including cotton waste. When purchased by
a spinning mill in the
State at the point
of purchase by the
spinning mill and in all
other cases at the point
of purchase by the
last dealer who buys
it in the State. - do -

9. Hides and skins.

(a) Untanned hides and skins When purchased by a tanner in
the State at the point of purchase
by the tanner and in all other cases at
the point of purchase by the last
dealer who buys them in the State - do -

(b) Tanned hides and skins (which
were not subjected to tax as
untanned hides and skins) When purchased by a
manufacturer in the State
at the point of purchase
by the manufacture and
in all other cases at the
point of purchase by the
last dealer who buys them
in the State. 4 paise in the rupee

9A. (a) Untanned hides and skins when
obtained from the other States
and sold in the same form or

in the form of tanned hides and skins. At the point of first sale in the State 4 paise in the rupee

(b) Tanned hides and skins when obtained from other States. At the point of first sale in the State 4 paise in the rupee

10. Cotton yarn not including cotton yarn waste At the point of first sale) in the State 4 paise in the rupee

11 Omitted

12 Omitted

13 Crude oil, that is to say, crude petroleum oils and crude oils obtained from bituminous minerals (such as shale, calcareous rock sand), whatever their composition whether obtained from normal or condensation oil deposits or by the destructive distillation of bituminous minerals and whether or not subjected to all or any of the following processes:-

(1) decantation;

(2) de salting;

(3) dehydration;

(4) stabilisation in order to

normalise the vapour pressure At the point of first purchase in the

State - do -

(5) elimination of very light fractions with a view to returning

them to the oil-deposits in order to improve the drainage and maintain the pressure;

(6) the addition of only those hydrocarbons previously recovered by physical methods during the course of the above mentioned process;

(7) any other minor process including addition of pour point depressants or flow improvers) which does not change the essential character of the substance.

14 Pulses, that is to say,-

(i) moong or green gram (*Phaseolus aures*);

(ii) urad or black gram (*Phaseolus munge*) At the point of first purchase in the State 4 paise in the rupee

14A. Green gram and black gram when obtained from outside the State At the point of first purchase in the State 4 paise in the rupee

15 Pulses, that is to say,-

(i) gram or gulb gram (*Cicerarietinum L.*):

(ii) tur or arhar (*Cajanis cajan*);

(iii) masur lentil (*Leus culinaris medic*);

(iv) moth (*Phaseolus asconitifolius jacq*);

(v) lakh or khesari (*Lathyrus sativus L.*) At the point of first sale in the State -do-

16. Wheat (*Triticum vulgare T.*, *compactum*, *T.sphaerococum*, *T.durum*, *T.aestivum*, *L.T. dicoccum*); At the point of first

sale in the State 4 paise in the rupee

17 Jowar or milo (*Sorghum vulgar*

Pers); At the point of first

sale in the State. 2 paise in the rupee

18 Maize (*Zea mays L.*) At the Point of first

sale in the State 3 paise in the rupee

19. Ragi (*Eleusine coracana Gaerth*);

(3019) -do- 2 paise in the rupee

20. Cereals, that is to say,

(i) bajra (*Pennisetum typhoideum*
L.)

(ii) kodon (*Paspalum sere*
biculatum L.)

(iii) Kutki (*Panicum Millaire L.*)

(iv) barley (*Hordeum vulgare L.*)

At the point of first

sale in the State 2 paise in the rupee

21. Paddy (*Oryza sativa L.* At the point of first

purchase in the State 4 paise in the rupee

22. Rice (*Oryza sativa L.* At the point of first

sale in the State 4 paise in the rupee

23. PVC cloth, Waterproof cloth,

Tarpaulin and Rexine -do- 4 paise in the rupee

24. Sugar other than that specified

in the Fourth Schedule. -do- 4 paise in the rupee

25. Cotton fabrics, man-made

fabrics and woollen fabrics

other than those specified

in the fourth Schedule -do- 4 paise in the rupee

26. Aviation Turbine Fuel sold to Turbo Prop aircraft At the point 4

paise in of first sale in the in the State. 4 paise in the rupee.

Explanation I : The expression "decortivating miller" in item 6 means a miller whose mill is capable of being used for the purpose of decortication only.

Explanation II : Each of the pulses referred to in items 14 and 15, whether whole or separated, and whether with or without husk shall be treated as a single commodity for the purpose of levy of tax under this Act.

Explanation III : For the purpose of items 21 and 22, where a tax has been levied under this Act in respect of the sale or purchase inside the State of any paddy, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy.

Explanation IV : For the purpose of items 5 and 5-A where a tax has been levied under this Act, in respect of the sale or purchase inside the State of any coconuts other than tender coconuts the tax leviable on copra procured out of such coconuts shall be reduced by the amount of tax levied on such coconuts.

SCHEDULE 3

DECLARED GOODS IN RESPECT OF WHICH A SINGLE POINT TAX ONLY IS LEVIABLE UNDER SECTION 6

SCHEDULE 4

(As subs by Act NO.16 OF 1963 W.E.F. 1-8-1963 and as amended upto 31st May, 1995)

Description of goods

1. Salt other than specified in the First Schedule.

2. Electrical energy

4. Toddy, neera and arrack

5. Cotton fabrics, man made fabrics and woolen fabrics

5-A Handloom cloth other than silk cloth

6. Sugar

7. Tobacco.

7A

8. Husk of pulses

9.

10. Sugarcane.

11. School and college text books

12 Water sold in bulk excluding purified water sold in sealed containers.

Explanation :- The goods mentioned in items 5,6 and 7 of this Schedule shall

be goods included in the relevant heads and sub-heads of the First Schedule to

the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central

Act 58 of 1957 but does not include goods where no Additional Duties of Excise

are levied under that Schedule.

SCHEDULE 4

SCHEDULE

(As substituted by Act NO.16 OF 1963 W.E.F. 1-8-1963 and as amended upto 31st May, 1995)

SCHEDULE 5

GOODS IN RESPECT OF WHICH TAX IS LEVIABLE UNDER SECTION 5

1. Jaggery At every point of sale

in the State. 4 paise in the

rupee

Provided that

(a) where Jaggery is sold to a dealer by a person who is not a registered dealer other wise than through an agent, the tax shall be levied at the point of purchase and not at the point of sale at the rate of four paise in the rupee.

(b) where any purchase of Jaggery by a dealer is taxed in accordance with clause (a), the sale of such Jaggery effected by the said dealer shall not be taxed again;

(c) where a registered dealer has purchased Jaggery from another registered dealer and furnished to the prescribed authority in the prescribed manner a declaration in the prescribed form and containing such particulars as may be prescribed duly filled and signed by the registered dealer from whom he purchased such Jaggery, the sale of such Jaggery effected by the first mentioned registered dealer shall not be liable to tax.

SCHEDULE 5

GOODS IN RESPECT OF WHICH TAX IS LEVIABLE UNDER SECTION 5

SCHEDULE 6

GOODS IN RESPECT OF WHICH TAX IS LEVIABLE UNDER SECTION 5

1.

2. Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories

required for use therewith. At every point of sale
in the State. 16 paise in the rupee

3. All clocks, time pieces and watches

including Quartz watches and clocks

and parts thereof. -do- 16 paise in the rupee

4. Iron and steel safes, cash boxes, almirahs,
wardrobes and cabinets. At every point of sale
in the State. 16 paise in the rupee

4A. Furniture other wooden furniture. -do- 12 paise in the rupee

4B. Wooden Furniture -do- 8 paise in the rupee

5. All hosiery goods other than those made

wholly of cotton. -do- 16 paise in the rupee

5A. Hosiery goods made wholly of cotton. -do- 8 paise in the rupee

5B. Readymade garments do 8 paise in the rupee

6. All kinds of electrical goods, instruments,
apparatus and appliances (other than
articles of plastic and those specifically
mentioned elsewhere, including)

(i) wires, holders, plugs, switches,

electrical earthenware and porce-

lain ware;

(ii) casings, capping, reapers, bends,

junction boxes, meter boxes,

switch boxes, meter-boards and

switch boards; and parts and

accessories thereof.

(iii) --do-- 8 paise in the rupee

6A. Electrical transformers,

ACSR conductors and

transmission towers -do- 12 paise in the rupee

6B. (i) Electrical fans, exhaust

fans, air circulators, air

purifiers, kitchen chimneys

and air curtains -do- 12 paise in the rupee

(ii) Lighting bulbs
including decorative serial
bulbs, torches, fluorescent
tubes and other fittings,
like chokes and starters
and parts and accessories
thereof. -do- 12 paise in the rupee

6C. Washing machines, vaccum
cleaners, electrical grinders,
including wet grinders, mixers,
boilers, ovens, geysors,
generators, transformers and
parts and accessories thereof whether operated
on the principle of electronics or not. -do- 12 paise in the rupee

7. Sheets, Cushions, mattresses pillows
and other articles made of rubber,
rubberised coir products plastic foam, synthetic foam
or other similar material. At every point of sale
in the State. 16 Paise in the rupee.

8. Paints, colours, dry distempers, varnishes
and blanks, cellulose, lacquers, polish
pigments, indigo enamels, cement-based
water paints, oil bound distemper, water
pigments, finishes for leather or plastic
emulsion paints, turpentine oil,, bale oil,
white oil and thinners -do- 15 Paise in the rupee

8A. Lithographic printing and duplicating inks. -do- 8 paise in the
rupee

9. Dyes and Chemicals -do- 10 Paise in the rupee

10. Articles of stainless steel other
than utensils and kitchenware -do- 12 Paise in the rupee.

11. Timber and logs cut into sizes such
as beams, rafters, and planks. At every point of sale

in the State. 12 Paise in the rupee.

11A.

12. Rubber products (other than those specifically mentioned elsewhere)

including: -do- 15 Paise in the rupee.

(i) latex foam sponge

(ii) Plates, sheets and strips unhardened,

whether vulcanised or not and whether

combined with any textile material or

otherwise;

(iii) Unhardened vulcanised rubber used

for piping and tubing;

(iv) Transmission, conveyor or elevator

belts or belting material of vulcanised

rubber or textile material whether

reinforced with metal or other

material and whether combined

with any textile material or otherwise.

13. Water supply and sanitary fittings (other than porcelain and china ware). -do- 15 Paise in the rupee.

13A. Stoneware pipes -do- 15 Paise in the rupee.

13B. Articles of cast iron including

pipes, specials, fittings, covers, bends

and manhole covers. -do- 8 paise in the rupee

14. Bolts and nuts threaded or tapped and

screws of base metal or alloys thereof

including bolt-ends, screws, studs, screw

studding,, self tapped screws, screw

hooks and screw rings. -do- 9 Paise in the

rupee.

14A. All Hardware of base metal or alloys,

and other hardware items like locks,

woven wire nettings, mesh, colth

sieves and chainlink of all metals

other than those made of stainless

steel. -do- 10 Paise in the rupee.

15. Staple fibre and yarn -do- 9 Paise in the rupee.

16. All kinds of foot-wear including

Plastic foot-wear, sports shoes,

shoe polishes of all kinds,

polish brushes and shoes horns. -do- 8 Paise in the rupee

17. Plywood, particle board, laminated board,

MDF Boards batten board,

hard or soft wall-boards or insulating

board and veneered panels, whether

or not containing any material other

than wood; cellular wood panels,

building boards of wood-pulp

or of vegetable fibre, whether or

not bonded with natural or artificial

or reconstituted wood being wood

shavings, wood chips, saw-dust,

wood flour or other ligneous water

agglomerated with natural or

artificial resins or other organic binding

substance in sheets, blocks, boards or in

any other form and includes flush doors. At every point of sale

in the State. 15 Paise in the rupee

17A. Laminated sheets of all kinds. -do- 12 paise in the rupee

18. Glass and glassware, including,

(i) sheet glass and plate glass;

(ii) mirrors;

(iii) Laboratory glassware;

(iv) glass shells,, glass globes and

chimeys for lamps and lanterns;

(v) other glassware including

table-ware but excluding bottles At every point of sale

in the State. 15 paise in the rupee

19. Paper of all kinds (including paste-board, mill-board, straw board and card-board), that is to say,-

(i) cigarette tissue;

(ii) blotting, toilet or target tissue, teleprinted, typewriting, manifold, bank, bond or art paper, chrome paper, tub-sized paper, cheque paper, stamp paper, cartridge paper, parchment and coated board (including art board, chrome board and board for playing cards);

(iii) printing and writing paper, packing and wrapping paper, straw board and pulp board, including grey board, corrugated board, duplex and triplex boards or other sorts;

(iv) All other kinds of paper and paper board not otherwise specifically mentioned above, including carbon paper but excluding cinematographic and photographic paper. -do- 12 paise in the rupee

20. All kinds of suit cases, brief cases and vanity bags At every point of sale in the State. 10 Paise in the rupee.

21. Aerated water, and bottled soft drinks sold under a brand name whether or not flavoured or sweetened and whether or not containing vegetable or fruit juice or fruit pulp, including squashes, jams, jellies, juices when sold in sealed or

capsuled or corked bottles,
jars, tins, drums or other
containers and mineral water
sold under a brand name -do- 12 paise in the rupee

22. Chinaware and porcelain ware other
than crockery -do- 15 paise in the rupee

23. All kinds of gases whether
in compressed, liquified
or solidified or in any
other form other than
industrial gases. -do- 16 paise in the rupee.

Provided that for the purpose of liquor at any point of sale other than
the

first point of sale and the last point of sale, the turnover of the goods
liable

to tax shall be arrived at by deducting the turnover of such goods on
which tax

has been levied at the immediately preceding point of sale.

Explanation I: (a) For the purpose of Entry (1) in this Schedule when any
distillery or brewery or any dealer sells liquor to Andhra Pradesh
Beverages

Corporation Limited, sales by Andhra Pradesh Beverages Corporation Limited
shall

be deemed to be the first sale.

(b) 'Point of last sale' shall mean sale of liquor to a person by a dealer
who

purchased liquor from Andhra Pradesh Beverages Corporation Limited:

Provided that the turnover of any distillery or brewery of any dealer in
respect

of sale of liquor to Andhra Pradesh Beverages Corporation Limited shall be
exempted from payment of tax:

Provided further in respect of goods other than liquor mentioned in this
Schedule, tax to be paid at any point of sale other than first point of
sale,

shall be determined after deducting the tax levied on the turnover of such
goods

at the immediately preceding point of sale by a registered dealer from the tax

leviable on the turnover of the same goods at the point of sale by selling dealer.

Explanation II: If in the sale bill issued at the preceding point of sale tax

levied is not shown separately, but tax is collected by seller at the preceding

point of sale from the buying dealer, for determining the amount of tax levied

at the preceding point of sale, for the purpose of this proviso the following

formula shall be applied.

Rate of tax X Sale price at the preceding point of sale

$100 + \text{Rate of tax.}$

Where the turnover of a dealer is taxable at different rates, the aforesaid

formula shall be applied separately in respect of the turnover of each goods

liable to tax.

Provided further that the turnover of a retail dealer in respect of sale of

goods other than liquor mentioned in this Schedule, to persons other than dealers at any point of sale other than first point of sale, shall be exempt

from payment of tax and that part of turnover of a retail dealer which relates

to second and subsequent sales of the goods referred to above to other dealers

for effecting accommodation sales by the latter shall also be exempt from tax,

if such turnover does not exceed five percent of the total turnover of that

dealer in a year, and a Certificate is produced in such manner and form as may

be prescribed.

Provided further that in the case of a retail dealers whose total turnover

did

not exceed rupees ten lakhs in the preceding year, but exceeded Rs. ten lakhs

during the current year for the first time, such dealer shall be liable to pay

tax under this Schedule on the turnover of second and subsequent sales (in addition to the tax payable on the turnover of the first sales) made by him

subsequent to the date on which the turnover of that dealer exceeded Rs.10 lakhs

in that year.

Provided also that the turnover of a retail dealer in respect of commodities

other than liquor for the relevant assessment year shall be exempt from payment

of tax in respect of sales other than first sale within the State of the goods

specified in this Schedule.

Provided further that when the goods, other than liquor mentioned in this Schedule, manufactured by SSI units, which are eligible for Tax Holiday under

the State Incentives Schemes, are sold at second and subsequent points of sale,

the turnover liable to tax at such points of sale shall be determined after

deducting the turnover at the preceding point of sale from the turnover of the

same goods at that point of sale.

Explanation: For purposes of item 11 in the case of timber purchased by the

forest contractors in the auction of forest coupes conducted by the Forest Department of the State Government and sold by such contractors, the sale by

such contractors of such timber in any form or size shall be deemed to be first

sale.

SCHEDULE 6

GOODS IN RESPECT OF WHICH TAX IS LEVIABLE UNDER SECTION 5

(Substituted by Act No.22 of 1995 w.e.f. 1-4-1995)

GOODS IN RESPECT OF WHICH TAX IS LEVIABLE UNDER SECTION 5

1. Goods other than

those specified in

First to Sixth

Schedules At the point of first

sale in the State 12 paise in the rupee

Provided that a dealer other than a casual trader and an agent of a non

resident daler whose total turnover for a year is les than rupees two

lakhs shall not be liable to pay tax in respect of the goods mentioned in

this Schedule.