

## **Bihar Sales Tax Act, 1959**

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### **Bihar Sales Tax Act, 1959**

An Act to consolidate and amend the law relating to the levy of tax on the sale and, in certain cases, purchases of goods in Bihar. BE it enacted by the Legislature of the State of Bihar in the Tenth Year of the Republic of India as follows:-

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

(1) This Act may be called the Bihar Sales Tax Act, 1959. (2) It extends to the whole of the State of Bihar. This section shall come into force at once and the remaining provisions shall come into force on such date as the State Government may, by notification, [1] appoint. Footnotes: 1. Sections 2 to 48 came into force from 1st July, 1959 by Notification No. STGL-AR-196/58-9133-F.T., dated 1st July, 1959.

#### **2. Definition :-**

In this Act, unless there is anything repugnant in the subject or context,- (a) "Appellate Assistant Commissioner" means an Appellate Assistant Commissioner of Commercial Taxes or Additional Appellate Assistant Commissioner of Commercial Taxes appointed under sub-section (1) of section 8; (b) "Assistant Commissioner" means an Assistant Commissioner of Commercial Taxes or Additional Assistant Commissioner of Commercial Taxes appointed under sub-section (1) of section 8; (c) "Assistant Superintendent" means an Assistant Superintendent of Commercial Taxes or an Additional Assistant Superintendent of Commercial Taxes appointed under sub-section (1) of section 8. (d) "Board" means the Board of Revenue of the State of Bihar; (e) "Commissioner" means the Commissioner of Commercial Taxes or

Additional Commissioner of Commercial Taxes appointed under sub-section (1) of section 8 and includes any other officer upon whom the State Government may, by notification, confer all or any of the powers and duties of the Commissioner under this Act; (f) "dealer" means any person who sells any goods whether for commission, remuneration or otherwise and includes any undivided Hindu family, firm, company or corporation, any department of Government, and any society, club or association which sells goods to its members; Explanation.-(i) A factor, a broker, a commission agent, a del credere agent, an auctioneer or any other mercantile agent, by whatever name called and whether of the same description as hereinbefore mentioned or not, who sells goods as aforesaid shall be deemed to be a dealer for the purpose of this Act. (ii) The manager or agent of a dealer who resides outside Bihar and who sells goods in Bihar shall, in respect of such business, be deemed to be a dealer for the purpose of this Act. (g) "declared goods" means goods declared by Parliament by law, to be of special importance in inter-State trade or commerce within the meaning of clause (3) of article 286 of the Constitution of India, (h) "Deputy Commissioner" means a Deputy Commissioner of Commercial Taxes or Additional Deputy Commissioner of Commercial Taxes appointed under sub-section (1) of section 8, [1]. (i) enrolled dealer" [\* \* \* \* \*] (j) "goods" means all kinds of movable property, including live-stock and all materials, commodities and articles but excluding motor spirit as defined in the Bihar Motor Spirit - (Taxation on Sales Act, 1939 (Bihar Act VIII of 1939), electricity, newspaper.actionable claims, stocks, shares or securities; Explanation. -Materials, commodities and articles attached to or forming part of an immovable property which are agreed to be severed under the contract of sale shall be deemed to be goods within the meaning of this clause. (k) "gross turnover" means the aggregate of the amounts of sale-prices received and receivable by a dealer, during any given period, in respect of sales of goods (including sale of goods made in the course of inter-State trade or commerce or export or outside the State); (l) "Inspector" means an Inspector of Commercial Taxes appointed under sub-section (3) of section 8; (m) "place of business" includes any place where a dealer, either usually or for the time being, produces, raises, processes, manufactures, stocks or sells goods or keeps accounts of stocks or sales; (n) prescribed" means prescribed by rules made under this Act; (o) "registered dealer" means a dealer who possesses a valid registration certificate granted to him under

section 9; (p) "sale" means any transfer of property in goods for cash or deferred payment or other valuable consideration including such transfer of property in goods made by a society, club or association to its members but does not include a mortgage or hypothecation of or a charge or pledge on goods; and all grammatical variations and cognate expressions shall be construed accordingly; Explanation.-(1) A transfer of goods on hire-purchase or under any other system in which payment of valuable consideration is made by instalments shall, notwithstanding the fact that the seller retains the title in the goods as security for the payment of the valuable consideration or for any other reason, be deemed to be a sale. (2) Notwithstanding anything to the contrary contained in any law for the time being in force, two independent sales shall, for the purposes of this Act, be deemed to have taken place- (a) when the goods are transferred from principal to his selling agent and from the selling agent to the purchaser, or (b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found- (i) to have sold the goods at one rate and to have passed on the sale price to his principal at another rate, or (ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or (iii) not to have accounted to his principal for the entries collections or deductions made by him in the sales or purchases effected by him on behalf of his principal, or (iv) to have acted for a fictitious or non-existent principal. (v) "sale-price" means the amount payable to a dealer as valuable consideration in respect of the sale of goods; Explanation-(1) Sale-price shall include any amount charged by the dealer for anything done in respect of the goods at the time of, or before, delivery thereof to the buyer. (2) Sale-price shall not include the cash discount allowed by the dealer according to the ordinary trade practice, if shown separately, It shall also not include the cost for transport of the goods from the seller to the buyer, provided such cost is separately charged to the buyer- (r) "Superintendent" means a Superintendent of Commercial Taxes or an Additional Superintendent of Commercial Taxes, appointed under sub-section (1) of section 8; (s) "tax;" includes the general sales tax and special sales tax levied under section 3 [2][\*\*\*\*]; [3] [(ss) "Tribunal" means the Tribunal constituted under sub-section (1) of section 34A (t) "year" means a financial year: Provided that the State Government may, by notification, and subject to such conditions and restrictions as it may impose, fix any other period to

be the year for such purposes as may be specified in the notification. Footnotes: 1. This clause was omitted (with effect from 1st November, 1962) by a. 2 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XV of 1962) 2. The words "as also the fixed amount determined under section 17" were omitted (with effect from 1st November, 1962 by B. 2 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962) 3. This clause was inserted (with effect from 1st November, 1962) by s. 2, ibid.

### **3. Charge Of Tax :-**

1] (1) Subject to the provisions of this Act, both general sales tax and special sales tax shall be paid by- (a) every dealer, with effect from the date of commencement of this Act if his gross turnover during a period not exceeding twelve months immediately preceding the said date exceeded Rs. 15,000; (b) every dealer to whom clause (a) does not apply, with effect from the expiry of thirty days from the date on which his gross turnover during a period not exceeding twelve months immediately preceding such date first exceeded Rs. 15,000. (2) Such tax shall be payable by a dealer to whom clause (a) of sub-section (1) applies on sales made inside Bihar on and from the date of commencement of this Act, and by a dealer to whom clause (b) of the said sub-section applies on such sales made on or from the date immediately following the expiry of the thirty days mentioned in the said clause (b). [2]. (3) Every dealer who has become liable to pay both general sales tax and special sales tax under sub-section (1) shall, subject to sub-section (4) cease to be so liable for any period which follows the expiry of two consecutive years during each of which his gross turnover has failed to exceed the quantum specified in sub-section (1).. (4) A registered dealer whose liability to pay special sales tax has ceased under this Act, for any reason other than the entire transfer of his business to other persons, shall pay such tax on the stock of goods purchased by him after giving the declaration mentioned in the first proviso to clause (2) of section 7 and remaining unsold on the termination of his liability. [3]. (5) Every dealer whose liability to pay both general sales tax and special sales tax has ceased under sub-section (3) shall again be liable to pay both general sales tax and special sales tax under clause (b) of sub-section (1), with effect from the expiry of thirty days from the date on which his gross turnover during a period not exceeding twelve months immediately preceding such date again exceeds the quantum specified in the said clause. (6) Notwithstanding anything

contained in sub section (1) or sub-section (2), where a dealer who is, or was less than six months earlier, liable to pay [4] both general sales tax and special sales tax, starts a new business, either singly or jointly with other persons, or joins another business, partnership firm or concern, tax as aforesaid shall be payable on sales made from such business, partnership firm or concern, on and from the date the dealer starts or joins it, unless liability in respect of such business, partnership firm or concern has arisen from an earlier date under the provisions of the said sub-sections. (7) Notwithstanding anything contained in sub-section (1) or sub-section (2), where any person who is, or was less than six months earlier, a member of a partnership firm, concern or undivided Hindu family which is or was, less than six months earlier liable to pay [5] both general sales tax and special sales tax, [6] start a new business, either singly or jointly with other persons, or joins a separate business, partnership firm or concern, tax as aforesaid shall, likewise, be payable on sales made from such business, partnership firm or concern, on and from the date on which the said person starts or joins it unless liability in respect of such business, partnership firm or concern has arisen from an earlier date under the provisions of the said sub-sections. (8) Notwithstanding anything contained in other sub-sections, a dealer registered under the Central Sales Tax Act, 1956 (LXXIV of 1956 [7] shall, irrespective of the quantum of his gross turnover, be liable to pay both general sales tax and special sales tax on his sale, made inside Bihar, of any goods which he has purchased after furnishing a declaration under sub-section (4) of section 8 of the said Act or any goods in the manufacture or processing of which goods so purchased by him have been used: Provided that special sales tax shall not be payable if the dealer shows to the satisfaction of the prescribed authority that the sale is deductible from his gross turnover, under clause (6) of sub-section (2) of section 7, for the purpose of determining his taxable turnover. (9) The provisions of the Central Sales Tax Act 1956 (LXXIV of 1956) shall apply for determining when a sale shall be deemed to have taken place inside Bihar. (10) The tax for each year may, with the previous approval of the Commissioner, be estimated and collected in advance during a year in such instalments as may be fixed by the prescribed authority. For this purpose the prescribed authority may require the dealer to furnish an advance estimate of his taxable turnover for that year and may provisionally determine the amount of tax payable by the dealer in respect of the year. Thereupon the

dealer shall pay the amount so determined by such date as may be fixed by such authority. Footnotes: 1. These sub-sections were substituted (with effect from 1st November, 1962) for sub-section 1) and (2) by Section 3, *ibid*. 2 This sub-section was substituted (with effect from 1st November, 1962) by Section 3 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1963 3. This sub-section was substituted (with effect from 1st November, 1962) by Section 3 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1963 4. The words "general Sales tax" were omitted (with effect from 1st November, 1962 by s,3 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962 5. The words "general Sales tax" were omitted (with effect from 1st November, 1962 by s,3 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962 6. The words "as the case may be" were omitted (with effect from 1st November, 1962 by a. 3, *ibid* 7. The words "on an application made under sub-section (I) of section 7 thereof" were omitted (with effect from 1st April, 1960) by a. 8 of the Bihar Finance Act, 1960 (Bihar Act VIII of 1960).

#### **4. Exemption :-**

(1) No tax shall be payable under this Act on sales of goods which have taken place- (a) in the course of inter-State trade or commerce, (b) outside the State; (c) in the course of imports of goods into, or export of the goods out of, the territory of India. (2) The provisions of the Central Sales Tax Act, 1956 (LXIV of 1956) shall apply for determining when a sale of goods shall be deemed to have taken place in any of the ways mentioned in clause (a), (b) or (c) of sub-section (1). (3) The State Government may, by notification and subject to such conditions or restrictions as it may impose, exempt from the levy of the general sales tax or special sales tax or both- (a) sales of any goods or class or description of goods, (b) sales of any goods or class or description of goods to or by any class of dealers, and (c) any sale or category or description of sales. (4) Where exemption from the levy of tax under this Act on any sale of goods is claimed by a dealer under the provisions of this section or sub-section (2) of section 7 the burden of proof shall lie on such dealer and the prescribed authority may require the dealer to substantiate the claim in the prescribed manner.

#### **5. Point In The Series Of Sales At Which The Special Sales Tax Shall Be Levied :-**

The special sales tax shall be levied only at that point in the series of sales at which the goods are sold to a person other than

registered dealer in whose registration certificate such goods or class or description of goods specified as being required for re-sale by him or for use by him in the packing of goods which he sells: Provided that the State Government may, in respect of any goods or class or description of goods or any class of dealers notified in this behalf, direct that the said tax shall, subject to such conditions and restrictions as may be specified in the notification, be paid at any other point.

## **6. Rates Of Tax :-**

(1) The general sales tax payable by a dealer under section 3 shall be levied at the rate of [1]/4 per centum of his taxable turnover: Provided that the State Government may, from time to time, by notification, and subject to such conditions and restrictions, as it may impose, fix a hio-her rate, not exceeding 2 per centum, in respect of such class of dealers or such. goods, class or description of goods or such sales, category or description of sales, as may be specified in the notification, (2) The special sales tax payable by a dealer under section 3 shall be levied at the rate of 4 per centum of his taxable turnover: Provided that the State Government may. from time to time, by notification, and subject to such conditions and restrictions as it may impose, fix a higher rate nob exceeding 9 per centum, or any lower rate, not below 2 percentum, in respect of such class of dealers or such goods, class or description of goods or such sales, category or description of sales as may be specified in the notification. (3) Notwithstanding anything contained in this Act, the levy of the tax payable by a dealer under fchia Act on sales of declared goods made by him inside Bihar shall be subject to the restrictions and conditions contained in section 15 of the Central Sales Tax Act, 1956 (LXXIV of 1956). [2]. 6A. (1) Notwithstanding anything contained in this Act and subject to such conditions and restrictions as may be Special rate of tax prescribed on certain sales. (a) sales of goods to Government or to a company, Corporation or "Undertaking owned, financed or controlled wholly by Government, (b) sales to a registered dealer of goods required by him directly for use in the manufacture or processing of any goods for sale, or for mining or in the generation or distribution of electricity, and, (c) sales of machineries, tools, plants and accessories thereof to a person, firm, company, corporation or concern intending to establish a business in Bihar for the purpose of manufacturing annually goods for sale exceeding Rs. 15,000 in value or for mining or generation and distribution of electricity, and



in respect of which the purchaser has been granted a certificate by the prescribed authority in the prescribed manner and for the prescribed period shall, unless the goods are taxable at a lower rate under section 6, be, subject to sub-section (2), liable to tax at the rate of one per centum. (2) In case of sales under clause (a), (6) or (c) of sub-section (1), a declaration in the prescribed form duly filled up and signed by the purchaser shall be furnished in the prescribed manner by the selling dealer and the prescribed authority may require the selling dealer to satisfy him that the sale was made to the purchaser holding certificate granted under the said sub-section. (3) In respect of sales under clause (6) of sub-section (1), if the goods purchased are utilised by the purchaser for any purpose other than those specified in the said clause the sale price of the goods so purchased shall, without prejudice to any action which is or may be taken under section 38, be deducted from the gross turnover of the selling dealer and shall be included in the taxable turnover of the purchasing dealer. (4) In respect of sales under clause (c) of sub-section (1), if the goods purchased are utilised by the purchaser for any purpose other than those specified in the said clause the tax on sale price of the goods so purchased shall without prejudice to any action which is or may be taken under section 38, be payable by the said person by making deposit of the amount into the Government Treasury in accordance with the direction issued to him by the prescribed authority, and, in default of such deposit, the amount shall be recovered as arrear of land revenue. Footnotes: These words were substituted (with effect from 1st November, 1962) for the words "3 per cent" by Section 4 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). This new section 6A was inserted (with effect from 1st November, 1962) by a. 5 of the Bihar Sales tax (Amendment) Act, 1962 (Bihar Act XX of 1962).

## **7. Taxable Turnover :-**

1]. For the purposes of this Act, the "taxable turnover" of a dealer shall be- (1) in respect of the general sales tax, that part of the gross turnover which remains after deducting therefrom- (a) sale prices on account of sales exempted under section 4; and (b) amount of sales tax actually collected as such, if any, along with the sale-prices received or receivable in respect of sales of goods; and (2) in respect of special sales tax, that part of the gross turnover which remains after deducting therefrom,- (a) (i) sale-prices on account of sales exempted under section 4; [2] amount of

sales tax actually collected as such, if any, along with the sale-price received or receivable in respect of sales of goods; and (b) subject to the provisions of section 5, sale prices on account of sales to a registered dealer other than a dealer liable to pay tax under sub-section (8) of section 3, of goods specified in his registration certificate as being required- [3] for re-sale by him inside Bihar or in course of inter-State trade or commerce or export out of the territory of India, or (ii) for use by him in the packing of goods which he sells inside Bihar or in course of inter-State trade or commerce or export out of the territory of India; Provided that in the case of such sale a declaration in the prescribed form duly filled up and signed by the registered dealer to whom the goods are sold, or by his manager declared under section 10, is furnished in the prescribed manner by the selling dealer: Provided further that where any goods, specified in the Certificate of Registration of a dealer, are purchased by him after furnishing a declaration as aforesaid, but are utilised by him for any purpose other than those specified in sub-clause (i) or (ii), the sale-price of the goods so purchased shall, without prejudice to any action which is or may be taken under section 38, be deducted from the gross turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer. Footnotes: 1. This section was substituted (with effect from 1st April, 1960) by Section 9 of the Bihar Finance Act, 1960 (Bihar Act VIII of 1960 2.ii 3.I

## **8. Taxing Authorities And Inspectors :-**

(1) There shall be the following classes of authorities, to be appointed by the State Government, for carrying out the purposes of this Act, namely:- (a) Commissioner of Commercial Taxes; (b) Deputy Commissioner of Commercial Taxes; (c) Appellate Assistant Commissioner of Commercial Taxes; (d) Assistant Commissioner of Commercial Taxes; (e) Superintendent of Commercial Taxes; (f) Assistant Superintendent of Commercial Taxes; (2) The authorities appointed under sub-section (1) shall, within such areas as the State Government may by notification specify, exercise such powers as may be conferred and perform such duties as may be imposed, by or under this Act. (3) The Commissioner may appoint such number of Inspectors of Commercial Taxes as may be necessary to assist any of the authorities appointed under sub-section (1); and the Inspectors so appointed shall, within such areas, exercise powers under sub-sections (1) and (2) of section 37 and perform; such other functions in the execution of this Act in

those areas, as may be Prescribed or as the Commissioner may, by general or special order, assign to them such assignment may be subject to such conditions and restrictions As may be specified in the order. (4) All persons appointed under sub-section (1) or sub-section (3) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code 1860 (XIV of 1860). (5) The Commissioner may, at any stage, direct transfer of a proceeding under section 16 or 18 in respect of any dealer from the prescribed authority to another authority of the same or higher rank appointed under sub-section (1). Where such direction is given by the Commissioner the authority to whom the proceeding is transferred shall proceed to dispose of it as if it had initiated by the said authority, irrespective of the local limits of its jurisdiction such transfer shall not render necessary the re-issue of any notice already issued before the transfer and the authority to whom the proceeding transferred may, in its discretion, continue it from the stage at which it was left by the authority from whom it was transferred.

## **9. Enrolment And Registration Of Dealers :-**

1]. 1) No dealer who is liable to pay tax under section 3 shall sell goods unless he has been granted and is in possession of a valid registration certificate. (2) [2] Every dealer required by sub-section (1) to be in possession of a registration certificate shall apply for the same, in the prescribed manner, to the prescribed authority: Provided that no such application shall be deemed valid unless the applicant furnishes correctly all the prescribed particulars and such other particulars as may be required by the prescribed authority in this behalf. (3) Every application under sub-section (2) shall be made within one month of the date of commencement of the dealer's liability to pay tax under this Act. (4) On receipt of an application under sub-section (2) the prescribed authority shall, if it is satisfied that the application is in order, [3] register the applicant and grant him a registration certificate; in the prescribed form and shall specify therein the goods or class or description of goods which the dealer sells and such other particulars as may be prescribed. (5) The prescribed authority may, after considering such information as may be furnished by the dealer under section 36 or as may be otherwise received by the said authority, amend the [4] registration certificate of the dealer in respect of whom the information has been furnished received. (6) When a dealer has been convicted under section 38 or has paid composition money

under section 40 in respect of any contravention of sub-section (1) or has been assessed to tax under sub-section (5) of section 16 the prescribed authority may, in the prescribed manner, grant to the dealer [5] a registration certificate: Provided that if the dealer files an appeal, application for revision, reference or review pleading that he is not liable to pay tax under this Act, no registration certificate shall be granted to him till his liability as aforesaid is finally determined, or accepted by the dealer, whichever is earlier. [6] by s. 6, ibid.}(7) When (a) any registered dealer discontinues or entirely transfers his business to other persons, or (b) the liability of a registered dealer to pay tax under this Act has ceased under the provisions of sub-section (3) of section 3, the dealer shall forthwith surrender his registration certificate to the prescribed authority and the said authority shall, in the prescribed manner, cancel the registration certificate, Provided that in a case covered by clause (a) the registration certificate shall be deemed to be inoperative with effect from the date of discontinuance or transfer of the business, and in a case covered by clause (b) with effect from the date on which the dealer's liability to pay tax has ceased.}(8) Subject to the provisions of sub-section (7) every registration certificate granted or renewed under this Act shall, without prejudice to the dealer's liability to pay tax under this Act, expire on the first day of June [7] following; the expiry of a period of three years from the date of grant or renewal of the certificate (9) Every dealer who is liable to pay tax under this Act and whose registration certificate has expired by the efflux of time under sub-section (8) shall, within 15 days of such expiry, apply to the prescribed authority in the prescribed manner for renewal of the certificate and the said authority shall renew registration certificate within a period which shall not ordinarily exceed thirty days from the date of receipt of the said application: Provided that during the time allowed to such a dealer under this sub-section for making applications for renewal of his registration certificate and the period during which such application remains pending with the prescribed authority, the dealer shall, subject to the other provisions of the Act, be deemed to be in possession of a valid registration certificate. (10) (a) (i) The prescribed authority may require any dealer who is liable to pay both general sales tax and special sales tax to furnish such security in such manner as may be prescribed for the proper payment of the tax payable by him, and the dealer shall comply with such requirement. (ii) The prescribed authority may, at any time or from time to time, amend or revoke

any such requirement and may also apply the security for satisfaction of any amount of tax, including interest and penalty, if any, payable under this Act, in respect of which the dealer is in default. (b) The security furnished by a dealer whose liability to pay special sales tax has ceased or who has discontinued his business or entirely transferred it to other persons shall be released by the prescribed authority after applying the said security for, satisfaction of any amount of tax [8].C and penalty, if any, payable under this Act, in respect of which the dealer is in default. Footnotes: This sub-section was substituted (with effect from 1st November, 1962) by Section 6 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962) These words were substituted (with effect from 1st November, 1962) for certain words by Section 6 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962) These words were substituted (with effect from 1st November, 1962) for certain words by Section 6 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). The words "enrolment certificate or" were omitted (with effect from 1st November 1962) by Section 6, ibid. These words were substituted (with effect from 1st November, 1962) for certain words by Section 6 of the Bihar Sales Tax (Amendment) Act, 1963 (Bihar Act XX of 1962). This sub-section was substituted (with effect from 1st November, 1962) These words were substituted (with effect from 1st November, 1962) for the words "following the date on which it is granted or renewed" by Section 6, ibid, The words "including interest" were omitted with effect from 1st November, 1962) by S 6. of the Bihar Sales Tax (Amendment,) Act, 1962 (Bihar Act XX of 1962

#### **10. Furnishing Of Declaration Of The Name Of The Manager Of Business :-**

(1) Every dealer who is liable to pay tax under this Act and is an undivided Hindu family, a firm, company or corporation or a society, club or association or a guardian or trustee of another person, shall furnish to the prescribed authority in the prescribed manner a declaration stating the name and prescribed particulars of the person who shall be deemed to be manager in relation to the dealer. (2) Any statement made, return furnished, accounts, registers or documents produced or evidence given by the manager or any person authorised by him or by the dealer in this behalf, in course of any proceeding under this Act, shall be binding on the dealer.

#### **11. Publication Of The Lists Of Registered Dealers :-**

(1) The Commissioner shall, within a period which shall not ordinarily exceed 6 months from the date of commencement of this act cause to be published in the Official Gazette, lists containing prescribed particulars of dealers who are registered under sub-section (4) of section 9 during the quarter immediately following such commencement; thereafter such lists shall likewise be published in each quarter in respect of dealers registered subsequently. (2) The Commissioner shall also cause to be published in the Official Gazette lists containing the prescribed particulars of any amendment or cancellation of a registration certificate. Such publication shall be effected within a period which shall not ordinarily exceed three months from the date on which the amendment or cancellation is made. (3) In addition to the lists published under sub-sections (1) and (2) the Commissioner shall cause to be published in the Official Gazette, every year, a consolidated and corrected list containing the prescribed particulars of registered dealers.

#### **12. Maintenance Of Accounts By Dealers :-**

Every [1] registered dealer shall keep a true and complete account in respect of all goods produced, raised manufactured, processed, bought, sold or delivered by him: Provided that if the prescribed authority considers that the accounts maintained or produced by any such dealer are not sufficiently clear or intelligible to enable the said authority to make a proper determination of his taxable turnover during any period, the said authority may, with prejudice to its powers of assessment under this Act, direct the dealer to produce accounts in such manner as may be required. Footnotes: 1. The words "enrolled or" were omitted (with effect from 1st November, 1962) by Section 7 ibid.

#### **13. Power Of Commissioner To Lay Down Forms Of Such Memoranda Or Bills And Books Accounts :-**

Notwithstanding anything contained in section 12, the Commissioner may by notification and subject to such conditions or restrictions or relaxations as may be specified therein issued in respect of the sale or supply of goods by a dealer who is liable to pay tax under this Act as also forms of the registers in which such dealer shall maintain an account of goods produced, raised, processed manufactured, bought sold or delivered by him and the manner in which such cash memoranda, bills or registers shall be maintained.

#### **14. Returns :-**

(1) "Every [1]. registered dealer shall furnish such returns within such period and to such authority as may be prescribed: Provided that the prescribed authority may require any dealer by notice in writing, to furnish such returns within such period as may be fixed by the said authority. (2) If a dealer having furnished a return under sub-section (1) discovers any omission or wrong statement therein, he may furnish a revised return in the prescribed manner to the prescribed authority at any time before the said authority passes order determining the amount of tax, if any, payable by the dealer for the period for which the return has been furnished: Provided that no such revised return shall be taken into consideration if, upon information which has come into his possession, the prescribed authority is, for reasons to be recorded in writing, satisfied that the return originally furnished was deliberately false or that it was furnished with intent to defraud the State Government of its revenue. (3) If the prescribed authority is satisfied that a dealer is, for reasonable cause, unable to furnish any return within the prescribed period or the period fixed under the proviso to sub-section (1), the said authority may extend the period for submission of the return. (4) [2] If a registered dealer fails, without reasonable cause, to furnish any return within the prescribed period, or a dealer on whom a notice has been served under the proviso to sub-section (1), fails likewise to furnish the return within the fixed period, the prescribed authority may direct that the dealer shall pay, by way of penalty for such failure, a sum not exceeding five rupees for every day, after the expiry of the prescribed or fixed period, during which the dealer fails to furnish the required return. Where the period for submission of any return is extended under sub-section (3) and the dealer nevertheless fails, without reasonable cause, to furnish the return within the extended period, he shall be liable to penalty as aforesaid for each day after the expiry of the prescribed or fixed period. (5) Any penalty imposed under sub-section (4) shall be without prejudice to any action which is or may be taken under clause (6) of sub-section (1) of section 38, Footnotes: The words "enrolled or" were omitted (with effect from 1st November, 1962) by the Bihar Sales Tax (Amendment) Act, 1962) (Bihar Act XX of 1962) These words were substituted (with effect, from 1st November, 1962) for the words "If an enrollee or a registered dealer" by Section 8, ibid.

#### **15. Rebate :-**

A rebate at the rate of one per centum of the amount of tax admitted to be due in the return furnished under sub-section (1) of section 14: in the prescribed manner and within the prescribed or - extended period shall "be [1] allowed to a registered dealer who has paid such amount according to the provisions of sub-section 2) of section 20: Provided that where the amount finally assessed on the dealer is less than the admitted amount, rebate at the said rate shall be allowed only on the amount so assessed: Provided further that the State Government may, by notification, and subject to such conditions or restrictions as may be specified therein, enhance or reduce the rate of rebate in respect of [2] registered dealers generally or any class of such dealers. Footnotes: 1. These words were substituted (with effect from 1st November, 1962) for the words "allowed to an enrolled or registered dealer" by Section 9 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). 2. The words "enrolled or" were omitted (with effect from 1st November, 1962) by ss. 9 and 10, *ibid*.

#### **16. Assessment Of Tax :-**

(1) If the prescribed authority is satisfied without requiring the presence of, or the production of accounts and other evidence by, the [1] registered dealer, that the returns furnished by such dealer in respect of any period are correct and complete, the prescribed authority shall assess the amount of tax due from the dealer on the basis of such returns. (2) (a) If the prescribed authority is not satisfied, without requiring the presence of, or the production of accounts and other evidence by, the registered dealer that the returns furnished by such dealer in respect of any period are correct and complete, the prescribed authority shall serve on such dealer a notice in the prescribed manner requiring him on a date and at a time and place to be specified therein, either to attend in person or through an authorised representative or to produce or to cause to be produced any accounts and other evidence on which such dealer may rely in support of such returns. (b) On the day specified in the notice or as soon thereafter as may be, the prescribed authority shall, after examining the accounts and other evidence produced by the dealer and such other evidence as the prescribed authority may, by notice in writing, require on specified points, assess the amount of tax due from the dealer. (3) If [2] for the words "an enrolled or registered dealer" by a. 10, *ibid*.} a registered dealer, having furnished returns in respect of a period, fails to comply with all the terms of the notice under sub- section (2) or if the accounts



and other evidence produced by him are, in the opinion of the prescribed authority, incorrect, incomplete or unreliable either wholly or partly, the said authority shall assess, to the best of its judgment, the amount of tax due from the dealer. (4) If [3] a registered dealer does not furnish returns in respect of any period within the prescribed, or extended period, the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard assess, to the best of its judgment, the amount of tax due from the dealer. (5) If upon information which has come into his possession the prescribed authority is satisfied that reasonable grounds exist to believe that any dealer has been liable to pay tax under this Act, in respect of any period, and has nevertheless wilfully failed to apply for [4] a registration certificate or having so applied failed to furnish any particulars or information required for the purposes of section 9, the prescribed authority shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of tax, if any, due from the dealer in respect of such period and all subsequent periods; and the prescribed authority may direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum not exceeding one and a half times that amount: Provided that no proceeding for such assessment shall be initiated except before the expiry of eight years from the expiry of the period to which it relates. (6) If the prescribed authority is satisfied that goods have been sold at a price higher than that shown by the dealer, he may determine the market sale price of the goods prevailing at the time of the sale and proceed to assess the tax on such price. (7) Any assessment made of penalty imposed under this section shall be without prejudice to any action which is or may be taken under section 38. Footnotes: The words "enrolled or were omitted (with effect from 1st November, 1962) by ss. 9 and 10, ibid. These words were substituted (with effect from 1st November, 1962) These words were substituted (with effect from 1st November, 1962) for the words "an enrolled or registered dealer" by Section 10 of the Bihar Sales Tax (Amendment) Act 1962 (Bihar Act XX of 1962). These words were substituted (with effect from 1st November, 1962) for the words "an enrolled or registered dealer" by Section 10 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962).

### **17. Payment Of Fixed Amount In Lieu Of Tax :-**

This section was omitted (with effect from 1st November, 1962) by

Section 11, ibid.

**18. Turnover Of Registered Dealer Escaping Assessment :-**

(1) If upon information which has come into his possession the [1] prescribed authority is satisfied that reasonable grounds exist to believe that any turnover of [2] a registered dealer in respect of any period has, for any reason, escaped assessment or any turnover of any such dealer or a dealer assessed under sub-section (5) of section 16 has been under assessed or assessed at a rate lower than that which was correctly applicable or any deductions therefrom have been wrongly made, The prescribed authority may, subject to such rules as may be made by the State Government under this Act, and, (a) within eight years of the expiry of such, period, where the said authority has reasons to believe that the dealer has concealed, omitted or failed to disclose fully the particulars of such turnover or has furnished incorrect particulars of such turnover and thereby returned figures below the real amount, (b) within six years of the expiry of such period in any other case, serve on the dealer a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 16 and proceed to assess or re-assess, 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 as if the notice under this sub-section was a notice under sub-section (2) of section 16: Provided that the amount of tax shall be assessed or re-assessed after allowing such deductions as were permissible during the said period and at rates at which it would have been assessed had the turnover not escaped assessment or full assessment, as the case may be. Explanation.-Production before the prescribed authority of accounts, registers or documents from which material facts could, with due diligence, have been discovered by the said authority, will not necessarily amount to full disclosure within the meaning of this section. (2) The prescribed authority may, in a case falling under clause (a) of sub-section (1), direct, that the dealer shall pay, by way of penalty, in addition to the amount of tax assessed under the said sub-section, a sum not exceeding one and a half times that amount: Provided that if the case relates to a period before the coming into force of this Act, the amount of penalty shall not exceed the amount of tax; Provided further that no such order shall be made without giving the dealer a reasonable opportunity of being heard. (3) Any assessment or re-assessment made and any penalty imposed under this section shall

be without prejudice to any action which is or may be taken under section 38. Footnotes: 1.The words "enrolled or" were omitted (with effect from 1st November, 1962) by Section 12ibid. 2.These words were substituted (with effect from 1st November, 1962) for the words "an enrolled or registered dealer" by Section 10 of the Bihar Sales Tax (Amendment) Act.1962 (Bihar Act XX of 1962).

### **19. Period Of Limitation For Initiation Of Assessment Proceedings :-**

Subject to the provisions of sub-section (5) of section16 and sub-section (1) of section 18, no proceeding for assessment of the tax payable by a dealer under this Act in respect of any period, shall be initiated except before the expiry of four years from the expiry of such period: Provided that a proceeding for re-assesamenfc in pursuance or as a result of an order on appeal, revision, reference or review may be initiated before the expiry of two years from the date of communication of such order to the assessing authority.

### **20. Payment Of Reovery Of Tax :-**

(1) The tax payable under this Act shall be paid in the manner hereinafter provided and at such intervals as may be prescribed. (2) Before any [1] registered dealer furnishes any return under this Act, he shall, in the prescribed manner, pay into a Government Treasury the full amount of tax due from him under this Act according to such return and shall furnish, along with the return a receipt from such Treasury showing payment of the said amount. (3) If any [2] registered dealer submits a revised return under sub-section (2) of section 14, and if the amount of tax doe from such dealer according to the revised return is higher than the amount which was due according to the original return, such revised return shall be accompanied by a receipt showing payment of the extra amount in the manner provided in sub-section (2). (4) If any [3] registered dealer fails, without any reasonable cause, to make payment of the tax or extra amount of tax due from him according to the return or revised return furnished under sub-section (1) or (2) of section 14, the prescribed authority may direct that the dealer shall pay, by way of penalty, a sum not exceeding five rupees for every day after the expiry of the period prescribed under the said section, during which the dealer has failed to make such payment. (5) The amount of- (a) tax estimated in advance under sub-section (10) of section 3, or (b) tax due according to the return filed by a dealer, where full payment of such amount has not been made, or (c) tax assessed or re-assessed under section 16 or 18 or

in pursuance or as a result of an order on appeal, revision, reference or review [4], less the sum, if any, already paid by the dealer, or (d) penalty, if any, imposed under section 14 or 16 or 18 or under sub-section (4) of this section, shall be paid by the dealer into a Government Treasury by such date as may be specified in a notice issued by the prescribed authority for this purpose and the date to be so specified shall, ordinarily, be not less than 45 days from the date of service of such notice: Provided that the prescribed authority may, in respect of any particular dealer, and, for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay, the tax due and the penalty, if any, by instalments. [5] (6) (7) If a dealer had failed, without reasonable cause, to make payment of any amount of tax by the date specified in the notice issued under sub-section (5) or the date extended under the proviso thereto, the prescribed authority may direct that the dealer shall pay, in the prescribed manner, by way of Penalty for such failure, an amount which [6] may extend to five per centum of the amount of tax, for each of the first three months following the expiry such date and [7] ten per centum} for each subsequent month, or part thereof. (8) Subject to the provisions of [8] section 22 any amount of tax together with penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (5) [9] or penalty imposed under i., section (7) and remaining unpaid, (These words alongwith clauses (a) and (b) were substituted for the words "shall be recoverable as an arrear of land revenue" by s.10 of the Bihar Finance Act, 1960 (Bihar Act VIII of 1960).) shall, without prejudice to any other mode of recovery, be recoverable- (a) as if it were arrear of land revenue, or (b) on an application to any Magistrate by such Magistrate as if it were a fine imposed by him: Provided that where an appeal in respect of such amount has been entertained under section 30, the appellate authority may, subject, to such rules as may be made by the State Government under this Act, stay recovery of such amount or portion thereof for so long as the appeal remains pending or for such shorter period as the said authority may consider to be adequate. (9) Where any proceeding for recovery of any amount of tax together with [10] penalty, if any, remaining unpaid has been commenced under subsection (8) and such amount is subsequently enhanced or reduced, in consequence of an order under section 18 or in pursuance or as a result of an order passed on appeal, revision, reference or review, while the proceeding for such recovery is still pending, the prescribed authority shall inform the

dealer and the authority by whom such recovery is being made about such enhancement or reduction and thereupon such proceeding may be continued as if the amount, as so enhanced or reduced, had, been substituted for the amount which was originally to be recovered. Footnotes: The words "enrolled or" were omitted (with effect from 1st November, 1962) by Section 13 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). The words "enrolled or" were omitted (with effect from 1st November, 1962) by Section 13 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). The words "enrolled or" were omitted (with effect from 1st November, 1962) by Section 13 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). A comma was substituted (with effects from 1st November, 1962) for the words "or the amount fixed in accordance with the provision of section 17" by Section 13, *ibid.*. This sub-section was omitted (with effect from 1st November, 1962) by Section 13, *ibid.*. These words were substituted (with effect from 1st November, 1962) for the words "shall be calculated at the rate of one per centum" by Section 13 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). These words were substituted (with effect from 1st November, 1962) for the words "at the rate of two and half per centum" by Section 13, *ibid.*. These words and figures were substituted (with effect from 1st April, 1960) by Section 10 of the Bihar Finance Act, 1960 (Bihar Act, VIII of 1960). The words as also the interest payable under sub-section (6) were omitted (with effect from 1st, November, 1962) by Section 13 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). The words "interest and" were omitted (with effect from 1st November, 1962) by Section 13 of the Bihar Sales Tax (Amendment) Act., 1962 (Bihar Act XX of 1962).

## **21. A Restriction On Collection.Of Tax Et.By Dealers :-**

1] (1) No person who is not a, registered dealer shall collect from person any amount, by whatever name or description it may be called, towards or purporting to be tax on sale of goods. (2) No registered dealer shall collect from any person any such amount, except in a case in which and to the extent to which such dealer is liable to pay tax under this Act. (3) (a) Notwithstanding anything to the contrary contained in any law or contract or any judgment, decree or order of any Tribunal, Court or authority, if the prescribed authority has reason to believe that any dealer has or had, at any time, whether before or after the commencement of this Act

collected any such amount, in a case in which or to an extent to which the said dealer was or is not liable to pay such amount, it shall serve on such dealer a notice in the prescribed manner requiring him on a date and at a time and place to be specified therein, either to attend in person or through an authorised representative to show cause why he should not deposit into the Government treasury the amount so collected by him. (b) On the day specified in the notice under clause (a) or as soon thereafter as may be, the prescribed authority, may, after giving the dealer or his authorised representative a reasonable opportunity of being heard and examining such accounts and other evidence as may be produced by or on behalf of the dealer and making such further enquiry as it may deem necessary, order that the dealer shall deposit forthwith into the Government treasury, the amount to have been so collected by the dealer and not refunded prior to the receipt of the notice aforesaid to the person from whom it had been collected. (4) Where any amount so collected by the dealer and deposited by him into the Government treasury has already been refunded to the dealer in pursuance of or as a result of any judgment, decree or order of any Tribunal, Court or authority, but the dealer has not refunded the amount to the person from whom he had collected it, the prescribed authority shall, notwithstanding such refund to the dealer, proceed to take action in accordance with the provisions of sub-section (3) for securing deposit of such amount. (5) Where any such amount has not been refunded to the dealer before the commencement of this Act but a refund has been directed by a Court, Tribunal or authority, the amount shall, notwithstanding such direction, be deemed to be a deposit made in pursuance of an order under sub-section (3). (6) Proceedings for the purposes of sub-section (3) or sub-section (4) may be taken by the prescribed authority against the transferee, legal representative of the deceased dealer, guardian or trustee or court of wards mentioned in sections 24, 25, 26 and 27 and also on the persons made liable under section 27A to pay tax in respect of an undivided Hindu family, firm or other association of persons after its partition, dissolution or disruption, and the provisions of the Act shall, so far as may be, apply accordingly as if persons were the dealers who had collected the amount referred to in the said sub-section. (7) Notwithstanding anything to the contrary contained in any law or contract, when any amount is deposited by a dealer in compliance with an order under sub-section (3) or sub-section (4) or is deemed, under sub-section (5), to have been so deposited, such

deposit shall constitute a good and complete discharge of the liability of the dealer in respect of such amount to the person from whom it was collected. (8) The person from whom the dealer has collected the amount deposited in pursuance of an order under sub-section (3) or sub-section (4) or received, under sub-section (6), to have been so deposited shall be entitled to apply to the prescribed authority in the prescribed manner for refund of the amount to him and the said authority shall allow the refund if it is satisfied that the claim is in order: Provided that no such refund shall be allowed unless the application is made before the expiry of the period within which the applicant could have claimed the amount from the dealer by a civil suit had his liability not been discharged in accordance with the provisions of sub-section (7): Provided further that no claim for such refund shall be rejected without giving the applicant a reasonable opportunity of being heard. (9) Any amount which the dealer is ordered to deposit under sub-section (3) or sub-section (4) shall, if it remains unpaid, be recoverable as an arrear of land revenue. (10) No proceeding for the purposes of sub-section (9) shall be initiated except before the expiry of three years from the date of the order under sub-section (3) or sub-section (4): Provided that where an appeal or application for revision, reference or review has been filed in respect of such order, the period of limitation aforesaid shall run from the date of the order passed on such appeal, application for revision, reference or review or from the date of the order passed in pursuance or as a result of such order, whichever is later. Footnotes: 1. This new section 20-A was inserted (with effect from 1st; November, 1962) by a.14, ibid.

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

(1) Notwithstanding anything contained in section 20 or any law or contract to the contrary, the prescribed authority may at any time from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the said authority), direct- (a) any person from whom any money is due or may become due to a dealer who has failed to comply with a notice of demand served under section 20, or (b) any person who holds or may subsequently hold any money for or on account of such dealer, to pay into Government Treasury, in the manner specified in the notice issued under this sub-section, either forthwith or upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held) so much of the money as is sufficient to pay the amount

of tax due from the dealer, together with [1] penalty, if any, under this Act or the whole of the money when it is equal to or less than that amount. (2) The authority issuing a notice under sub-section (1) may at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice. (3) Any person making any payment in compliance with a notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the dealer and, the receipt from the Government Treasury shall constitute a good and sufficient discharge of the liability of such person to the dealer to the extent of the amount specified in the receipt. (4) Any person discharging any liability to the dealer after service him of the notice issued under sub-section (1) shall be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer for tax [2] by s.15 of the Bihar Sales Tax (Amendment) Act, 1933 (Bihar Act-XX of 1962.) and penalty, whichever is less. (5) Where a person on whom a notice is served under sub-section in proves to the satisfaction of the authority which issued the notice that the money demanded or any part thereof was not due to the dealer or that he did not hold any money for or on account of the dealer, at the time the notice was served on him, nor is the money demanded or any part thereof likely to become due to the dealer or be held for or on account of the dealer, nothing contained in this section shall be deemed to require such person to pay into the Government Treasury any such money or part thereof, as the case may be. (6) Any amount of money which a person is directed to pay under sub-section (1) or for which he is personally liable to the State Government under sub-section (4) shall, if it remains unpaid, be recoverable as an arrear of land revenue. (7) No action shall be taken under this section in respect of any amount of tax, [3] by s.15 of the Bihar Sales Tax (Amendment) Act, 1933 (Bihar Act-XX of 1962.)" and penalty, if any, the date of payment of which has been extended or the realisation of which has been stayed, under this Act, during the period of such extension or stay. Footnotes: 1. The words "interest and" were omitted (with effect from 1st November, 1962) by Section 15 of the Bihar Sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962). 2. The words "together with interest;" were omitted (with effect from 1st November 1962). 3. The words "together with interest;" were omitted (with effect from 1st November 1962).



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

Notwithstanding anything contained in any law for the time being in force, no proceeding for the purposes of sub-section (8) of section 20 or sub-section (6) of section 21 shall be initiated except before the expiry of twelve years from the date of assessment: Provided that when an appeal or application for revision, reference or review has been filed, the period of limitation as aforesaid shall run from the date of order passed on such appeal, application for revision, reference or review or from the date of order passed in pursuance or as a result of such order, whichever is later.

### **24. Tax To Be First Charged on Property :-**

Notwithstanding anything to the contrary contained in any law for the time being in force, and amount of tax [1] and penalty, if any, payable by a dealer or other person. This Act or any amount required to be deposited by a dealer under section 20A shall be a first charge on the property of the dealer or such person. Footnotes: 1. These words were substituted (with effect from 1st November, 1962) for the words "including interest and penalty, if any, payable by a dealer or other person under this Act" by a. 17. *ibid.*

### **25. Liability To Pay Tax In Case Of Transfer Of Business :-**

1] (1) When the ownership of the business of a dealer liable to pay tax under this Act is entirely transferred, the transferor and the transferee shall jointly and severally be liable to pay any tax and penalty if any Payable in respect of such business and remaining unpaid at the time of the transfer and the transferee shall also be liable to pay both general sales tax and special sales tax on the sales made by the transferee on and from the date of such transfer, and shall within thirty days of the transfer apply for the grant of a registration certificate unless such certificate is already possessed by him. (2) Subject to the provisions of section 4, where a dealer liable to pay tax under this Act transfers the ownership of a part of his business, the transferor shall be liable to pay tax in respect of the stock of goods transferred with that part of the business. Footnotes: 1. This sub-section was substituted (with effect from 1st November, 1962) by, Section 17, *ibid.*

### **26. Tax Of Deceased Dealer Payable By Representative :-**

(1) Where a dealer dies after assessment but before payment of the tax, interest or penalty payable by him under this Act, his executor, administrator, successor-in-interest or legal

representative shall be liable to pay out of the property of the deceased, to the extent to which it is capable of meeting the charge, the amount payable by such dealer. (2) Where a dealer dies without having furnished the return under section 14 or after having furnished the return but before assessment, the prescribed authority may proceed to make an assessment and determine the amount payable under this Act, by the deceased; and for this purpose he may require the executor, administrator, successor-in-interest or legal representative, as the case may be, of the deceased to perform all or any of the obligations, which he might, under the provisions of this Act, have required the deceased to perform. The amount thus determined shall be payable by the executor, administrator, successor-in-interest or legal representative of the deceased to the extent to which the property of the deceased is capable of meeting the charge.

**27. Liability Of Guardian And Trustee, Etc :-**

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

**28. Liability Of Court Of Wards, Etc :-**

Where the estate or any portion thereof of a dealer owning a business in respect of which tax is payable under this Act is under the control of Court of Wards, the Administrator General, the Official Trustee or any Receiver or Manager (including any person, whatever his designation, who in fact manages the business, appointed by, or under order of a Court), the tax shall be assessed upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, Receiver or Manager in like manner and to the same extent as if would be assessable upon and recoverable from the dealer if he were conducting the business himself; and all the provisions of this Act shall apply accordingly,

2. :-

. Liability to tax of a partitioned Hindu family, dissolved firm, etc.- [1] Where a dealer is an undivided Hindu family, firm, or other association of persons, and such family, firm association is partitioned, dissolved or disrupted as case may be- (a) the tax payable under this Act by such family, firm, or association of persons for the period up to the date of such partition, dissolution or disruption may be assessed as if no such partition dissolution or disruption had taken place and all the provisions of the Act shall apply accordingly; and (b) every person who -was at the time of such partition, dissolution or disruption a member or partner or an undivided Hindu family, firm or association of persons shall, notwithstanding such partition, dissolution or disruption, be liable severally and jointly for the payment of the tax including interest and penalty, if any, payable under the Act by such family, firm or association of persons, whether assessment is made prior to or after such partition, dissolution or disruption. Footnotes: 1.This new section 27A was inserted (with effect from 1st April, 1960) by Section 11 of the Bihar Finance Act, 1960 (Bihar Act VIII of 1960).

### **29. Refunds :-**

The prescribed authority shall, in the prescribed manner, refund any amount paid by a dealer in excess of the amount finally determined as being payable by him under this Act. The refund shall be allowed by adjustment of such excess towards the amount payable by the dealer for any other period or by cash payment or both: Provided that no claim for such refund shall be entertained unless it is made within three years from the date of service on the dealer of the notice of such excess.

### **30. Adjustment Of Tax In Certain Cases :-**

If a dealer applies to the prescribed authority in the prescribed manner and within the time provided in section 9 for registration under the said section and delay occurs grant of a registration certificate to him and the Commissioner is satisfied that the delay was not due to any fault, commission or negligence on the part of the dealer, the amount of special sales tax, if any, paid by the dealer on the purchase of goods during the period for which his application for registration remains pending or such part of such amount as the Commissioner considers reasonable, shall be adjusted against any amount payable by the dealer under this Act: Provided that in the registration certificate granted to him, the goods so purchased have been actually specified as those which the dealer is entitled to purchase free of the tax: Provided further that no application for such adjustment shall be entertained unless it is filed before the Commissioner within six months from the date on which the registration certificate was granted to the dealer.

### **31. Appeal :-**

(1) Subject to such rules as may be made-by the State Government under this Act, any dealer objecting to an order of assessment, with or without penalty, passed by the prescribed

authority in respect of him under section 16 or 18 or [1] section 20A or to an order imposing penalty on him under sub-section (4), of section 20A or any section (4) of section 20 or any person objecting to an order passed in respect of him under section 21, may appeal against such order to- (a) the Appellate Assistant Commissioner where the amount of tax or penalty, or both [2] or the amount required to be deposited -under section 20A does not exceed Rs. 10,000 and the prescribed authority "which passed the order is not above the rank of Superintendent: Provided that the State Government may, by notification, increase or reduce this pecuniary limit of jurisdiction to any other amount; (b) the Deputy Commissioner in other cases. (2) Where an order under section 16 or 18, with or without penalty, has been passed by an authority other than the prescribed authority, in accordance with a direction given, by the Commissioner under sub-section (5) of section 8, the dealer may, subject, so far as may be, to pecuniary limit of jurisdiction under clause (a) of sub-section (1) appeal, in the prescribed manner against such order to the authority next above the authority which passed the said order, not being an authority below the rank of Appellate Assistant Commissioner. [3] (3) No appeal under sub-section (1) or sub-section (2) against an order of assessment or against an order under sub-section (3) or sub-section (4) of section 20A shall be entertained unless appellate authority is satisfied that the appellant has paid- (a) in case of an appeal against an order of assessment, twenty per centum of the tax assessed or such amount of tax as the appellant may admit to be due from him, whichever is greater, and (b) in case of an appeal against an order under sub-section (3) or sub-section (4) of section 20A, the amount ordered to be deposited by the dealer: Provided that the appellate authority may entertain an appeal against an order under sub-section (3) or sub-section (4) of section 20A without payment of such amount if it is satisfied,, for reasons to be recorded in writing, that the appellant has reasonable cause for not paying the amount in accordance with this sub-section. (4) Every appeal under this section shall be filed within forty-five days of the receipt of the notice issued under sub-section (5) of section 20 or sub-section (1) of section 21 [4] or the receipt of the order under section 20A as the case may be, but the appellate authority may admit an appeal after the expiry of such date if it is satisfied that the appellant had sufficient cause for not presenting the appeal in time. (5) Subject to such rules as may be made by the State Government under this Act, the appellate authority in disposing of

an appeal, may- (a) in the case of an appeal other than an appeal against an order under section 20A or section 21- (i) confirm, annul, reduce, enhance, or otherwise modify the assessment, or penalty or both; or (ii) set aside the assessment or penalty, or both, and direct the authority which made the assessment or imposed the penalty to pass a fresh order after further enquiry, on specified points; and (b) in case of an appeal against an order under section 20A or section 21 pass such order as it may, for reasons to be recorded in writing, deem fit. (6) No order under this section shall be passed without giving the appellant, as also the authority whose order or direction is the subject of the appeal, or their representatives, a reasonable opportunity of being heard. Footnotes: 1. Theae words were inserted (with effect from 1st November, 1962) by Section 18 of the Bihar Sales Tax (Amendment) Act. 1962 (Bihar Act XX of 1962). 2. Theaewords were inserted (with effect from 1st November, 1962) by Section 18 of the Bihar Sales Tax (Amendment) Act. 1962 (Bihar Act XX of 1962). 3. This Sub-section was substituted (with effect from 1st November, 1962) by Section 18, ibid 4. There words were inserted (with effect from 1st November, 1962) by a, 18 of the Bihar sales Tax (Amendment) Act, 1962 (Bihar Act XX of 1962).

### **32. Revision :-**

(1) Subject to such rules as may be made by the State Government under this Act, an order passed on an appeal under sub-section (1) or (2) of section 30 may, on application, be revised- (a) by the Deputy Commissioner, if the said order haa been passed by the Appellate Assistant Commissioner, and (b) by the Board, if the said order has been passed by the Deputy Commissioner or the Commissioner. (2) Subject as aforesaid, any order passed by the Deputy Commissioner under sub section (1) or by the Commissioner under sub-section (5) may, on application, be revised by the Board. (3) Subject as aforesaid, any order passed under this Act or the rules made thereunder, other than an order passed by the Commissioner under sub-section (5) of section 8, or an order under sub-section (1) or (3) or an order against which an appeal has been provided in section 30, may on application, be revised. (a) by the Appellate Assistant Commissioner, if the said order has been passed by a Suprintendent or Assistant Suprintendent, (b) by the Deputy Commissioner, if the said order has been passed by the appellate Assistant Commissioner or Assistant Commissioner, and (c) by the Commissioner, if the said

order has been passed by the Deputy Commissioner. (4) Every application for revision under this section shall be filed within sixty days of the passing of the order which is sought to be revised, but the authority to whom the application lies may admit it after the expiry of the said period of sixty days if it is satisfied that the applicant had sufficient cause for not filing the application within the said period. (5) The Commissioner may call for and examine the record of any proceeding under this Act in which any order has been passed by any other authority appointed under section 8, for the purpose of satisfying himself as to the legality or propriety of such order and may, after examining the record and making or causing to be made such enquiry as he may deem to be necessary, pass any order which he thinks proper: provided that no action under this section shall be initiated except before the expiry of four years from the date of order which is the subject or scrutiny by Commissioner under this sub-section. (6) No order under this section shall be passed without giving the dealer as also the authority whose order is sought to be revised or their representatives, a reasonable opportunity of being heard.

### **33. Review :-**

Subject to such rules as may be made by the State Government under this Act, any authority appointed under section Board may review any order passed by it if such review is, in the opinion of the said authority or Board, as the case may be, necessary on account of a mistake which is apparent from the record: Provided that no such review, if it has the effect of enhancing the tax or penalty or both, or of reducing a refund, shall be made unless the said authority or the Board, as the case may be, has given the dealer a reasonable opportunity of being heard.

### **34. Statement Of Case To High Court :-**

(1) Within ninety days from the passing by the Board of any order under section 31 or 32, the dealer in respect of whom order has been passed or the Commissioner may, application in writing, together with a fee of one hundred rupees, where such application is made by the dealer, require the Board to refer to the High Court any question of law arising out of such order. (2) If, for reasons to be recorded in writing, the Board refuses to make such reference, the applicant may, within forty-five days of such order, either- (a) withdraw his application (and if the applicant who does so, is a dealer, the fee paid by him shall be refunded), or (b) apply to the High Court against such refusal. (3) If upon the receipt of an

application under clause (b) of sub-section (2) the High Court is not satisfied that such refusal was justified, it may require the Board to state a case and refer it to the High Court and on receipt of such requisition the Board shall state and refer the case accordingly. (4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Board fco make such additions thereto or alterations therein as the Court may direct in that behalf. (5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Board a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Board shall, where necessary, amend its ordpr in conformity with such judgment. (6) Where a reference is made to the High Court under this section the costs including the disposal of the fee referred to in sub-section (1) shall be in the discretion of the Court. (7) The payment of the amount of tax including [1] penalty, if any or the deposit of the amount under section 20A, due in accordance with the order of the Board in respect of which an application has been made under this section shall not be stayed pending the disposal of such application or any reference made in consequence thereof. (8) The Board or the High Court may admit an application under this section after the expiry of the period of limitation provided in this section if it is satisfied that the applicant had sufficient cause for not presenting the application within that period. Footnotes: 1. These words were substituted (with effect from 1st November, 1962) for the words "interest or penalty, if any/by a. 19 ot the Bihar Sales Tax (Amendment) Act) 1962 (Bihar Act XX of 1962).

### **35. Powers Of Board And Taxing Authorities To Take Evidence On Oath, Etc :-**

(1) The Board, or any authority appointed under subsection (1) section 8, shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters namely; (a) enforcing the attendance of any person and examining him on oath or affirmation; (b) compelling the production of documents; and (c) issuing commissions for the examination of witnesses. (2) Any proceeding under this Act before the Board or any authority appointed under sub-secrion (I) of section 8, shall be

deemed to be a "judicial proceeding" within the meaning of sections 193 and 22S and for the purposes of section 196, of the Indian Penal Code, 1860 (XLV of 1960).

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. Tribunal.- [1] (1) Subject to such rules as may be prescribed and with effect from such date as may be specified by notification, the State Government may constitute a Tribunal to exercise all the powers and perform all the functions conferred by or under this Act upon the Board. (2) On the constitution of such Tribunal, all proceedings pending before the Board on the date of such constitution shall stand transferred to the said Tribunal. Provided that any such proceeding if heard or part-heard by the Board, before the date of the constitution of the Tribunal shall be disposed of by it as if the Tribunal had not been constituted. Footnotes: 1.This new section 34A was inserted (with effect from 1st November, 1962) by Section 20, *ibid*.

### **36. Appearance Before Taxing Authorities :-**

Any person, who is required to appear before any authority appointed under section 8 in connection with any proceeding under this Act, may appear before such authority- (a) by a person authorised by him in this behalf, being his relative or a person in his regular and wholetime employment, or (b) by a legal practitioner, or (c) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications.

### **37. Furnishing Of Informations By Dealers :-**

If any dealer liable to pay tax under this Act- (a) disposes of his business or any part of his business, whether by sale or otherwise, or (b) acquires any business or part of any business, whether by purchase or otherwise, or (c) effects any other change in the ownership or constitution of the business, or (d) discontinues his business or shifts his place of business, or (e) change the name, style or nature of his business or effect any changes in the class or description of goods which he sells, or (f) starts a new business or joins another business either singly or jointly with other persons, or (g) effects any change in the particulars furnished in an application made under section 9 or a declaration furnished under section 10, he shall, within one month of the occurring of any of the events aforesaid, inform the prescribed authority accordingly; and, if any such dealer dies without doing so, his executor, administrator, successor-in-interest or legal representative as the case may be, shall, within one month of the dealer's death, inform the said authority accordingly.



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

(1) Subject to such rules as may be made by the State Government under this Act, any authority appointed under sub-section (1) of section 8 or an Inspector may either before or after assessment, require any dealer to produce before it or him any accounts, registers or documents or to furnish any information relating to the financial transactions of the dealer, the profits derived from such transactions and the stock of goods produced, raised, processed, manufactured, bought, sold or delivered by such dealer; and the dealer shall comply with such requirement. (2) Subject as aforesaid, all accounts, registers and documents relating to the financial transactions of a dealer, the profits delivered from such transactions and all goods kept in any place of business of any dealer shall, at all reasonable times, be open to inspection by any authority appointed under sub-section (1) of section 8 or by an Inspector and the dealer shall render all possible assistance to such authority or Inspector in carrying out the inspection. Explanation- Such authority or Inspector may take or cause to be taken such copies of, or extracts from, the accounts, registers or documents as such authority or Inspector may consider necessary. (3) If any authority appointed under sub-section (1) of section 8 has reason to suspect that any dealer is attempting to evade the payment of any tax, such authority 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. Such seized accounts, registers or documents shall be retained for so long as may be reasonably necessary for examination thereof or for a prosecution under section 31 and shall thereafter be returned to the dealer in the prescribed manner: Provided that if the seized accounts, registers or documents are retained by any authority other than the Commissioner, for more than [1] ninety days the reasons for doing so shall be recorded in writing and the approval of the Commissioner obtained by the authority so retaining them. (4) For the purposes of sub-section (2) or sub-section (3), any authority appointed under sub-section (1) of section 8 or an Inspector may enter and search any place of business of any dealer. Footnotes: 1. This word was substituted (with effect from 1st April, 1960) by a. 12 of the Bihar Finance Act. 1960 (Bihar Act VIII of 1960).

### **39. Offences and penalties :-**

Whoever- (a) being a dealer, sells goods in contravention of sub-section (1) of section 9, or fails or neglects to comply with the provisions of sub-section (7) or with any requirement made of him under sub- clause (i) of clause (a) of sub-section (10) of the said section; or (b) fails, without sufficient cause, to submit any return as required by section 14 or submits a false return; or (c) being [1] a registered dealer, falsely represents, when purchasing any goods or class or description of goods that such goods are specified in his [2] registration certificate; or [3] (d) having purchased any goods or class or description of goods after giving the declaration mentioned in sub-section (2) of section 6A or the proviso to clause (b) of the sub-section (2) of section 7, utilises the said goods for a purpose other than that for which the goods were so purchased by him, or (e) not being [4] a registered dealer falsely represents that he is such a dealer; or (f) fails or neglects to maintain or produce account in the manner provided by or under section 12 or laid down under section 13; or (g) fails or neglects to issue cash memoranda or bills in the manner laid down under section 13; or (h) knowingly maintains or produces incorrect accounts, registers, or documents or knowingly furnishes incorrect information; or [5] (hh) fails or neglects to comply with the provisions of sub-section (2) or sub-section (3) of section 20; or [6] (hhh) contravenes the provisions of section 20A; or (i) fails or neglects to comply with any requirement made of him under sub-section (1) of section 37; or (j) obstructs any authority making an inspection, a search or a seizure under section 37; or (k) closes his place of business with a view to prevent inspection under section 37; or (l) fails or neglects to comply with the provisions of sub-section (2) of section 41 or obstructs any authority or officer in the performance of duty under sub-section (3) of the said section; or (m) contravenes the provisions of sub-section (!) of section 42 or obstructs any authority or officer in the performance of duty under sub-section (2) of the said section; or (n) fails or neglects to furnish any information required by or under this Act; or (o) aids or abets any person in the commission, of any offence specified in clauses (a) to (n); shall be punishable with imprisonment of either description which may extend, to six months or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence. (2) No court shall take cognizance of any offence under this Act or the rules made thereunder, except with the previous sanction of the Commissioner, and no court

inferior to that of a Magistrate of the first class shall try any such offence. (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), all offences punishable under this Act shall be cognizable and bailable. Footnotes: The words "an enrolled dealer or" were omitted (with effect from 1st November, 1962) by Section 21 of the Bihar Sales Tax (Amendment) Act, 1962. The words "enrolment certificate" were omitted (with effect from 1st November, 1962) by Section 21, ibid. The words "enrolment certificate" were omitted (with effect from 1st November, 1962) by Section 21, ibid. The words "an enrolled dealer or" were omitted (with effect from 1st November, 1962) by Section 21 of the Bihar Sales Tax (Amendment) Act, 1962. This clause was inserted (with effect from 1st November, 1962) by a. 21, ibid. The words "an enrolled dealer or" were omitted (with effect from 1st November, 1962) by Section 21 of the Bihar Sales Tax (Amendment) Act, 1962.

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

(1) Subject to such conditions as may be prescribed, the Commissioner may authorise any authority or Inspector appointed under section 8 to investigate all offences punishable under this Act. (2) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898 (V of 1898), upon an officer in charge of a police-station for the investigation of a cognizable offence.

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

(1) The Commissioner may, either before or after the institution of proceedings under section 38, accept from any person charged with an offence under sub-section (1) of the said section or under any rules made under this Act, by way of composition of the offence, a sum not exceeding two thousand rupees or where the offence charged was likely to cause or caused evasion of any amount of tax payable under this Act, a sum not exceeding twice such amount, 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.

#### **42. Establishment Of Check Posts :-**

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

under this Act. (2) Every person transporting such goods as the State Government may by notification, specify, shall, at any check post or barrier, referred to in sub-section (1) and before crossing such check post or barrier, file before such authority or officer as may be authorised by the State Government in this behalf, a correct and complete declaration in such form and in such manner as may be prescribed. (3) The authority or officer authorised by the State Government under sub-section (2) may, for the purpose of satisfying himself that the provisions of sub-section (2) are not being contravened, and subject to such restriction as may be prescribed, intercept, detain and search any road vehicle or rivercraft which may be suspected of being used for contravening such provisions.

#### **43. Restriction On Movement :-**

(1) No person shall transport from any railway station, steamer station, air-port, post office or any other place, whether of similar nature or otherwise, notified in this behalf by the State Government, any consignment of such goods, exceeding such quantity, as may be specified in the notification, except in accordance with such conditions as may be prescribed and such conditions shall be made with a view to ensuring that there is no evasion of tax payable under this Act. (2) Any authority or officer who may be authorised by the State Government in this behalf, may for the purpose of verifying whether any goods are being transported in contravention of the provision of sub-section (1) and subject to such restrictions as may be prescribed intercept, detain and search any road vehicle or river craft or any load carried by persons.

#### **44. Bar To Certain Proceeding :-**

Save as is provided in section 33 no assessment made and no order passed under this Act or the rules made thereunder by authority or inspector appointed under section 8 or by the Board shall be called into question in any court; and save as is provided in section 30, 31 or 32 no appeal or application for revision or review shall lie against any such assessment or order.

#### **45. Indemnity :-**

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

#### **46. Disclosure Of Information By A Publi Servant :-**

(I) All particulars contained in any statement made, return furnished or accounts, registers or documents produced in accordance with this Act, or any record of evidence given in the course of any proceedings under this Act other than proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872), no court shall, save as aforesaid, be entitled to require any servant of the Fovernment to produce before it any auch statement, return, account, register, documentes or record or any part thereof, or to give evidence before it in respect thereof. (2) If, save as is provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section(1),he shall be punishable with imprisonment which may extend to six months or with fine or with both. (3) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1), made- (a) for the purposes of a prosecution under the Indian Penal Code, 1860 XLV of 1860), in respect of any statement, return, accounts, registers, documents or evidence, or any part thereof; or (b) for the purposes of a prosecution under this Act; or (c) for regulating any inquiry under the Public Servants (Inquiries) Act, 1850 (XXXLVII of 1850), into the conduct or behaviour of any authority or Inspector appointed under section 8 or into the behaviour of any other officer appointed to conduct such inquiry; or (d) in connetion with the trial of a suit in a Civil Court, to which the State of Bihar is a party and which relates to any matter arising out of any proceeding under this Act; or (e) for the purpose of enabling an officer of the Central Government or of any State Government to levy or recover any tax or duty imposed by it; or (f) to any officer of the State Government where it is necessary to make such disclosure for the purposes of this Act; or (g) to any officer of the Central Government; or of the State Government for the purpose of enabling such officer to perform his executive functions relating to the affairs of the Union or the State.

#### **47. Powers To Mahe Rules :-**

(1) The State Government may, subject to the conditions of previous publications, make rules for- (i) all matters expressly required or allowed by the Act to be prescribed and generally for carrying out the purposes of this Act and regulating the procedure to be followed, forms to be adopted and fees fo be paid in

connection with proceedings under this Act and all other matters ancillary or incidental thereto; (ii) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to 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 one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding twenty five rupees during the continuance of the offence.

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

(1) The Bihar Sales Tax Act, 1947 (Bihar Act XIX of 1947) (hereinafter referred to as the said Act) hereby repealed. Provided that nothing in this repeal shall affect or be deemed to affect (i) any right, title, obligation or liability already acquired, accrued or incurred for anything done or suffered, in respect of the period immediately preceding this repeal, (ii) any legal proceeding or remedy whether initiated or availed of before or after this repeal, in respect of any such right title obligation or liability. (iii) the levy, assessment or recovery of any tax or the imposition or recovery of any penalty, in respect of such period under the provision of the said Act; and all proceedings under the said Act in respect of all matters aforesaid shall be initiated and disposed of or continued and disposed of, as the case may be, as if this Act had not been passed; and for this purpose all taxing authorities or Inspectors appointed under section 8 of this-Act shall exercise all powers and perform all duties conferred by or under the said Act upon the corresponding authorities appointed under section 3 thereof. (2) All rules, orders and appointments made, notifications published certificates granted, powers conferred and other things done under the said Act and in force on the commencement of this Act shall, so far as they are not inconsistent with or until they are modified, superseded or cancelled under this Act, be deemed to have been respectively made, published, granted, conferred or done under this Act. [1] (3) Nothing in the Bihar Sales Tax (Amendment) Act, 1962, shall affect any liability to pay tax incurred by a dealer for any period prior to the date of commencement of the said Act, and all proceedings relating to any such liability as aforesaid shall be continued and disposed of or initiated and disposed of, as the case may be as if the said Act had not been passed: Provided that the provisions of section 34A shall apply to such proceedings.

Footnotes: 1. The sub-section was inserted (with effect from 1st

November. 1962) by Section 22 of the Bihar Sales Tax (Amendment) Act 1961 (Bihar Act XX of 1962.)

**49. Removal Of Difficulty :-**

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order not inconsistent with this Act and the rules made thereunder, do anything which appears to it necessary for the purpose of removing the difficulty.