

## **Manipur Value Added Tax Act, 2004**

### **6 of 2005**

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# **Manipur Value Added Tax Act, 2004**

An Act to provide for and consolidate the law relating to levy of value added tax on sales or purchases of goods in the State of Manipur. Be it enacted by the Legislature of Manipur in the Fifty-fifth Year of Republic of India as follows:-

CHAPTER 1  
PRELIMINARY

**1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Manipur Value Added Tax Act, 2004.
- (2) It extends to the whole of the State of Manipur.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

**2. Definitions :-**

In this Act unless the context otherwise requires -

- (i) "Appellate Tribunal" means the Appellate Tribunal appointed under Section 4;
- (ii) "assessee" means any person by whom tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceedings under this Act have been taken for the assessment of tax payable by him;
- (iii) "assessing authority" means any person not below the rank of Taxation Officer authorized by the Commissioner to make any assessment under this Act;
- (iv) "business" includes-
  - (a) any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce, manufacture, whether or not such trade, commerce, manufacture, adventure, concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure, concern, and
  - (b) any transaction in connection with, or incidental or ancillary to such trade, commerce, manufacture, adventure or concern;
- (v) "Commissioner" means the Commissioner of Taxes appointed by the Government under this Act;
- (vi) "Joint Commissioner" means any person appointed to be a Joint Commissioner of Taxes under this Act;
- (vii) "Deputy Commissioner" means any person appointed to be a Deputy Commissioner of Taxes under this Act;
- (viii) "Assistant Commissioner" means any person appointed to be an Assistant Commissioner of Taxes under this Act;

- (ix) "Taxation Officer" means any person appointed to be a Taxation Officer under this Act;
- (x) "capital goods" means plant, machinery and equipment used in the process of manufacturing, excluding civil structures as may be prescribed;
- (xi) "casual trader" means a person who whether as principal, agent or in any other capacity, has occasional transactions involving buying, selling, supplying or distributing goods in the State, whether for cash or for deferred payment, or for commission, remuneration, or other valuable consideration;
- (xii) "dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, executing works contract, delivering any goods on hire-purchase or any system of payment by instalments, transferring the right to use any goods or supplying by way of or as part of any service, any goods directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration and includes-
- (a) a casual trader;
  - (b) a commission agent, a broker or a delcredere agent or any auctioneer or any other mercantile agent, by whatever name called;
  - (c) a non-resident dealer or an agent of a non-resident dealer, or a local branch of a firm or company or association or body of persons whether incorporated or not, situated outside the State;
  - (d) a person who, whether in the course of business or not- -
    - (i) sells goods produced by him by manufacture, agriculture, horticulture or otherwise; or
    - (ii) transfers any goods, for cash or for deferred payment or for other valuable consideration;
    - (iii) supplies, by way of or as part of any service or in any other manner whatsoever, goods being food or any other articles for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;
  - (xiii) "declared goods" means goods declared to be of special importance in interstate trade or commerce under section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956);
  - (xiv) "goods" means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes all materials, commodities and articles and every kind of property (whether as goods or in some other form)

involved in the execution of a works contract, and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(xv) "Government" means Government of Manipur.

(xvi) "input tax" means the tax paid or payable under this Act by a registered dealer to another registered dealer on the purchase of goods in the course of business for resale or for the manufacture of taxable goods or for use as container or packing material or for the execution of works contract;

(xvii) "manufacture" with its grammatical variations and cognate expressions means producing, making, extracting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed;

(xviii) "output tax" means the tax charged or chargeable under this Act by a registered dealer for the sale of goods in the course of business;

(xix) "person" includes

- (a) an individual;
- (b) a joint family,
- (c) a company;
- (d) a firm;
- (e) an association of persons or a body of individuals; whether incorporated or not;
- (f) the Central Government or any State or Union Territory in India;
- (g) a local authority;

(xx) "place of business" means any place where a dealer carries on the business and includes-

- (a) any warehouse, godown or other place where a dealer stores or processes his goods;
- (b) any place where a dealer produces or manufactures goods;
- (c) any place where a dealer keeps his books of accounts;
- (d) in cases where a dealer carries on business through an agent (by whatever name called), the place of business of such agent;
- (e) any vehicle or vessel or any other carrier wherein the goods are stored for transporting the goods;

(xxi) "prescribed" means prescribed by Rules made under this Act;

(xxii) "purchase" with all its grammatical variations and cognate expressions shall be construed from the word "Sales";

(xxiii) "registered dealer" means a dealer registered under this Act;

(xxiv) "reverse tax" means that portion of input tax of the goods for which credit has been availed but such goods are used

subsequently for any purpose other than resale or manufacture of taxable goods or execution of works contract or use as containers or packing materials, within the State;

(xxv) sales with all its grammatical variations and cognate expressions means every transfer of the property in goods, other than by way of mortgage, hypothecation, charge or pledge, by one person to another in the course of trade or business for cash, deferred payment or other valuable consideration and includes-

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

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

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

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

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

(f) a supply, by way of or as part of any service or in any other manner whatever, 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;

(g) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and purchase of those goods by the person to whom such transfer, delivery or supply is made, but does not include a mortgage, hypothecation, charge or pledge.

Explanation;

(a) A sale or purchase of goods shall not be deemed to have taken place inside the State if the goods are sold

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

(ii) outside the State of Manipur; or

(iii) in the course of import of goods into or export of goods out of the territory of India.

(b) Where there is a single contract of sale or purchase of goods

situated at more places than one, the provisions of this Explanation shall apply as if there were separate contract in respect of the goods at each of such places.

(xxvi) "sales price" means the amount of valuable consideration received or receivable by dealer for the sale of any goods less any sum allowed as cash discount, according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods or services at the time of or before delivery thereof, excise duty, special excise duty or any other duty or taxes except the tax imposed under this Act;

Explanation:

For the purpose of this clause "Sales Price" includes such sum received or receivable as consideration in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract.

(xxvii) "Schedule" means the Schedule appended to this Act;

(xxviii) "tax" means the tax payable under this Act;

(xxix) "tax invoice" means a document listing goods sold with price, quantity and other details as specified in this Act and includes a statement of account, bill, cash register, slip, receipt or similar record, regardless of its form;

(xxx) "taxable turnover" means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover in such manner as may be prescribed;

(xxxi) "turnover" means the aggregate amount for which goods are either bought or sold, supplied or distributed by a dealer, either directly or through another, on his own account or on account of others, whether for cash or for deferred payment or for other valuable consideration;

(i) The turnover in respect of delivery of goods on hire purchase or on any system of payment by instalment shall be the market price of the goods so delivered.

(ii) The turnover in respect of the transfer of the right to use any goods shall be the aggregate amount received or receivable by the dealer as consideration for such transfer.

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

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



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

(c) 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.

(xxxii) "Value Added Tax" means a tax on sales or purchases levied under this Act;

(xxxiii) "vehicle" includes every wheeled conveyance used for the carriage of goods solely or in addition to passengers;

(xxxiv) "vessel" includes any ship, barge, boat raft, limber, bamboos or floating materials propelled in any manner;

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

(xxxvi) "year" means the financial year beginning from 1st April and ending with 31st March;

(xxxvii) "State" means the State of Manipur.

## CHAPTER 2

### AUTHORITIES AND APPELLATE TRIBUNAL

### **3. Tax Authorities :-**

(1) The Commissioner shall have all the powers and shall perform all the duties conferred or imposed upon him by or under this Act.

(2) The Commissioner shall have superintendence and control over all officers and persons employed in the execution of this Act and the Commissioner may -

(a) call for returns from such officers and persons;

(b) make and issue general rules and specify forms for regulating the practice and proceedings of such officers and persons;

(c) issue such orders, instructions and directions to such officers and persons as he may deem fit, for the proper administration of this Act.

(3) The Government shall appoint a Commissioner and as many Joint Commissioners, Deputy Commissioners, Assistant Commissioners, Taxation Officers, Inspectors and such other as they think fit for the purpose of performing the functions

respectively assigned to them by or under this Act. Such Officers shall perform the said functions within such local limits as empowered by the Commissioner in this behalf.

(4) All Officers and persons employed for carrying out the purposes of this Act shall observe and follow the order, instruction and direction of the Officers superior to them.

(5) The Commissioner may, by order in writing:

(a) transfer any case or cases relating to any assessee or class of assesses pending before an Assessing Authority to another Assessing Authority having jurisdiction to deal with such case or cases; or

(b) specify one of the assessing authorities having jurisdiction over an area, which shall deal with any case or cases relating to any assessee or class of assesses.

Where any case is transferred to an Assessing Authority under clause (a) of sub-section (5), such Assessing Authority may deal with the case either de novo or from the stage at which it was transferred.

#### **4. Appellate Tribunal :-**

(1) There shall be an Appellate Tribunal consisting of such members including a Chairperson, as the State Government may, from time to time, deem it necessary to appoint from amongst-

(a) the persons who are qualified to be judges of the High Court, and serving or retired person; and

(b) the serving or retired person belonging to the Manipur Taxation Department who held or has held a post not below the rank of Deputy Commissioners of Taxes:

Provided that where the Appellate Tribunal consists of one or more persons who is or are members of the Manipur Judicial Services, then he or the senior-most amongst them shall be appointed as Chairperson.

(2) The member of the Appellate Tribunal including the Chairperson so appointed may continue as such till he attains the age sixty two years.

(3) No decision or action of the Appellate Tribunal shall be called in question merely on the ground of any vacancy in the Tribunal.

(4) The function of the Appellate Tribunal may be discharged by any of the members sitting in benches of two or more members as may be determined by the Chairperson.

(5) If the members of a bench are divided, the decision shall be the

decision of the majority, if there be a majority, but if the members are equally divided they shall state the point or points on which they differ and the case shall be referred by the Chairperson of the Appellate Tribunal for hearing on such point or points to one or more of the members of the Appellate Tribunal and such point or points shall be decided according to the majority of the members of the Appellate Tribunal who heard the case including those who first heard it.

(6) Subject to such conditions and limitations as may be prescribed, the Appellate Tribunal shall have the power to award costs in any matter decided by it and the amount of such costs awarded against a dealer shall be payable by him as if it were tax due from him under this Act and, in case of default by him, it shall be recovered from him in the manner provided in Chapter- V and the amount of such costs awarded against any authority under this Act shall be payable to a dealer by such authority in such manner as may be prescribed,

(7) Subject to the previous sanction of the State Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and providing the rules of business, make regulations under this Act and the rules made thereunder.

(8) The regulations made under sub-section (7) shall be published in the Official Gazette.

## **5. Delegation Of The Commissioners Powers And Functions**

**:-**

Subject to such restrictions and conditions as may be prescribed the Commissioner may, by order in writing, delegate any of his powers and functions under this Act and the Rules made thereunder to any person appointed under sub-section (3) of Section 3.

## **6. Persons Appointed Under Section 3 And Members Of Appellate Tribunal To Be Public Servants :-**

The Commissioner and all Officers appointed under section 3 including the members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code.

## **7. Indemnity :-**

No suit, prosecution or other legal proceedings shall lie against any Government servant employed for execution of the provisions of this Act and Rules made thereunder for anything which is in good faith done or intended to be done thereunder.

### CHAPTER 3

#### THE INCIDENCE, LEVY AND RATE OF TAX

### **8. Incidence Of Tax :-**

(1) Every dealer-

(a) whose gross turnover of sales or purchases during the year immediately preceding the commencement of this Act-

(i) exceeded the taxable limit, or

(ii) who is registered or liable to be registered under the Manipur Sales Tax Act, 1990 (hereinafter referred to as the repealed Act) or the Central Sales Tax Act, 1956, or

(b) to whom clause (a) does not apply, and

(i) whose gross turnover first exceeds the taxable quantum during any period of twelve consecutive months, or

(ii) who has become liable to pay tax under the Central Sales Tax, 1956, or

(iii) who is registered as a dealer under the Central Sales Tax Act, 1956 or under this Act at any time after the commencement of this Act,

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

(2) Every dealer is liable to pay tax under sub-section (1) on purchases and sales effected by him -

(a) in case of clause (a) of sub-section (1), with effect from the date of commencement of business,

(b) in case of sub-clause (i) of clause (b) of sub-section (1), with effect from date immediately following the day on which his gross turnover first exceeded the taxable limit during a period of any twelve consecutive months.

(c) in case of sub-clause (ii) and (iii) of clause (b) of sub-section (1), with effect from the date of registration or the date on which he becomes so liable whichever is earlier.

(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover has failed to exceed the taxable limit and his liability to pay tax under this Act shall cease on the expiry of the period specified above.

(4) Every dealer who has ceased to be liable under sub-section (3) shall be again liable to pay tax under this Act with effect from the date immediately following a period not exceeding twelve consecutive months during which his gross turnover again exceeds the taxable quantum.

(5) For the purpose of this Act, taxable limit means in relation to any dealer who-

(a) imports for sale any goods into the State of Manipur on his own behalf or on behalf of his principal NIL,

(b) manufactures or produces any goods for sale. Rs. 4,00,000/-

(c) is engaged in any other business other than clause (a) and (b) Rs. 3,00,000/-,

(d) is involved in the execution of works contract Rs. 5 0,000/-

(6) For the purpose of calculating the gross turnover to determine the liability to pay tax under this Act.

(a) except as otherwise expressly provided, the turnover of all sales or purchases as the case may be, shall be taken, whether such sales or purchases are taxable or not, and

(b) the turnover shall include all sales and purchases made by a dealer on his own account and also on behalf of principals whether disclosed or not.

(7) Where by any order passed under this Act, it is found that any person registered as a dealer ought not to have been so registered, then, notwithstanding anything contained in this Act, such person shall be liable to pay tax for the period commencing with the date of his registration and ending with the date of such order, as if he were a dealer.

## **9. Levy Of Tax On Sale :-**

(1) The tax payable by a dealer liable to pay tax under section 8 shall be levied on his taxable turnover of sales.

(2) Taxable turnover of sales in relation to a dealer liable to pay tax on Sales of goods under sub-section (1) section 8 shall be part of the gross turnover of sales during any period which remains after deducting therefrom-

(a) sales of goods specified as exempt from tax in Schedule II.

(b) sales of goods which are shown to the satisfaction of the Commissioner to have taken place-

(i) in the course of inter-State trade or commerce, or (ii) outside Manipur,

(iii) in the course of the import of the goods into or export of the

goods out of the territory of India.

Explanation-

Section 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in sub-clause (i), sub-clause (ii) or sub-clause (iii).

(c) in case of turnover of sales in relation to work contract, the charges towards labour, services and other like charges and subject to such conditions as may be prescribed:

Provided that in the cases where the amount of charges towards labour, services and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated at the prescribed percentage

(d) such other sales on such conditions and restrictions as may be prescribed.

(3) Taxable turnover of sale in respect of "Motor Spirit (including aviation turbine fuel, aviation spirit and aviation gasoline) and Diesel Oil", shall be determined and calculated at the first point of sale at the rate or rates specified in Schedule-I.

## **10. Levy Of Tax On Purchases :-**

Every dealer who in the course of his business purchases any goods -

(i) from a registered dealer in the circumstances in which no tax under section 9 is payable by that registered dealer on the sale price of such goods, or

(ii) from any other person,

shall be liable to pay tax on the purchase price of such goods, if after such purchase, the goods are not sold within the State of Manipur or in the course of inter-State trade and commerce or in the course of export out of the territory of India, but are -

(a) sold or disposed of otherwise, or

(b) used or consumed in the manufacture of goods declared to be exempt from tax under this Act, or

(c) used or consumed in the manufacture of goods, such manufactured goods are disposed of otherwise than by way of sale in the State of Manipur or in the course of inter-State trade and commerce or export out of the territory of India; or

(d) used or consumed otherwise,

and such tax shall be levied at the same rate at which tax under

section 9 would have been levied on the sale of such goods within the State on the date of such purchase.

### **11. Levy Of Tax On Containers And Packing Material :-**

Where any goods packed in any container or packing material in which such goods are packed shall be deemed to have been sold or purchased along with the goods and the tax under section 9 or section 10 shall be levied on the sale or purchase of such container or packing material at the rate of tax, if any, applicable to the sale, or as the case may be, the purchase of the goods itself:

Provided that no tax under section 9 or section 10 shall be levied where the container or packing material is sold or purchased along with the goods declared as exempt from tax under this Act.

### **12. Rate Of Tax :-**

The tax payable by a dealer under this Act shall be levied on his taxable turnover at such rate not below the floor rate as specified in Schedule-1 and subject to such conditions as the Government may from time to time impose, but in no case it shall exceed 50%.

Provided that the tax payable in respect of work contract shall be levied at such rates as may be prescribed from time to time.

### **13. Exemptions :-**

The sale of goods as specified in Schedule-II shall be exempted from tax under this Act subject to conditions and exceptions set out therein.

### **14. Output Tax :-**

(1) Output tax in relation to a registered dealer means the tax payable under this Act in respect of any sale of goods by that dealer in the course of his business.

(2) Subject to the provisions of section 17, a dealer shall be liable to pay the output tax under this Act which shall be levied on the taxable turnover at the rates and subject to such conditions and restrictions as may be prescribed from time to time.

### **15. Input Tax :-**

Input tax in relation to a registered dealer means the tax charged under this Act by the selling dealer to such dealer on the sale to

him of any goods for resale or use in manufacturing or processing of goods for sale.

#### **16. Tax Payable :-**

(1) The net tax payable by a registered dealer for a tax period shall be the difference between the output tax plus purchase tax, if any, and the input tax, which can be determined from the following formula:

Net tax payable -  $(O+P)-I$

Where O denotes the output tax payable for any tax period as determined under section 14, P denotes the purchase tax paid by a registered dealer for any tax period as determined under section 10 and I denotes the input tax paid or payable for the said tax period as determined under section 15.

(2) The net tax payable by a dealer liable to pay tax but not registered under this Act for a tax period shall be equal to the output tax payable for the said tax period as determined under section 14.

(3) If the amount calculated under sub-section (1) is a negative quantum -

(a) the same shall be adjusted against the tax liability, if any, under the Central Sales Tax Act, 1956 at the option of the dealer for the said tax period and only the remaining amount of the Central Sales Tax shall be payable; or

(b) any amount of credit remaining after such adjustment shall be carried forward to the next tax period.

#### **17. Input Tax Credit :-**

(1) Subject to the provisions of this Act, for the purpose of calculating the net tax payable by a registered dealer for any tax period after being registered, an input tax credit as determined under this section shall be allowed to such registered dealer for the tax paid or payable in respect of all taxable sales or any other sales as may be prescribed, or purchases under section 10 during that period.

(2) The input tax credit to which the registered dealer is entitled to shall be the amount of tax paid by the registered dealer to the seller, on his turnover of purchases made during the tax period, intended to be used for the purposes and subject to the conditions as specified in sub-section (3), sub-section (4) and sub-section (5) and calculated in such manner as may be prescribed.



(3) Subject to such conditions and restrictions as may be prescribed, partial input tax credit maybe allowed in such cases as may be notified by the Government.

(4) Input tax credit shall be allowed for purchase of goods made within the State of Manipur from a registered dealer holding a valid certificate of registration and which are intended for the purpose of-

(a) sale or resale by him in the State of Manipur; or

(b) use as raw material or as capital goods in the manufacturing and processing of goods other than those exempt from tax under this Act intended for sale in the State of Manipur; or

(c) inter-States sales effected from the State of Manipur; or

(d) manufacture of goods, production, processing, assembling, treating, repairing, reconditioning, re-engineering, packaging in Special Economic Zone (SEZ) and SoftwareTechnology Park (STP); or

(e) for use as containers for packing of goods other than those exempt from tax under this Act for sale or resale in the State of Manipur:

Provided that if purchases are used partially for the purposes specified in this sub-section, input tax credit shall be allowed proportionate to the extent they are used for the purposes specified in this sub-section.

(5) Exports to be zero-rated:- A sale specified under section 5 of the Central Sales Tax Act 1956 (Act 74 of 1956) by a dealer or an Export Oriented Unit, shall be Zero-rated. In such cases there shall be no tax payable on the turnover of such sale and the person exporting the goods shall be entitled, in the manner prescribed, to a credit of input tax paid:

(i) on the purchase of the goods sold in the course of export, or

(ii) on the purchase of inputs and capital assets Which have been used for the manufacture of goods sold in the course of export.

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

Explanation.-For the purposes of this sub-section all sale of inputs made to dealers in a Special Economic Zone outside the Customs Territory of India shall also be Zero-rated.

(6) Notwithstanding anything contained in sub-section 17(5), sales of goods made to UNO or foreign diplomatic missions or consulates shall not be exempted:

Provided that the tax paid by such organisations/institutions on their purchases will be refunded in full in the manner prescribed.

(7) Input tax credit on capital goods shall be limited to plant and machinery directly connected with the manufacturing or processing of the finished products and input tax credit as admissible under this section shall commence from the date of commencement of commercial production and shall be adjusted against tax payable on output over a period of three years:

Provided that in case of closure of business before the period specified above, no further input tax credit shall be allowed and input tax credit carried forward, if any, shall be forfeited.

(8) Input tax credit shall not be claimed by the dealer until the tax period in which the dealer receives the tax invoice original containing the prescribed particulars of the sale evidencing the amount of input tax:

Provided that for good and sufficient reasons to be recorded in writing and in the prescribed manner the Commissioner may allow such credit subject to such conditions and restrictions as may be specified.

(9) A registered dealer who intends to claim input tax credit under sub-section (1) shall, for the purpose of determining the amount of input tax credit, maintain accounts, and such other records as may be prescribed in respect of the purchases and sales made by him in the State of Manipur.

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

(i) in respect of any taxable goods under this Act purchased by him from another registered dealer for resale but give away by way of free sample or gift;

(ii) who has been permitted by the Commissioner to make payment of presumptive tax at a percentage of the turnover of sales in lieu of tax as provided under section 21;

(iii) in respect of capital goods other than those directly used for manufacturing or processing of goods for sale;

(iv) in respect of goods brought from outside the State against the tax paid in other State;

(v) in respect of stock of goods remaining unsold at the time of closure of business;

(vi) in respect goods purchased on payment of tax, if such goods are not sold because of any theft;

(vii) where the tax invoice is -

(a) not available with the dealer, or

(b) there is evidence that the same has not been issued by the selling dealer from whom the goods are purported to have been

purchased;

(viii) in respect of goods purchased from a dealer whose certificate of registration has been suspended;

(ix) in respect of goods used for branch transfer of stock other than by way of sale outside the State of Manipur,

(x) in respect of sales exempt from tax as specified in Schedule-II; and

(xi) in respect of raw materials used in manufacture or processing of goods where the finished products are dispatched for branch transfer of stock other than by way of sales:

Provided that input tax credit may be allowed on the tax paid in excess of 4% on the raw materials used directly in the manufacture of the finished products.

(11) If the purchase of goods intended for sale or resale or use specified under sub-section (4) are not sold or resold or used because of theft loss or destruction for any reason or if the stock of such goods remains unsold at the time of closure of business but such goods are subsequently used, fully or partly, for purposes other than those specified under the said sub-section, the input tax credit availed at the time of such purchase shall be reduced from the subsequent input tax credit and the amount of reverse tax credit in respect thereof shall be calculated in a manner that is just and reasonable,

(12) The methods that are used by a registered dealer in a year to determine the extent to which goods are used, consumed or supplied or intended to be used, consumed or supplied, in the course of making taxable sales, shall be fair and reasonable in the circumstances. The Commissioner may, after giving sufficient reason in writing, reject the method adopted by the registered dealer and calculate the amount of input tax credit after giving the registered dealer concerned an opportunity of being heard.

(13) Where a dealer effects any sale of such goods whether within the State or in the course of inter-State trade or commerce, as are held in stock on 01-04-2005 but which had been purchased after 01-04-2004 after paying the tax under the Manipur Sales Tax Act 1990, he shall claim and be allowed input tax credit of such tax in the manner prescribed.

### **18. Input Tax Credit Exceeding Tax Liability :-**

(1) If the input tax credit of a registered dealer (other than an exporter selling goods outside the territory of India) determined

under section 17 of this Act for a period exceeds the tax liability for that period, the excess credit shall be set off against any outstanding tax, penalty or interest under this Act.

(2) The excess input tax credit after adjustment under sub-section (1) may be carried over as an input tax credit to the subsequent period or periods.

(3) In case where input tax credit is carried forward, a quarterly credit statement may be submitted by the dealer concerned and the claims may be reconciled accordingly.

### **19. Adjustment Of Input Tax Credit :-**

Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of sub-section (1) or (2) of section 23 or if he returns or rejects goods purchased in terms of sub-section (3) of section 23, as a consequence of which; the input tax credit availed by him in any period in respect of which the purchase of goods relates, becomes less or excess, he shall compensate such less credit or excess credit by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned subject to conditions as may be prescribed.

### **20. Burden Of Proof :-**

In respect of any sale or purchase effected by a dealer the burden of proving that he is liable to pay tax under section 9, section 10, section 11 or that he is eligible to input tax credit under section 17 shall be on him.

### **21. Levy Of Presumptive Tax On Registered Retailers :-**

All registered retailers whose gross turnover of sales does not exceed Rs. 2,00,000/-, subject to such conditions and restrictions as may be prescribed shall pay, in lieu of the tax as specified under section 9 or section 10, a tax at 4% of the entire taxable turnover of such sales and purchases subject to the condition that no input tax credit shall be available to such dealers:

Provided that payment of tax under this section shall not apply to a registered retail dealer who imports goods from outside the State for the purpose of carrying out his business:

Provided further that a registered retail dealer may, by exercising option in the prescribed manner, elect to pay tax as specified under

section 9 or section 10 of this Act in lieu of the provisions of this section.

## **22. Power Of Government To Amend Schedules :-**

The Government, after giving by notification not less than 14 days notice of the intention to do so, may, by like notification, add to, amend or alter any Schedule appended to this Act.

## **23. Credit Note And Debit Note :-**

(1) Where a tax invoice has been issued and the amount shown as tax charged in the tax invoice exceeds the tax payable under this Act in respect of that sale the registered dealer making the sale shall provide the purchaser with a credit note containing the requisite particulars as may be prescribed.

(2) Where the tax invoice has been issued and the tax payable under this Act in respect of the sales exceeds the amount of tax charged in that tax invoice the registered dealer making the sale shall provide the purchaser with a debit note containing the requisite particulars as may be prescribed.

(3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the purchaser to the selling dealer containing the particulars as may be prescribed.

### CHAPTER 4

### REGISTRATION OF DEALERS, AMENDMENT AND CANCELLATION OF REGISTRATION CERTIFICATES

## **24. Compulsory Registration Of Dealers :-**

(1) No dealer shall, while being liable to pay tax, carry on business as a dealer unless he has been registered and possesses a certificate of registration:

Provided that a dealer liable to pay tax shall be allowed two months time from the date from which he is first liable to pay such tax to get himself registered.

(2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority and such application shall be accompanied by a declaration in the prescribed form duly filled in and signed by the dealer specifying therein the class or classes of goods dealt in or manufactured by him.

(3) If the said authority is satisfied that an application for

registration is in order, he shall, in accordance with such manner, grant registration to the applicant and issue a certificate of registration in the prescribed form which shall specify the class or classes of goods dealt in or manufactured by him.

(4) Where the application for registration is made under this section, the prescribed authority shall grant him the certificate of registration from the date of filing such application:

Provided that the prescribed authority shall grant to such dealer the certificate of registration from the date of commencement of his liability to pay tax where the application for registration is made within thirty days of such date.

(5) The prescribed authority may, from time to time, amend any certificate of registration in accordance with information furnished or otherwise received, and such amendment may be made with retrospective effect in such circumstances and subject to such restrictions and conditions as may be prescribed.

(6) When-

(a) any business in respect of which a certificate of registration has been granted to a dealer on an application made, has been discontinued; or

(b) a dealer has ceased to be liable to pay tax; or

(c) an incorporated body is closed down or if it otherwise ceases to exist; or

(d) the owner of an ownership business dies leaving no successor to carry on business; or

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

(f) a person or dealer is registered by mistake; or

(g) a dealer fails to furnish return and pay tax and interest according to such return or returns within the time extended;

the prescribed authority shall cancel the registration of such dealer.

(7) The cancellation of registration will take effect from the end of the period in which it is cancelled unless it is to take effect from a different date as ordered by the prescribed authority.

(8) When any dealer to whom a certificate of registration is granted, has failed to pay any tax, penalty or interest payable under this Act or has failed to furnish return, the certificate of registration of such dealer may be suspended by the appropriate Assessing Authority in the manner as may be prescribed:

Provided that the certificate of registration of a dealer shall not be suspended if he has furnished return or returns within the date prescribed in the notice and has paid tax, penalty or interest payable under this Act by such date, as the Commissioner may

extend upon an application filed by the dealer within 15 days from the date by which he is required to file such return or returns or make payments of tax, interest or penalty, as the case may be.

(9) Suspension of certificate of registration will be withdrawn and registration certificate shall be restored on an application made by the dealer on furnishing evidence of payment of all taxes and on furnishing of overdue return or returns within 45 days from the date of suspension.

(10) If certificate of registration of a dealer is suspended or if the suspension is withdrawn, the information will be made public through publication in Official Gazette and insertion of notice in newspapers.

## **25. Voluntary Registration Of Dealers :-**

(1) Any dealer, whose gross turnover of sales during a period of twelve consecutive months exceeds Rs. 50,000/-, may notwithstanding that he is not liable to pay tax, apply in the prescribed manner to the prescribed authority for registration under this Act.

(2) Every dealer who has been registered on application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.

(3) The registration of a dealer on application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

(4) Subject to the provisions of sub-section (3), a dealer registered on application made under this section may apply in the prescribed manner, not less than six months before the end of a year, to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made, and the said authority shall, unless the dealer is liable to pay tax under this Act cancel the registration accordingly.

When the gross turnover of sales of any dealer registered on application made under this section has, for three successive years after the period of three years referred to in sub-section (3), failed to exceed the taxable quantum, the prescribed authority may, after giving the dealer a reasonable opportunity of being heard, cancel registration of such dealer.

## **26. Security To Be Furnished In Certain Cases :-**

(1) The Commissioner may, at the time of grant of certificate to a dealer, for good and sufficient reasons to be recorded in writing, require the dealer to furnish in the prescribed manner such security or such additional security as may be specified by him for securing proper and timely payment of tax or any other sum payable by him under this Act.

(2) The Commissioner may, by order in writing and for good or sufficient reason to be recorded therein, demand from any person other than a registered dealer who imports into Manipur any consignment of goods, a reasonable security for ensuring that there is no evasion of tax.

(3) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, forfeit the whole or any part of the security or additional security referred to in sub-section (1) furnished by a registered dealer or sub-section (2) furnished by any person, for -

(a) realising or recovery of tax or any other sum due, or

(b) recovery of any financial loss caused to the Government due to negligence or default in not making proper use of or not keeping in safe custody, blanker unused prescribed forms.

(4) Where the security furnished by a dealer, is forfeited in whole or is rendered insufficient, such dealer shall, on demand by order of the Commissioner, furnish fresh or further security of the requisite amount or shall make up the deficiency, as the case may be, in such manner and within such period as may be specified by the Commissioner.

(5) The Commissioner may, on application by a dealer, who has furnished security as required, refund in the prescribed manner any amount of security or part thereof if such security is not required for the purposes for which it was furnished.

(6) Security shall be furnished by a dealer, in such manner and by such time as may be specified in the order requiring or demanding to furnish such security.

(7) No order shall be passed under this section without giving the dealer an opportunity of being heard.

## **27. Imposition Of Penalty For Failure To Get Registered :-**

(1) If a dealer, who is required to get himself registered within two months from the date from which he is first liable to pay tax, fails to get himself so registered, the prescribed authority may, after



giving the dealer an opportunity of being heard, by order impose by way of penalty a sum, not less than five thousand rupees and not exceeding ten thousand rupees, for each month of default:

Provided that no penalty shall be imposed under this sub-section in respect of the same fact for which a prosecution has been instituted and no such prosecution shall lie in respect of a fact for which a penalty has been imposed under this section.

(2) If any penalty imposed under sub-section (1), the prescribed authority shall issue a notice in the prescribed form directing the dealer to pay such penalty by such date as may be specified in the notice, and the date to be specified shall not be less than fifteen days from the date of service of such notice and the penalty so imposed shall be paid by the dealer into a Government Treasury or Scheduled Bank by the date so prescribed:

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the date of such payment as specified in the notice in this behalf or allow such dealer to pay the penalty imposed in such number of instalments as he may determine.

#### CHAPTER 5

#### RETURNS, ASSESSMENT, RECOVERY AND REFUND OF TAX

### **28. Periodical Returns And Payment Of Tax :-**

(1) Every registered dealer shall furnish return in such form for such period, by such dates and to such authority, as may be prescribed:

Provided that the Commissioner may, subject to such conditions and restrictions as may be prescribed, exempt any such dealer or class of dealers from furnishing such returns or permit any such dealer-

(a) to furnish them for such different periods; or

(b) to furnish a consolidated return relating to all or any of the places of business of the dealer in the State of Manipur for the said period or for such different periods and to such authority, as he may direct.

(2) If the Commissioner has reason to believe that the turnover of sales or the turnover of purchases of any dealer is likely to exceed or has exceeded the taxable limit as specified in sub-section (5) of section 8, he may, by notice served in the prescribed manner, require such dealer to furnish return as if he were a registered dealer but no tax shall be payable by him unless his gross turnover exceeds the taxable limits provided under sub-section (5) of section

8.

(3) If any dealer having furnished returns under sub-section (1) or sub-section (2), discovers any omission or any other error in the return so filed, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return relating to the tax period.

(4) Every dealer required to file return under sub-section (1) or sub-section (2), shall pay the full amount of tax payable according to the return or the differential tax payable according to the revised return furnished, if any into the Government Treasury or in such other manner as may be prescribed, and shall furnish a receipt showing full payment of such amount along with the return or revised return, as the case may be.

(5) Every return under this section shall be signed and verified -

(a) in case of an individual, by the individual himself, and where the individual is absent by some person duly authorised by him in this behalf;

(b) in the case of a Hindu Undivided Family, by the Karta;

(c) in the case of a company or local authority, by the Principal Officer or Chief Executive Officer thereof;

(d) in the case of a firm, by any partner thereof not being a minor;

(e) in the case of any other association, by the person competent to act on behalf of the association.

Explanation:

For this purpose the expression "Principal Officer" shall have the meaning assigned to it under clause (35) of section 2 of the Income Tax Act, 1961.

(6) Notwithstanding anything contained in this section, the government may provide by notification that, subject to such conditions as may be specified in the notification, the tax payable under this Act in respect of any sales or class of sales or either transaction shall be deducted at source and deposited by the person to whom the sale has been made in such manner as may be laid down in the notification.

## **29. Return Defaults :-**

(1) If a dealer required to file return under sub-section (1) or sub-section (2) of section 28-

(a) fails without sufficient cause to pay the amount of tax due as per the return for any tax period; or

(b) furnishes a revised return under- sub-section (3) of section 28

showing a higher amount of tax to be due than was shown by him in the original return; or

(c) fails to furnish return;

such dealer shall be liable to pay interest in respect of-

(a) the tax payable by him according to the return; or

(b) the difference of the amount of tax according to the revised return; or

(c) the tax payable for the period for which he has failed to furnish return;

at the rate of 2% per month from the date the tax payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier.

(2) "month" shall mean thirty days and the interest payable in respect of a period of less than one month shall be computed proportionately.

(3) If a registered dealer, without sufficient cause, fails to pay the amount of tax due and interest along with return or revised return in accordance with the provisions of sub-section (1), the Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay in addition to the tax and the interest payable by him a penalty, at the rate of 2% per month on the tax and interest so payable from the date it had become due to the date of its payment or to the date of order of assessment, whichever is earlier.

(4) If a registered dealer or any other dealer required to furnish return under sub-section (2) of section 28; without any sufficient cause-

(a) fails to comply with the requirements of the notice issued under sub-section (2) of section 28; or/

(b) fails to furnish any return by the prescribed date as required under sub-section (2) of section 28; or

(c) being required to furnish revised return, fails to furnish the revised return by the date prescribed under sub-section (3) of section 28; or

(d) having paid the tax payable according to a return in time, fails to furnish proof of payment made along with the return in accordance with sub-section 28;

the Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay in addition to any tax, interest and penalty under sub-section (3) payable or paid by him, a penalty of a sum of rupees one hundred per day of default subject to a maximum of rupees ten thousand.

(5) Any penalty imposed under this section shall be without prejudice to any prosecution for any offence under this Act.

(6) For the purposes of this Act, any return signed by a person who is not authorised under sub-section (5) of section 28 shall be treated as if no return has been filed.

### **30. Collection Of Tax Only By Registered Dealers :-**

(1) No person who is not a registered dealer shall collect in respect of any sale of goods by him in the State any amount by way of tax under this Act and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the Rules made thereunder and not beyond the rate specified.

(2) Notwithstanding anything contained in sub-section (1), a registered dealer who has been permitted by the Commissioner to pay presumptive tax under section 21 shall not collect any sum by way of tax on the sale of goods during the period to which such payment relates.

### **31. Rounding Off Of The Amount Of Tax Or Penalty :-**

The amount of tax or penalty payable or refundable for any period 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, then, if such part is fifty paise or more, it shall be increased to one rupee and, if such part is less than fifty paise, it shall be ignored.

### **32. Scrutiny Of Returns :-**

(1) Each and every return in relation to any tax period furnished by a registered dealer to whom notice has been issued by the Commissioner under section 28 shall be subject to scrutiny by the Assessing Authority to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein, and full payment of tax and interest payable by the dealer during such period,

(2) If any mistake is detected as a result of such scrutiny made as per the provisions of sub-section (1) the Assessing Authority shall serve a notice in the prescribed form on the dealer to make payment of the extra amount of tax along with the interest as per the provisions of this Act, if it is payable by a date specified in the said notice.

### **33. Tax Audit :-**

(1) The Commissioner or any other tax officer as directed by him shall undertake tax audit of the records, stock in trade and the related documents of the dealer, who are selected by the Commissioner in the manner as may be prescribed for the purpose.

(2) The tax audit shall be generally taken up in the office, business premises or warehouse of the dealer.

(3) For the purpose of tax audit under sub-section (1) the Commissioner or any other Tax Officer directed by him shall examine the correctness of return or returns filed and admissibility of various claims including input tax credit.

### **34. Self Assessment :-**

(1) Subject to provisions of sub-section (2), the amount of tax due from a registered dealer or a dealer liable to be registered under this Act shall be assessed in the manner hereinafter provided for each tax period or tax periods during which the dealer is so liable.

(2) Notwithstanding anything contained in this section, if a registered dealer has failed to furnish return or returns under sub-section (1) of section 28 in respect of any tax period or periods, the Commissioner shall proceed to make provisional assessment under section 35,

(3) If a registered dealer has filed the return in respect of any tax period within the prescribed time and the return so filed is found to be in order, it shall be accepted as self assessment subject to adjustment of any arithmetical error apparent on the face of the said return.

### **35. Provisional Assessment :-**

(1) Where a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the Commissioner shall, notwithstanding anything contained in section 36, proceed to assess the dealer provisionally for the period for such default.

(2) The provisional assessment under sub-section (1) shall be made on the basis of past return, or past records where no such returns are available, or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such manner and by such date as may be prescribed.

(3) If the dealer furnishes return along with evidence showing full

payment of tax, interest and penalty, if any, on or before the date of payment specified under sub-section (2), the provisional assessment made under sub-section (1) shall stand revoked to the extent of the tax demanded, interest levied and penalty imposed, on the date on which such return is filed by the dealer.

(4) Nothing contained in this section shall prevent the Commissioner from making assessment under section 36 and any tax, interest or penalty paid against provisional assessment shall be adjusted against tax, interest and penalty payable on final assessment under that section.

### **36. Audit Assessment :-**

(1) Where-

(a) a registered dealer has failed to furnish any return under subsection (1) of section 28 in respect of any period; or

(b) a registered dealer is selected for audit assessment by the Commissioner on the basis of any criteria or on random basis; or

(c) the Commissioner is not satisfied with the correctness of any return filed under section 28, or bona fides of any claim of exemption, deduction, concession, input tax credit or genuineness of any declaration, evidence furnished by a registered dealer in support thereof; or

(d) the Commissioner has reasons to believe that detailed scrutiny of the case is necessary;

the Commissioner may, notwithstanding the fact that the dealer may already have been assessed under section 35, serve on such dealer in the prescribed manner a notice requiring him to appear on a date and place specified therein, which may be in the business premises or at a place specified in the notice, to either attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns including tax invoice, if any, or to produce such evidence as specified in the notice.

(2) The dealer shall provide full cooperation and assistance to the Commissioner to conduct the proceedings under this section at his business premises.

(3) if proceedings under this section are to be conducted at the business premises of the dealer and it is found that the dealer or his authorised representative is not available or not functioning in such premises, the Commissioner shall assess to the best of his judgement the amount of tax due from him.

(4) If the Commissioner is prevented from conducting the proceedings under this section, the Commissioner may demand, a sum equal to the amount of tax so assessed, by way of penalty,

(5) The Commissioner shall, after considering all the evidence produced in course of the proceedings or collected by him either-

(a) confirm the order of assessment passed under section 34; or

(b) set aside the order of assessment passed under section 34 and assess the amount of tax due from the dealer; or

(c) assess the amount of tax due from the dealer, if no assessment has been made under section 35;

Provided that if the Commissioner proposes to rely on any evidence collected by him, the dealer shall be afforded an opportunity of being heard before any adverse inference is drawn.

(6) If any dealer-

(a) has not furnished returns in respect of any period by the prescribed date; or

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

(c) has failed to comply with any notice under sub-section (1) or sub-section (3); or

(d) has failed to maintain accounts in accordance with the provisions of this Act or has not regularly employed any method of accounting;

the Commissioner shall assess to the best of his judgement the amount of tax due from such dealer,

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

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

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

(c) has availed tax credit to which he is not entitled to; or

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

he shall, after giving the dealer reasonable opportunity of being heard, direct that the dealer shall pay, by way of penalty a sum equal to twice the amount of additional tax assessed on account of the said reasons under this section.

### **37. Assessment Of Dealers Who Fails To Get Himself Registered :-**

(1) If the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act, in respect of any period, has failed to get himself registered, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment he shall give the dealer reasonable opportunity of being heard.

(2) The Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed, or a sum of rupees ten thousand whichever is more.

### **38. No Assessment After Five Year :-**

(1) No assessment under section 35 or 36 shall be made after the expiry of five years from the end of the tax period to which the assessment relates:

Provided that in case of offence under this Act for which proceeding for prosecution has been initiated, the limitation as specified in this sub-section shall not apply.

(2) Any assessment made or penalty imposed under this Chapter shall be without prejudice to prosecution for any offence under this Act.

### **39. Turnover Escaping Assessment :-**

(1) Where after a dealer is assessed under section 34 or section 35 for any year or part thereof, the Commissioner has reason to believe that the whole or any part of the turnover of the dealer in respect of any period has -

(a) escaped assessment; or

(b) been under-assessed; or

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

(d) been wrongly allowed any deduction there from; or

(e) been wrongly allowed any credit therein;

the Commissioner may, serve a notice on the dealer and after giving the dealer reasonable opportunity of being heard and making such enquiries as he considers necessary, proceed to assess to the best of his judgement, the amount of tax due from the dealer in respect of such turnover, and the provisions of this Act



shall, so far as may be, apply accordingly.

(2) No order of assessment and reassessment shall be made under sub-section (1) after the expiry of five years from the end of the year in respect of which or part of which the tax is assessable.

#### **40. Exclusion Of Time Period For Assessment :-**

In computing the period of limitation specified for assessment or reassessment, as the case may be, the time during which any assessment or reassessment proceeding remained stayed under the order of a competent court shall be excluded.

#### **41. Power Of Reassessment In Certain Cases :-**

(1) Where any order passed by the Commissioner in respect of a dealer for any period is found to be erroneous or prejudicial to the interest of revenue in the light of any judgement or order of any Court or Tribunal, which has become final, then notwithstanding anything contained in this Act, the Commissioner may proceed to reassess the tax payable by the dealer in accordance with such judgement or order, at any time within a period of three years from the date of the judgement or, order.

(2) Where any Court or Tribunal passes an order in appeal or revision to the effect that any tax assessed under this Act or the Central Sales Tax Act, 1956 should have been assessed under the provision of a law other than that under which it was assessed, then in consequence of such order or finding or direction contained in such order, such turnover and part thereof, may be assessed or reassessed, as the case may be, to a tax at any time within five years from the date of such order, notwithstanding any limitation period which would otherwise be applicable to, the assessment or reassessment made.

#### **42. Payment And Recovery Of Tax, Penalty And Interest :-**

(1) Tax shall be paid in the manner herein provided and at such intervals as may be prescribed.

(2) A registered dealer furnishing returns under sub-section (1) of section 28 shall pay into Government treasury, in such manner and at such interval as may be prescribed, the amount of tax due from him for the period covered under the return along with the amount of penalty or interest or both payable by him under section 28 and shall furnish a receipt from the Treasury showing the payment of

such amount.

(3) A registered dealer furnishing a revised return in accordance with the sub-section (3) of section 28, which shows that a greater amount of tax is due than was paid or payable in accordance with the original return, shall furnish along with the return a receipt showing payment of the differential amount in the manner provided in sub-section (2).

(4) The amount of tax due shall be deemed as follows :-

(a) (i) where returns have been filed without full payment of tax due; or

(ii) tax-assessed under section 34, section 35 and section 36 less, the sum already paid in respect of such period together with interest, if any required to be paid and this penalty, if any, imposed to be paid under sub-section (7) of section 36 or sub-section (1) of section 37;

(b) the amount of penalty imposed under any provision of this Act not covered under sub-clause (ii) of clause (a); or

(c) any other dues under this Act.

(5) Where a dealer fails to make payment of the tax assessed or interest levied or penalty imposed on him or any other amount due from him under this Act within thirty days of the date of service of the notice of demand, the Commissioner shall, after giving the dealer reasonable opportunity of being heard, direct that such dealer shall, in addition to the amount due, pay, by way of penalty, a sum equal to 2% of such amount of tax, penalty, interest or any other amount due, for every month, for the period for which payment has been delayed by him after the date on which such amount was due to be paid.

(6) The amount that remains unpaid after the due date of payment in pursuance of the notice issued under sub-section (5) shall be recovered as arrears of land revenue.

(7) Where in pursuance of sub-section (6), any proceedings for the recovery as an arrears of land revenue of any tax, penalty, interest or part thereof or any other amount remaining unpaid, have been commenced and the amount of tax, penalty, interest or any other amount is subsequently enhanced or reduced as a result of any assessment made or order passed in the appeal, revision or rectification under this Act, the Commissioner may, in such manner and within such period as may be prescribed, inform the dealer and the authority by whom or under whose order the recovery is to be made and thereupon such proceeding may be continued as if the amount of tax, penalty, interest or any other amount as modified,

enhanced or reduced, had been substituted for the tax, penalty, interest or any other amount which was to be covered under sub-section (6).

### **43. Special Mode Of Recovery :-**

(1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last known address) require any person who holds or may subsequently hold any money for, or on account of such dealer, to pay into Government Treasury in the manner specified in the notice, either forthwith or upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount of tax due from the dealer or penalty or both, as the case may be, under this Act, or the whole of the money when it is less than that amount.

(2) The notice under sub-section (1) may, from time to time, be amended or revoked by a further notice by the Commissioner who may also extend the time for making such payment in pursuance of the notice.

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

(4) Any person discharging liability to the dealer after service on him the notice issued under sub-section (1) shall, if the liability is discharged in any manner other than that required under the said notice, be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer for tax or penalty, or both, whichever is less.

(5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the Commissioner that the money demanded or any part thereof was not due to the dealer, or that he did not hold any money for or on account of the dealer, at the time the notice was served on him, or that the money demanded or any part thereof is not likely to become due to the dealer or be held for or on account of the dealer, then such person shall not be liable to pay into Government Treasury any such money or part thereof.

(6) Any amount of money which a person is required to pay under subsection (1) or for which he is personally liable under sub-section (4) shall, if it remains unpaid, be recoverable in the same manner as provided under sub-section (6) of section 42:

Provided that nothing in this section shall operate to affect any action taken or prevent any action that may be or is being taken under section 42 for recovery of the amount due from the dealer.

#### **44. Collection Of Tax By Dealer :-**

(1) If any person,--

(a) not being a dealer liable to pay tax under this Act, collects any sum by way of tax; or

(b) being a registered dealer, collects any amount by way of tax in excess of the tax payable by him;

shall be liable, in addition to the tax for which he may be liable, to a penalty of an amount equal to twice the sum so collected by way of tax.

(2) If the Commissioner in the course of any proceeding under this Act or otherwise has reason to believe that any person has become liable to a penalty, or forfeiture, or both, under sub-section (1), he shall serve on such person a notice in the prescribed form requiring him to appear and show cause as to why a penalty or forfeiture or both of any sum as provided under sub-section (1) should not be imposed on him.

(3) The Commissioner shall thereupon hold an inquiry as he deems necessary and shall make such order as he deems fit.

#### **45. Sales Not Liable To Tax :-**

(1) Notwithstanding anything contained in this Act, a Value Added Tax shall not be imposed under this Act

(i) where such sale or purchase takes place outside the State of Manipur; or

(ii) where such sale, or purchase takes place in the course of interstate trade and commerce; or

(iii) where such sale or purchase takes place in the course of import of goods into the territory of India or export of goods out of the territory of India.

(2) For the purpose of this section whether a sale or purchase takes place -

(i) outside the State of Manipur; or

(ii) in the course of inter-state trade and commerce; or

(iii) in the course of import of goods into the territory, of India or export of goods out of the territory of India, shall be determined in accordance with the provisions of section 3, section 4, and section 5 of the Central Sales Tax Act, 1956.

#### **46. Tax To Be First Charge On Property :-**

Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a dealer under this Act on account of tax; penalty or interest or any amount which a person is required to pay under this Act shall be a first charge on the property of the dealer or such person.

#### **47. Period Of Limitation For Recovery Of Tax :-**

Notwithstanding anything contained in any law for the time being in force, no proceeding for recovery of any amount under subsection (1)(b) of section 44 shall be initiated after the expiry of five years from the date of the relevant assessment:

Provided that when an appeal or revision has been filed, the period of limitation shall run from the date on which the amount due is finally determined.

#### **48. Refund :-**

(1) Subject to other provisions of this Act and the Rules made thereunder, the Commissioner shall refund to a dealer the amount of tax, penalty and interest if any paid by such dealer in excess of the amount due from him.

(2) Where any refund is due to any dealer according to return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due or tax payable as per the returns filed under section 28 for any subsequent period in the year:

Provided that, the amount of tax or penalty, interest or sum forfeited or all of them due from, and payable by the dealer on the date of such adjustment shall first be deducted from such refund before adjustment.

#### **49. Provisional Refund :-**

(1) If a registered dealer has filed any return as required under this Act and the return shows any amount to be refund. (sic) to the dealer on account of sales in course of export out of the territory of

India, then the dealer may apply in the manner and form prescribed to the Commissioner for grant of provisional refund pending audit and investigation to establish the correctness of the claim and consequent assessment, if any.

(2) Subject to the provisions of sub-section (3), the Commissioner may require the dealer to furnish a Bank Guarantee or other security as may be prescribed for an amount equal to the amount of refund and on receipt of such guarantee or other security, the Commissioner shall grant the dealer a provisional refund that may be determined as refundable.

(3) the Commissioner may direct the assessment under section 39 of such dealer in respect of the year containing the period covered by the said return to be taken up as early as practicable and adjust the grant of provisional refund against tax due, if any, as a result of that assessment.

(4) If, on assessment, the provisional refund granted under sub-section (2) is found to be in excess, then the excess shall be recovered as if it is tax due from the dealer under this Act,

(5) Interest will be charged on such excess refund amount at the rate of 2% per month from the date of grant of provisional refund till the date of assessment.

## **50. Interest :-**

(1) A registered dealer entitled to refund in pursuance of any order under this Act (including assessment under section 34, section 35 or section 36) or in pursuance of any order by any Court, shall be entitled to receive, in addition to the refund, simple interest at the rate of 8% per annum for the period commencing after 90 (ninety) days of the application claiming refund in pursuance to such order till the date on which the refund is granted.

(2) The interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Act.

(3) If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced such interest shall be enhanced or reduced accordingly.

(4) When a dealer is in default or is deemed to be in default in making the payment under section 34, section 35 and section 36 be liable to pay simple interest on such amount at the rate of two percent per month from the date of such default for so long as he continues to make default in the payment of the said tax.

(5) Where as a result of any final order the amount of tax (including any penalty) due or in default is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is modified, the interest due shall be calculated accordingly.

(6) Where any amount of tax payable is enhanced by any such order, interest shall be payable on the amount by which the tax is enhanced after the expiry of a period of three months from the date of the order.

(7) Where the realisation of any amount remains stayed by the order of any court or authority and such order is subsequently vacated, interest shall be payable also for any period during which such order remained in operation.

(8) The interest payable under this Act shall be deemed to be tax due under this Act.

### **51. Power To Withhold Refund In Certain Cases :-**

(1) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and Commissioner is of the opinion that the grant of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner may withhold the refund till such time as he may determine.

(2) Where a refund is withheld under sub-section (1) the dealer shall be entitled to interest as provided under sub-section (1) of section 50 if as a result of the appeal or further proceeding or any other proceeding he becomes entitled to the refund.

### **52. Exemption Of Certain Sales And Purchases :-**

(1) Subject to such conditions as it may impose, the Government may, if it is necessary so to do in the public interest, by notification in the Official Gazette, exempt any sales or purchases made to or by a class of dealers or persons specified in the said notification from payment of the whole or any part of any tax payable under the provisions of this Act and any notification issued under this section may be issued so as to be retrospective to any date not earlier than the 1st April, 2004 and such exemption shall take effect from the date of the publication of the notification in the Official Gazette or such other earlier or later date as may be mentioned therein.

(2) Where any dealer or person has purchased any goods under a declaration or certificate given by him under any notification issued under this section and -

(a) any of the conditions subject to which such exemption was granted, or

(b) any of the recitals or the conditions of the declaration or certificate, are not complied with for any reason whatsoever, then without prejudice to the other provisions of this Act, such dealer or person shall be liable to pay tax on the sale price of the goods at the rate set out against each of such goods in the Schedule notwithstanding that such dealer or person was not liable to pay tax under any other provisions of this Act and accordingly the dealer or the person who has become liable to pay tax under this sub-section shall file a return in the prescribed form to the prescribed authority within a prescribed time and shall include the sale price of such turnover in his return, and pay the tax in the prescribed manner. The tax due from any such dealer or person shall be assessed and recovered as if the person or dealer is a dealer liable to be proceeded against under the provisions of this Act.

(3) If the Commissioner has reason to believe that any person or dealer is liable to pay tax under sub-section (2), the Commissioner shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.

### **53. Composition Of Tax :-**

(1) The Government may by a notification published in the Official Gazette provide for a scheme of composition subject to such conditions and restrictions as may be provided therein, of tax payable by those dealers who are engaged in the business of selling at retail any goods or merchandise.

(2) For the purpose of this section a dealer will be considered to be engaged in the business of selling at retail if 9/10th of his turnover of sales consists of sales made to persons who are not dealers and if any question arises, as to whether any particular dealer is a retailer, then the officer in charge of the case shall refer the question to the Deputy Commissioner who shall, after hearing the dealer if necessary, decide the question.

(3) Nothing in this section will apply to a dealer who is a manufacturer or who is an importer or who has purchased any goods from a registered dealer whose sales of the said goods are



not liable to tax under the provisions of this Act.

## CHAPTER 6

### ACCOUNTS AND RECORDS

#### **54. Maintenance Of Accounts And Records Etc :-**

(1) Every registered dealer or a dealer to whom a notice has been served to furnish return under sub-section (2) of section 28 shall maintain a true and up to date account of the value of goods purchased or manufactured and sold by him or goods held by him in stock, and, in addition to the books of account that a dealer maintains and keeps for the purpose referred to in this sub-section, he shall maintain and keep such registers and accounts in such form in the manner prescribed.

(2) Every registered dealer or dealer referred to in sub-section (1) shall keep at his place of business all accounts, registers and documents maintained in the course of business.

(3) Where a dealer as referred to in sub-section (1) has established branch offices of the business in the State other than the principal place of business, the relevant accounts, registers and documents in respect of each such branch shall, without prejudice to the provisions of subsection (5), be kept by him at such branch.

(4) If the Commissioner is of the opinion that the accounts maintained by any dealer or class of dealers do not sufficiently enable him to verify the returns referred to in sub-section (1) of section 28 or the assessment can not be made on the basis thereof, he may by an order, require such dealer or class of dealers, to keep such accounts, in such form and in such manner as he may, subject to rules made under this Act, direct.

(5) If the Commissioner is satisfied that any dealer is not in a position to maintain accounts in accordance with the provisions of sub-section (1), he may, for reasons to be recorded in writing, exempt such dealer from the operation of the provisions of the said sub-section.

#### **55. Tax Invoice :-**

(1) Every registered dealer making a taxable sale to another dealer, whether registered or not, shall provide that purchaser at the time of sale with a tax invoice containing such particulars as specified in sub-section (4), and retain a copy thereof.

(2) The tax invoice shall not be issued by a dealer in the following circumstances

- (a) a retail registered dealer is paying presumptive tax in lieu of Value Added Sales Tax; or
- (b) the sale in the course of export out of the territory of India; or
- (c) the sale in the course of inter-State trade and commerce; or
- (d) the sale of goods exempt from tax.

(3) Not more than one tax invoice shall be issued for each taxable sale.

(4) The tax invoice issued under sub-section (1) shall contain the following particulars on the original as well as copies thereof-

- (a) the words Tax Invoice in bold letter at the top of any prominent place;
- (b) the name, address and registration certificate number of the selling registered dealer;
- (c) the name, address and registration certificate number of the purchasing registered dealer;
- (d) an individual serialised number and the date on which the tax invoice is issued;
- (e) description, quantity, volume and value of goods sold and amount of tax charged thereon indicated separately;
- (f) signature of the selling dealer or his manager or agent, duly authorised by him;
- (g) the name and address of the printer, and first and last serial number of tax invoices printed and supplied by him to the dealer.

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

(6) The retail invoice shall contain the following particulars on the original as well as copies thereof

- (a) the words "Retail Invoice" in bold letters at the top of a prominent place;
- (b) the name, address and registration certificate number of the selling registered dealer;
- (c) in case the sale in course of export out of the territory of India, the name, address and registration number, if any, of the purchasing dealer/foreign buyer and the type of statutory form, if any, against which the sale has been made;
- (d) an individual serialised number and the date on which the retail invoice is issued;
- (e) description, quantity, volume and value of goods sold inclusive of tax charged there on;

- (f) signature of the selling dealer or his manager or agent, duly authorised by him;
- (g) the name and address of the printer and first and last serial number of retail invoices printed and supplied by him to the dealer.
- (7) Tax invoice shall be issued in triplicate. The original and the first copy shall be issued to the purchaser or the person taking delivery of the goods, as the case may be, and the second copy shall be retained by the selling dealer.
- (8) Retail invoice shall be issued in duplicate. The original shall be issued to the purchaser and the duplicate copy shall be retained by the selling dealer.
- (9) Every dealer referred to in sub-section (1) shall preserve books of account including tax invoices and retail invoices until the expiry of five years after the end of the year to which they relate or for such other period as may be prescribed or until the assessment reaches its finality whichever is later.
- (10) Where such dealer is party to any appeal, or revision under this Act he shall retain, until the appeal or revision is finally disposed of, every record and accounts that pertain to the subject matter of the appeal or revision.

#### **56. Electronic Record :-**

Every dealer who maintains the records electronically shall retain them in electronically readable format for the period specified in section 55.

#### **57. Requirement To Provide Information :-**

Notwithstanding anything contrary to the provisions of this Act, the Commissioner may, for any purpose related to the administration or enforcement of the provisions of this Act, by notice, require any person to provide within such reasonable time as is stipulated in the notice, any information or additional information including a return under this Act, or any document including electronic records.

#### **58. Audit Of Accounts :-**

(1) Where in any particular year, the gross turnover of a dealer exceeds Rs. 20,00,000/- or such other amount as the Commissioner may, by a notification in the Official Gazette specify, then such dealer shall get his accounts, in respect of that year audited by an accountant within six months from the end of that year and obtain

a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

(2) A true copy of such report shall be furnished by such dealer to the Commissioner by the end of the month after expiry of the period of six months during which the audit would have been completed.

(3) If any dealer liable to get his accounts audited under sub-section (1) fails to get his accounts audited and furnish a true copy of the audit report within the time specified in sub-section (2), the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to 0.1 % of the turnover as he may determine to the best of his judgment in respect of the said period.

Explanation:

For the purpose of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountant Act, 1949 and includes a person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of Companies registered under the said Act.

### **59. Dealer To Declare The Name Of His Business Manager :-**

(1) Every dealer, who is liable to pay tax, and who is a Hindu Undivided Family or an association of persons, club or society, firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed, furnish a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be manager or managers of such dealers business for the purposes of this Act.

(2) Such declaration shall be furnished at the time of registration, wherever applicable and shall be revised from time to time.

(3) The statement furnished under this sub-section shall also contain the name and address with designation in relation to the business of such persons who are authorized to receive notice and other documents under this Act and such receipt of notice and other documents shall be binding on the dealer.

### **CHAPTER 7**

### **LIABILITY IN SPECIAL CASES**

## **60. Liability To Pay Tax In Case Of Death, Partition, Dissolution, Transfer, Etc :-**

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

(a) if the business carried on by the dealer is continued after his death by his legal representative or any person, such legal representative or other person shall be liable to pay tax including any penalty, sum forfeited and interest due from such dealer under this Act or under any earlier law, in the like manner and to the same extent as the deceased dealer, and

(b) if the business carried on by the dealer is discontinued whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased dealer would have been liable to pay, if he had not died, the tax including any penalty, sum forfeited and interest due from such dealer under this Act, or under any earlier law,

whether such tax including any penalty, sum forfeited and interest had been assessed before his death but has remained unpaid, or is assessed after his death.

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

(3) Where a dealer liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who has a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 62, the tax including any penalty, sum forfeited and interest due from the firm under this Act or under any earlier law, up to the time of dissolution, whether such tax including any penalty, sum forfeited and interest has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.

(4) Where a dealer, liable to pay tax under this Act, transfers or otherwise disposes of the business in whole or in part, or effects any change in the ownership thereof, in consequences of which he is succeeded in the business or part thereof by any other person, the dealer and the person succeeding shall jointly and severally be

liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time of such transfer, disposal or change, whether such tax including any penalty, sum forfeited and interest has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(5) Where the dealer, liable to pay tax under this Act,

(a) is the guardian of a ward on whose behalf the business is carried out by the guardian, or

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

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

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

## **61. Certain Agents Liable To Tax For Sales On Behalf Of Principal :-**

(1) Where any person sells or purchases any taxable goods on behalf of his principal then such person and his principal shall be both jointly and severally liable to pay taxes on the turnover of such sales or purchases.

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

(3) Where a manager or agent of a non-resident dealer sells or purchases any goods on behalf of a non-resident dealer in the State, then the nonresident dealer and the manager or agent residing in the State, shall be jointly and severally liable to pay tax

on the turnover of such sales or purchases:

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

## **62. Liability Of Partners :-**

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

(2) Where any such partner retires from the firm, he shall be liable to pay the tax, penalty, sum forfeited and interest remaining unpaid at the time of his retirement and any such amount due up to the date of retirement though un-assessed at that date.

## **63. Amalgamation Of Companies :-**

(1) When two or more companies are to be amalgamated by the order of a Court or of the Central Government, or the Government and the order is to take effect from a date earlier to the date of the order and any two or more such companies have sold or purchased any goods to or from each other in the period commencing on the date from which the order is to take effect and ending on the date of the order, then such transaction of sale and purchase will be included in the turnover of the sales or of purchases of the respective companies and will be assessed to tax accordingly.

(2) Notwithstanding anything contained in the said order; for all of the purposes of this Act, the said two or more companies will be treated as distinct companies and will be treated as such for all periods up to the date of the said order and the registration certificates of the said companies will be cancelled, where necessary, with effect from the date of the said order.

(3) Words and expressions used in this section, but not defined, will have the respective meanings to them in the Companies Act 1956.

## CHAPTER 8

### INSPECTION OF ACCOUNTS, DOCUMENTS, SEARCH OF PREMISES AND ESTABLISHMENT OF CHECK POSTS

#### **64. Production And Inspection Of Accounts And Documents And Search Of Premises :-**

(1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to stock of goods, sales, purchases, deliveries of goods, payments made or received by the dealer, or any other information relating to his business, as may be necessary for the purpose of this Act.

(2) All accounts, registers and documents relating to stock of goods, sales, purchases, deliveries of goods, payments made or received by any dealer and all goods and cash kept in any place of business of any dealer, shall at all reasonable time be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts of the said accounts, registers, documents and such inventory of the goods and cash found as appear to him necessary for the purpose of this Act.

(3) If the Commissioner has reasons to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or for the prosecution, under any law.

(4) For the purposes of sub-section (2) or sub-section (3) the Commissioner may enter and search any place of business of any dealer or any other place where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any account, registers or documents of his business or stock of goods relating to his business.

(5) Where any book of accounts, other documents, money or goods are found on the possession or control of any person in the course of any search, it shall be presumed, unless the contrary is proved, that such books of accounts, other documents, money or goods belong to such person.

#### **65. Survey :-**

(1) With a view to identify dealers who are liable to pay tax under



this Act, but have remained unregistered, the Commissioner shall from time to time cause a survey of such unregistered dealers.

(2) For the purpose of the survey, the Commissioner may, by general or special notice, require any dealer or class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the persons and dealers who have purchased any goods from or sold any goods to such dealer or class of dealers during any given period.

(3) For the purposes of survey, the Commissioner may call for details and particulars regarding the services provided by public utilities and financial institutions including banking companies which he is of the opinion will be relevant and useful for the purposes of the survey. He may from time to time cause the results of the survey to be published in any manner that he thinks fit.

(4) The Commissioner may, for the purposes of the survey, enter any place where a person is engaged in business but is unregistered or has not applied for grant of the certificate of registration, whether such place will be principal place of business or not of such business and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or helping in, the business,-

(i) to afford him the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place,

(ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein, and

(iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to any proceedings under this Act.

Explanation-

For the purposes of this sub-section, a place where the person is engaged in business will also include any other place in which the person engaged in business or the said employee or other person attending or helping in business states that any of the books of accounts or other documents or any part of the cash, stock or other valuable article or thing relating to the business are or is kept.

(5) The Commissioner shall enter the place where the person is carrying on business only during the hours at which such place is open for business and in case of any other place only after sunrise and before sunset. The Commissioner may, make or cause to be made extracts or copies from books of accounts and other

documents inspected by him, make an inventory of any cash, stock or other valuable article or thing checked or verified by him, and record the statement of any person which may be useful for, or relevant to, any proceedings under this Act.

(6) The Commissioner, in exercise of the powers under this section shall, under no circumstances, remove or cause to be removed from the place where he has entered, any books of accounts and other documents or any cash, stock or other valuable article or thing.

## **66. Establishment Of Check Posts For Inspection Of Goods In Transport :-**

(1) The Government may, with a view to prevent or check avoidance or evasion of tax, by notification in the Official Gazette, direct the establishment of the check post or barrier at such places as may be specified in the notification and every officer who exercises powers and discharges his duties at such check post by way of inspection of documents produced and goods being moved, shall be in charge.

(2) The driver or person In charge of vehicle or carrier of goods in movement shall-

(a) carry with him the records of the goods including challans, bills of sale or dispatch memos and prescribed declaration form or way bill duly filled in and signed by the consignor of the goods carried;

(b) stop the vehicle or carrier at every check post set up under sub-section (1) or at any other place by an officer authorized by the Commissioner in this behalf;

(c) produce all the documents including the prescribed way bill relating to the goods before the officer in charge of the check post or the authorized officer;

(d) give all the information in his possession relating to the goods;

(e) allow the inspection of the goods for search of the vehicle by the officer in charge of the check post or any authorized officer.

(3) Where any goods are in movement within the territory of the State of Manipur, an officer empowered by the State Government in this behalf may stop the vehicle or the carrier or the person carrying such goods, for inspection, at any place within his jurisdiction and provisions of sub-section (2) shall mutatis mutandis apply.

(4) Where any goods in movement are without documents or are not supported by documents as referred to in sub-section (2), or documents produced appear to be false or forged, the officer in

charge of the check post or the officer empowered under sub-section (3), may -

(a) direct the driver or the person in charge of the vehicle or earner or the goods not to part with the goods in any manner including by transporting or rebooking, till a verification is done or an enquiry is made, which shall not take more than seven days;

(b) seize the goods for reasons to be recorded in writing and shall give receipt of the goods to the person from whose possession or control they are seized,

(5) The officer in charge of the check post or the officer empowered under sub-section (3), after having given the person in charge of the goods a reasonable opportunity of being heard and after having held such enquiry as he may deem fit, shall impose, for possession or movement of goods, whether seized or not, in violation of the provisions of clause (a) of sub-section (2) or for submission of false or forged documents or way bill, a penalty equal to the amount of five times of the tax, leviable on such goods, or twenty percent (20%) of the value of goods, whichever is higher.

(6) During the pendency of the proceeding under sub-section (5) if any one prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the said officer in charge or the empowered officer on being satisfied may permit him to be included as a party to the case; and thereafter, all provisions of this section shall be mutatis mutandis apply to him.

(7) The officer in charge of the check post or the officer empowered under sub-section (3) may release the goods to the owner of the goods or to any person duly authorised by such owner on payment of the penalty imposed under sub-section (5).

(8) Where the driver or person in charge of the vehicle or the carrier is found guilty for violation of the provisions of sub-section (2), the officer in charge of the check post or the officer empowered under sub-section (3) may detain such vehicle or carrier after affording him an opportunity of being heard to such driver or person in charge of the vehicle or the carrier and impose a penalty on him as provided under sub-section (5).

(9) Where a transporter, while transporting goods, is found to be in collusion with dealer to avoid or evade tax, the officer in charge of the check post or the officer empowered under sub-section (3), shall detain the vehicle or carrier of such transporter and after affording him an opportunity of being heard with prior approval in writing of the Commissioner, the officer in charge of the check post or the officer empowered may confiscate such vehicle or carrier

along with the goods.

#### **67. Automation :-**

(1) The Government shall endeavour to introduce and establish an automated data processing system for complementing the purposes of the Act and for incidental and allied matters.

(2) In order to make effective the said system, the State Government may from time to time make resolutions for regulating the interactions between the dealers, authorities appointed or constituted under this Act and the Government Treasury.

(3) The regulations shall be published in the Official Gazette and may be made retrospective to any date not earlier than 1st April, 2004.

#### **68. Power To Collect Statistics :-**

(1) If the Commissioner considers that for the purposes of the better administration of this Act it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection to this Act.

(2) Upon such direction being made, the Commissioner or any person or persons authorized by him in this behalf may, by notification in the Official Gazette and if found necessary by notice in any newspapers or in such other manner as in the opinion of the Commissioner or the said person is best calculated to bring the notice to the attention of dealers and other person or persons, call upon all dealers or any class of dealers or persons to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.

(3) Without prejudice to the generality of the foregoing provisions, the Government may by rules provide that every registered dealer or, as the case may be, any class of registered dealer shall furnish, in addition to any other returns provided for elsewhere, an annual return in such form, by such date and to such authority as may be prescribed and different provisions may be made for different classes of registered dealers.

#### **69. Disclosure Of Information By A Public Servant :-**

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

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

Provided that no persecution shall be instituted under this section except with the previous sanction of the State Government.

(3) Nothing contained in this section shall apply to the disclosure.-

(a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947, or this Act or any other law for the time being in force; or

(b) of any such particulars to the State Government or to any person acting in the execution of this Act; or

(c) of any such particulars when such disclosure is occasioned by the lawful employment of any process for the service of any notice or the recovery of any demands; or

(d) of any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under this Act; or

(e) of any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act; or

(f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official including the Commissioner under the Commission of Enquiry Act, 1952 (60 of 1952) are to any officer appointed to hold such inquiry when exercising the functions in relation to any matter arising out of such inquiry; or

(g) of such facts to an officer of the Central Government or any

State Government as may be necessary for the purpose of enabling that Government to levy or realize any tax or duty imposed by it; or

(h) of any such particulars to the Director, Economics and Statistics Department, Government of Manipur or any officer serving under him or to any person or persons authorized under sub-section (2) of section 68 as may be necessary for enabling the Director or such person or persons to carry on their official duties;

(i) of any such particulars to an officer of the Central Government or any State Government as may be necessary for the administration of any law in force in India.

**70. Disclosure Of Information Required Under Section 68 And Failure To Furnish Information Or Return Under That Section :-**

(1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 68 shall, without the previous consent in writing of the owner for the time being or his authorized agent, be published in such manner as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of this Act.

(2) Except for the purposes of prosecution under this Act or any other Act, no person who is not engaged in the collection or compilation or computerization of statistics for the purposes of administration of this Act, shall be permitted to see or have access to any information or any individual return referred to in that section.

(3) If any person required to furnish any information or return under section 68.

(a) wilfully refuses or without lawful excuse neglects to furnish such information or return; or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be incorrect or false;

he shall on conviction be punished with fine which may extend to one thousand rupees and in case of continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues.

(4) If any person engaged in connection with the collection of statistics under section 68 or compilation or computerization thereof wilfully discloses any information or the contents of any returns

given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this Act or under any other Act, he shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

(5) Nothing in this section will apply to publication of any information relating to a class of dealers or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

### **71. Publication And Disclosure Of Information Respecting Dealers And Other Persons In Public Interest :-**

Notwithstanding anything contained in section 69 or 70, if the State Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any particulars relating to any proceedings under this Act in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

Explanation:

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

#### **CHAPTER 9**

#### **APPEAL AND REVISION**

### **72. First Appeal :-**

(1) Any person objecting to an order affecting him passed under the provisions of this Act by an assessing authority may appeal to the Appellate Authority as may be prescribed within thirty days from the date of receipt of order by him.

(2) Where the Appellate Authority is satisfied that the person assessed has reasonable cause for not preferring to file an appeal within the time specified in sub-section (1) it may accept an appeal, provided it is within one year.

(3) The appeal shall be in the prescribed form and specify in detail the grounds upon which it is made.

(4) In the case of an appeal against an assessment, the Appellate Authority shall consider it only if -

(a) the person has paid the tax due as per turnover returned by him, or

(b) paid the tax which is not disputed by him:

Provided that, on application made by the Appellant in this behalf, the Appellate Authority may, for good and sufficient reasons to be recorded in writing, exempt him from the operation of the provisions of this sub-section.

(5) The appellant shall serve a copy of the appeal memo to the authority against whose order the appeal is filed.

(6) After considering the appeal and after affording an opportunity of hearing, the Appellate Authority may allow it in whole or part and amend the assessment or the decision objected to accordingly, or remand it for fresh disposal or dismiss the appeal or enhance the assessment or penalty or other amount:

Provided that before making an enhancement the appellant shall be given an opportunity of being heard on the proposal of enhancement.

(7) The Appellate Authority shall, serve the appeal decision to the appellant with a notice, setting forth the reasons for the decision.

### **73. Appeal To The Appellate Tribunal :-**

(1) A person dissatisfied with the decision of the Appellate Authority may, within sixty days after being served with notice of the decision, -

(a) file a second appeal before the Appellate Tribunal, and

(b) serve a copy of the notice of appeal on the Commissioner as well as authority whose original order is under second appeal before the Appellate Tribunal.

(2) The Appellate Tribunal may admit an appeal after expiry of sixty days if it is satisfied that the appellant had sufficient reason for not filing the appeal within the time specified in sub-section (1), provided it is within one year.

(3) In deciding, an appeal, the Appellate Tribunal shall make an order after affording an opportunity to the dealer or other person and the Commissioner -

(a) affirming, reducing, increasing, or varying the assessment or other order under appeal,

(b) remitting the assessment of other order under appeal for reconsideration by the Appropriate Authority concerned with such



directions as it may deem fit,

(c) a copy of such order shall be served on the Commissioner/ prescribed authority.

(4) The Appellate Tribunal shall serve the appellant with notice, in writing, of the appeal decision setting forth the reasons for decision:

Provided that before increasing the tax or other amount the dealer shall be given an opportunity of being heard on the proposal of increasing the liability.

#### **74. Appeal By Commissioner To Appellate Tribunal :-**

(1) The Commissioner or any officer empowered by him on this behalf if he objects to an order passed by the Appellate Authority, may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him.

(2) The Appellate Tribunal may, on the application either by the appellant or by the respondent made within one year from the date of receipt of the order under sub-section (4) of section 73 review any order passed by it on the basis of the facts which were not before it when the order was passed.

#### **75. Revision To High Court :-**

(1) An assessee who is dissatisfied with the decision of the Appellate Tribunal may, within sixty days after being notified of the decision, file a revision with the High Court and the assessee so appealing shall serve a copy of the notice of revision on the respondent to the proceeding.

(2) A revision to the High Court may be made on question of law or an erroneous decision or failure to decide a question of law that will be raised in the revision.

(3) The Commissioner shall also be made a party to the proceedings before the High Court where appeal is filed by the dealer or other person.

(4) The High Court may on application either by the petitioner or by the respondent review, any order passed by it provided such application is made within one year from the date of receipt of the judgement.

#### **76. Hearing Of Revision And Review By The High Court :-**

A revision or review application presented before the High Court

under section 75 shall be heard by the bench consisting of not less two judges.

### **77. Revision By Commissioner :-**

The Commissioner may, on his own motion, call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by any officer other than first Appellate Authority and the Appellate Tribunal, is erroneous in so far as it is prejudicial to the interest of the revenue, after giving the assessee an opportunity of being heard, he may pass such order as he deems fit:

Provided that the commissioner shall not pass any order under this section after the expiry of five years from the date of such order.

### **78. Burden Of Proof :-**

The burden of proving that any turnover of goods is exempt from tax or that thereas no liability or obligation under this Act shall be on the person objecting.

### **79. Power To Rectify Error Apparent On The Record :-**

(1) An assessing, appellate or revising authority including the Appellate Tribunal may, on an application or otherwise at anytime within three years from the date of any order passed by it, rectify any error apparent on the face of the record:.

Provided no such rectification which has the effect of enhancing the liability to pay tax or penalty or penal interest shall be made unless such authority has given notice to the person affected and has allowed him a reasonable opportunity of being heard.

(2) Where such rectification has the effect of enhancing the tax liability or penalty, the Assessing Authority shall give the dealer or other person a notice of assessment or penalty and the dealer or other person shall pay the tax in the manner prescribed and when such rectification his the effect of reducing the tax liability or penalty the Assessing Authority shall issue refund of the excess tax or penalty paid, if any.

## **CHAPTER 10**

### **OFFENCES AND PENALTIES**

### **80. Offences And Penalties :-**

(1) Whoever, not being a registered dealer falsely represents that

he is or was a registered dealer at the time when he sells or buys goods shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

( 2 ) Whoever, knowingly furnishes a false return shall, on conviction, be punished-

(i) in case where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs. 10,000/- with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;

(ii) in any other case, with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.

(3) Whoever, knowingly produces before the Commissioner, false bill, cash-memorandum, voucher, declaration, certificate or other document for evading tax payable under this Act shall on conviction, be punished -

(i) in case where the amount of tax which could have been evaded, if the documents referred to above had been accepted as true, exceeds Rs. 30,000/- in one event, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;

(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.

(4) Whoever, knowingly keeps false account of the value of the goods bought or sold by him in contravention of the provisions of the this Act, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.

(5) Whoever, knowingly produces false accounts, registers or documents or knowingly furnishes false information, shall, on conviction, be punished -

(i) In case where the amount of tax which could have been evaded, if the accounts, registers or documents or information referred to above had been accepted as true, exceeds Rs. 50,000 during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;

(ii) In any other case; with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.

(6) Whoever, issues to any person certificate or declaration under this Act, rules or notifications or a false bill, cash-memorandum, voucher, delivery challan, lorry receipt or other document which he knows or has reason to believe to be false, shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine.

(7) Whoever,-

(i) wilfully attempts, in any manner whatsoever, to evade any tax leviable under this Act, or

(ii) wilfully attempts, in any manner whatsoever, to evade any payment of any tax, penalty or interest or all of them under this Act, shall, on conviction, be punished -

(a) in case where the amount involved exceeds Rs. 50,000 during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;

(b) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine.

(8) Whoever aids or abets or induces any person in commission of any act specified in sub-sections (1) to (7) shall, on conviction, be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and with fine.

(9) Whoever-

(a) is engaged in business as a dealer without being registered in wilful contravention of section 68, or

(b) fails without sufficient cause to furnish any returns as required by section 68 by the date and in the manner prescribed, or

(c) fails without sufficient cause, when directed to keep any accounts or record, in accordance with the provisions of this Act, or

(d) fails without sufficient cause to comply with any requirements made under section 64, or

(e) voluntarily obstructs any officer making inspection or search or seizure under section 64

shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

(10) Whoever fails, without sufficient cause, to furnish any return by the date and in the manner prescribed under this Act, shall on conviction, be punished with simple imprisonment for a term which may extend to one year and with a fine, which shall not be less than, -

- (i) rupees two thousand, if the tax due for the period covered by the return does not exceed Rs. 20,000/-;
  - (ii) rupees five thousand, if the tax due for a period covered by the return exceeds rupees twenty thousand but does not exceed Rs. 1,00,000/-,
  - (iii) rupees ten thousand, if the tax due for the period covered by the return exceeds Rs. 1,00,000/-.
- (11) Whoever commits any of the acts specified in sub-sections (1) to (10) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with daily fine not less than rupees one hundred during the period of the continuance of the offence, in addition to the punishments provided under this section.
- (12) Notwithstanding anything contained in sub-sections (1) to (11), no person shall be proceeded against these sub-sections for the acts referred to therein if the total amount of tax evaded or attempted to be evaded is less than Rs. 200 during the period of a year.
- (13) Where a dealer is accused of an offence specified in sub-sections (1) to (11) the person deemed to be the manager of the business of such dealer shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

### **81. Offence By Companies :-**

- (1) Where an offence under this Act or the rules has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:  
Provided that, nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any

director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation -

For the purpose of this section -

(a) company means a body corporate, and includes a firm or other association of individuals; and

(b) director in relation of a firm means a partner in the firm.

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

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

Provided further that, where an offence under this Act has been committed by a Hindu Undivided Family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## **82. Cognizance Of Offences :-**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

(2) No court shall take cognizance of any offence under this Act or rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Chief Judicial Magistrate shall try any such offence.

## **83. Investigation Of Offences :-**

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

(2) Every officer so authorized shall, in the conduct of such

investigation, exercise the power conferred by the Code of Criminal Procedure, 1973 upon an officer in charge of a police station for the investigation of a cognizable offence.

#### **84. Compounding Of Offences :-**

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the Commissioner may, either before or after the institution of proceedings of any offence punishable under section 80 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence charged under subsections (1), (2), (3), (4), (5), (6), (7) or clauses (a), (b), (c), (d), (e) of sub-section (9) or sub-section (10) of section 80 not exceeding double the amount of tax which would have been payable on the sale or purchase turnover to which the offence relates, whichever is greater.

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

(3) Such compounding of offences shall be communicated to the assessing authority in whose jurisdiction the relevant proceedings lie.

#### **CHAPTER 11**

#### **MISCELLANEOUS**

#### **85. Court Fee On Appeal And Certain Other Applications :-**

Notwithstanding anything contained in the Court Fee Act, 1870.

(1) subject to the provisions of the clause (2), any application not otherwise provided for when presented to the prescribed authority for the prescribed purpose or when presented to the Appellate Tribunal shall be charged with a court fee of such value not exceeding Rs. 100/- as may be prescribed; and

(2) an appeal preferred under section 76 shall be charged with a court fee of such value not exceeding Rs. 1,000/- as may be prescribed if the amount in dispute, exceeds Rs. 1,00,000/- and any other appeal shall be charged with a court fee of such value not exceeding Rs. 100/- as may be prescribed.

#### **86. Application Of Sections 4 And 12 Of Limitation Act :-**

In computing the period of limitation under Chapter IX, the

provisions of sections 4 and 12 of the Limitation Act, 1963 shall, so far as may be, apply.

**87. Appearance Before Any Authority In Proceedings :-**

(1) Any person who is entitled or required to attend before any authority including the Appellate Tribunal in connection with any proceeding under this Act, otherwise than when required to attend personally for examination on oath or affirmation, may attend -

(a) by a relative or a person regularly employed by him, or

(b) by a legal practitioner, or Chartered Accountant who is not disqualified by or under sub-section (2), or

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

(d) by any person who, immediately before the commencement of this Act was a sales tax practitioner under any earlier law, only if such relative or person employed or legal practitioner or Chartered Accountant, or sales tax practitioner is authorized by such person in the prescribed form, and such authorization may include the authority to act on behalf of such person in such proceedings.

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner. Chartered Accountant, or sales tax practitioner -

(i) who has been removed or dismissed from Government service or

(ii) who being a sales tax practitioner, a legal practitioner or a Chartered Accountant is found guilty of misconduct in connection with any proceedings under this Act by the Commissioner or by an authority, if any, empowered to take disciplinary action against the member of the profession to which he belongs.

(3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the Tribunal to have the order cancelled or modified. The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred until the appeal is decided.



(5) The Commissioner may, at any time suo motu or on an application made to him in this behalf, revoke or modify any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified subject to such conditions or restrictions that may be contained in such order.

### **88. Declaration Of Stock Of Goods Held On The Appointed Day :-**

The Commissioner may, by notification in the Official Gazette, require that any class of registered dealers as may be specified in the notification declare such details regarding the stock of goods held by them on the day immediately preceding the appointed day (the date on which this Act comes into force) in such manner and with such particulars and to such authority.

### **89. Bar To Certain Proceedings :-**

Save as is provided in Chapter IX (Appeal and Revision), no order passed or proceedings taken under this Act, the rules or notification by any authority appointed or constituted under this Act, shall be called in question in any Court, and save as is provided in the said Chapter, no appeal shall lie against any such order.

### **90. Power To Make Rules :-**

(1) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act and such rules may include rules for levy of fees for any of the purposes of this Act.

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

(3) Every rule made under this section shall be laid as soon as may be after it is made before the House of the State Legislature while it is in the session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which, it is so laid or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, such rule shall, thereafter, have effect only in such

modified form or be of no effect, as the case may be, however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## **91. Transitional Provisions :-**

(1) A registered dealer who would have continued to be so liable to pay tax under the repealed Act and who makes an application for registration in terms of this Act, shall be deemed to be a registered dealer till a fresh registration is granted to him under this Act.

(2) Notwithstanding anything contained elsewhere in this Act -

(a) Any person appointed as the Commissioner, and all persons appointed to assist the Commissioner, under the repealed Act and continuing in the office immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such.

(b) Any dealer liable to furnish return under the repealed Act immediately before the appointed day shall, notwithstanding that a period in respect of which he is so liable to furnish return commences on and day before such appointment day and ends on any day after such appointed day, furnish such return in respect of tax payable for sales or purchases made up to the day immediately before such appointed day and pay tax in accordance with the provisions of repealed Act and shall furnish a separate return in respect of the remaining part of the period which commences on such appointed day and pay tax due on such return for sales or purchases made on and from such appointed day in accordance with the provisions of this Act;

(c) Any order delegating any power under any Act or the rules made thereunder by the Commissioner to any person appointed, by any designation, to assist him before the appointed day shall, from such appointed day, continue in force until the Commissioner amends, varies or rescinds such order after such appointed day under this Act;

(d) Any dealer, who is no longer liable to pay tax under the repealed Act and whose account, registers or documents has been seized under that Act, shall continue to be retained in accordance with provision of that Act on or after appointed day;

(e) All forms, prescribed under the repealed rules and continuing in force before the appointed day shall, with effect from such appointed day, continue in force and shall be used mutatis mutandis for the purpose for which they were being used before

such appointed day until the State Government directs, by notification, the discontinuance of the use of such forms from such date specified in this behalf;

(f) All rules, regulations, notifications or orders made or issued under any of the repealed Act and continuing in force on the day immediately before the appointed day shall continue to be in force on or after such appointed day in so far as they are not inconsistent with the provisions of this Act or the rules made thereunder until they are repealed or amended;

(g) Any way bill obtained or obtainable by the dealer from any prescribed authority or any declaration furnished or to be furnished by or to the dealer under the Act so repealed or the rules made thereunder in respect of any sale of goods before the appointed day shall be valid of any period before such appointed day, under the repealed Act if made before such appointed day and pending on such appointed day or if made on such appointed day, shall be disposed of in accordance with the provisions of the repealed Act;

(h) The Commissioner or any other authority to whom power in this behalf has been delegated by the Commissioner under the repealed Act may, on his own motion, review or revise any order passed before the appointed day in accordance with the provision of that Act;.

(i) Any application for the way bill, for the transport of the goods into the State, pending on the day immediately before the appointed day, shall be deemed to have been made under this Act and shall be disposed of in accordance with the provisions of this Act;

(j) Any tax assessed, interest determined or penalty imposed under the repealed Act in respect of sales or purchases made, under the repealed Act before the appointed day, shall be payable or recoverable in accordance with the provisions of the repealed Act.

## CHAPTER 12

### REPEAL AND SAVINGS

#### **92. Repeal And Savings :-**

(1) The Manipur Sales Tax Act, 1990 as in force in the State of Manipur is hereby repealed from the date of commencement of this Act.

(2) The repeal shall not:

(a) revive anything not in force or existing at the time of which the repeal takes effect; or

- (b) affect the previous operation of repealed Act or anything done or suffered thereunder; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the repealed Act; or
- (d) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the repealed Act; or
- (e) affect any investigation, enquiry, assessment, proceeding, any other legal proceeding or remedy instituted, continued or enforced under the repealed Act
- and any such penalty, forfeiture or punishment as aforesaid or any proceeding or remedy instituted, continued, or enforced under the repealed act shall be deemed to be instituted, continued or enforced under the corresponding provisions of this Act.
- (2) All rules made and notifications issued under the provisions of the repealed Act and / or rules made thereunder and in force on the date of the commencement of this Act, shall remain in force unless such rules and notifications are superseded in express terms or by necessary implication by the provisions of this Act or the rules made and notifications issued thereunder.
- (3) Any reference to any section of the repealed Act or any rule, notification, regulation or circular shall be deemed to refer to the relevant corresponding section of this Act, until necessary amendments are made in such rule, notification, regulation or circular.
- (4) The limitations provided in this Act shall apply prospectively, and all events occurred and all issues arose prior to the date of commencement of this Act, shall be governed by the limitations provided or the provisions contained in the repealed Act.

#### SCHEDULE 1

##### Schedule I

(See Section 12)

##### Rates of Taxable Goods

Sl. No.	Goods with 1 % VAT Rate:
1	Bullions
2	Gold and silver & platinum ornaments
3.	Precious stones including Agate
	Goods with 4 % VAT Rate
4	Declared Goods as specified in section 14 of the Central Sale Tax Act 1956
5	Edible oils and oil cakes
6	Kerosene oil including sold through PDS

7	All utensils including pressure cookers/pans except utensils made of precious metals
8	Bone meal
9	I. T. products (as per list notified by Government)
10	Chemical fertilizers, pesticides, weedicides, insecticides and micronutrients
11	Beedi Leaves
12	Hosiery goods
13	Vegetable oil including gingili and bran oil
14	Solvent oils other than organic solvent oil
15	Safety matches including handmade
16	All type of yarn other than cotton and silk yarn in hank and sewing thread & waste
17	Bicycles, tricycles, cycle rickshaws & parts, tyres & tubes thereof.
18	Spices of all varieties and forms including cumin seed, aniseed, turmeric, dry chillies and Hing (Asafetida)
19	Ice
20	Pipes of all varieties including G.I. pipes, C.I. pipes, ductile pipes, PVC etc. and fittings
21	Starch and sago
22	Vanaspati (Hydrogenated Vegetable oil)
23	Belting
24	Bearing
25	Ferrous & non-ferrous metals & alloys, such as aluminium, copper, zinc & extrusions of those
26	Tractors, threshers, harvesters & attachments & parts thereof
27	Ore and minerals
28	Sewing thread
29	Ship and other water vessels
30	All kind of bricks including fly ash brick, refractory bricks and asphaltic roofing earthen tiles and refractory monolithic.
31	Readymade garments
32	Transformers
33	Kirpan
34	Prasdam by religious institutions
35	Rakhi
36	Religious picture not use as calendar
37	Sacred thread, commonly known as yagnapobit
38	Tapiocal
39	Sweatmeat
40	Chicken products
41	Rattan. reed

42	Coconut fibre
43	Clay lamps
44	Coconut in shell & separated kernel of coconut other than kopra
45	Muddas made of sarkanda, phool bahari jhadoo
46	Animal shoenails
47	Husk including groundnut husk
48	Kutto atta
49	Appalam vadam and vathal
50	Unprocessed green leaves tea
31	Kites
52	Takhti
53	Sattu
54	Beehive
55	Gamosha
56	Bukhari
57	Loi
58	Pattu
59	Gabba
60	Kangri
61	Quandakari
62	Atukulu
63	Sabai grass and rope
64	Sirali, bageshi, barro, date leaves, basket handmade sooma & germa, made only of bamboo
65	Mat sticks & reed obtainable from Cyperus Khathi, mutha or Cyperus Malaccensis
66	Poha, Murmura and lai
67	Panchamritam, namakatti, vibhuti
68	Mekhla Chaddar
69	Misri, batasha, as part of Prasad
70	Singhada
71	Willow wicker
72	Agricultural implements not operated manually or not driven by animal
73	All equipments for communications such as private branch exchange (PBX) & Elect. Private Automatic Branch Exch. (EPABX) etc.
74	All intangible goods like copyright, patent, rep. license etc.
75	Areca nut powder and betel nut
76	Bamboo
77	Bed sheet, pillow cover & other made ups
78	Bio-mass briquettes
79	Bio-fertilizers & Micro- nutrients also plant growth promoters &

79	For vermicore & other vermicore also plant growth promoters & regulators, herbicides, rodenticides etc.
80	Bitumen
81	Bucket made of iron & steel, aluminium, plastic or other materials (except precious materials)
82	Drugs & Medicines including vaccines, syringes & dressings, medicated pointed produced under drugs license, light liquid paraffin of IP grade.
83	Candles
84	Capital goods (as notified by State Govts.)
85	All metal castings
86	Centrifugal & monobolic & submersible pump set for water handling & parts thereof
87	Clay including fine clay, fine china clay and ball clay
88	Coffee beans & seeds, cocoa pod & beans. Green tea leaf & chicory
89	Coir & Coir products excluding coir mattresses
90	Cotton & cotton waste
91	Cottage cheese
92	Coal tar
93	Computer stationery
94	Combs
95	Crucibles
96	Cups and glasses of paper & plastics
97	Exercise book, graph book & laboratory note book
98	Feeding bottles & nipples
99	Fibers of all types and fibre waste
100	Flour, Atta, Maida, Suji, besan, etc. (w.e.f 1st Apr 2006)
101	Fly Ash
102	Fried and roasted gram
103	Gur, jaggery & edible variety of rub gur . ( w.e.f Ist Apr 2006)
104	Hand pumps & spare parts
105	Herb, bark, dry plant, dry root, commonly known as jari booti and dry flower
106	Hose pipes & fittings thereof
107	Honey
108	Husk and bran of cereals
109	Incence sticks commonly known as agarbati, dhupkathi or dhupbati
110	Industrial cables (High voltage cables, XLPE Cables, jelly filled cables, optical fibres)
111	Insulators
112	Kattha
113	Kerosene lamp/latern, petromax, glass chimney
114	Khoya/khoa
115	Leaf plates and cups

116	List of industrial inputs and packing materials (as notified by state Govts.)
117	Wooden crates
118	Newars
119	Napa Slabs (Rough flooring stones) & Shahabad stones.
120	Nuts, bolts, screws and fastners.
121	Non-mechanized boats used by fisherman.
122	Paddy, rice, wheat and pulses (w.e.f 1st April 2006)
123	Paper of all varieties, paper board and newsprint
124	Moulded Plastic footwear, hawaii chappals and straps thereof.
125	Plastic granules, plastic powder, master batches and scrap
126	Printed materials including diary, calendar etc.
127	Printing ink excluding toner and cartridges.
128	Porridge
129	Pulp of bamboo, wood and paper
130	Rail coaches, engines & wagon and part thereof
131	Renewable energy devices & spare parts
132	Rice bran
133	River sand and grit.
134	Oilseeds
135	Sewing machine, its parts & accessories.
136	Silk fabrics excluding handloom silks unless covered by AED.
137	Skimmed milk powder and UHT milk
138	Spectacles, part & components thereof, contact lens & lens cleaner.
139	Sports goods, excluding apparels and footwear
140	Khandasari
141	Tamarind seed and powder.
142	Tea
143	Toys excluding electronic toy.
144	Transmission towers
145	Used cars
146	Umbrella, garden umbrella and parts thereof.
147	Writing instruments, geometry boxes, colour boxes, crayons & pencil sharpeners.
148	Writing ink.
149	Works contract which are in the nature of printing works will carry the same tax rate of 4% as for printed materials.
150	Wet dates
151	Embroidery or zari articles, that is to say, - imi, zari, kasab, saima, dabka, chumki, gota sitara, naqsi, kora, glass bead, badla
152	Tools



153	Lignite
154	Lime, Lime stone, clinker & dolomite.
155	Linear alkyl benzene, L.A.B. Sulphonic Acid, Alfa Olefin Sulphonate.
156	Havan samagri including dhoop, agarbati, sambrani or lobhana
157	Stainless Steel sheets
158	Knitting wool
159	Processed meat, poultry & fish
160	Processed or preserved vegetables & fruits etc including fruit jams, jelly, pickle, fruit squash, paste, fruit drink & fruit juice (whether in sealed containers or otherwise)
161	Article made of rolled gold and imitation gold.
162	Hand made soap
163	Electrodes
164	Textile made-ups
165	Items sold through canteens of CSD & State Armed Units
	Goods with 12.5 % VAT Rate
166	All other goods not specified elsewhere are taxable @ 12.5%
	Goods with 20 % VAT Rate
167	Motor spirit (including aviation turbine fuel, aviation spirit and aviation gasoline)
168	Liquor.
169	Petrol
170	Lottery Tickets

## SCHEDULE 2

### Schedule II

(See Section 13)

Goods with 0% VAT Rate

Sl. No.	Particulars of Goods
1	Foodgrains including paddy, rice, wheat & pulses (upto 31 March, 2006)
2	Fresh vegetables and fruits
3	Meat, fish, prawn & other aquatic products when not cured or frozen, eggs and livestock and animal hair.
4	Salt ("branded and otherwise)
5	Fresh milk and pasteurized milk.
6	Water other than aerated, mineral, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container.
7	Books, periodicals and journals including Braille books , maps, chart & globe.
8	Bread (branded and unbranded).
9	Fresh flowers, fresh plants and saplings
	Handlooms, Charkha, Amber Charkha, Handloom fabrics and Gandhi

10	Handloom, Charkha, Amber Charkha, Handloom fabrics and Gannu Topi
11	Betel leaves
12	Condoms and contraceptives
13	Curd, lassi and butter milk & separated milk
14	All other seeds other than oilseeds
15	Organic manure
16	Electrical energy
17	All bangles except those made from precious metals
18	Kumkum, Bindi, Altar and Sindur
19	Aids and implements used by handicapped persons
20	"Atta, moida, suji and besan (upto 3 Is1 March 2006)
21	Charcoal
22	Aquatic feed , poultry feed and cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake.
23	Garlic and ginger
24	Firewood except Casurina & Eucalyptus timber
25	Agricultural implements manually operated & driven by animals
26	. Silk worm laying, cocoon and Raw silk
27	Indigenous handmade musical instruments
28	Coarse grains
29	Cotton & silk yarn in hank
30	Earthen pot
31	Fishnet & Fishnet fabrics & fish seeds, prawns/ shrimp seeds
32	Human Blood including blood components
33	Khadi garments/ goods & made-ups to be notified by states
34	National Flag
35	Pappad
36	Non-judicial stamp paper sold by Govt. Treasuries, postal items like envelope, postcard etc. sold by Govt., rupee note & cheques
37	Raw wool including animal hair
38	Semen including frozen semen
39	Slate and slate pencils
40	Tender green coconut
41	Toddy, Neera and Arak
42	Items covered by PDS except kerosene
43	Goods taken under customs bond for re-export after manufacturing or otherwise
44	Textiles ( A ED)
45	Tobacco (A ED)
46	Sugar (AFD)

47	Gur and jaggery (upto 31st March 2006)
48	Cart driven by animals (LG)
49	Mat locally known as madur, made wholly or principally of cypercus corymlosus known as gola mathi, madurkathi or cyperus(LG)
50	Plantain leaves (LG)
51	Chalk stick (LG)
52	Idols made of clay (LG)
53	Bamboo matting (LG)
54	Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi (LG)
55	Leaf plates and cups-pressed or stitched (LG)
56	Uribranded broomsticks (LG)
57	Handicrafts (LG)