

Chhattisgarh Value Added Sales Tax Act, 2005

2 of 2005

[24 March 2005]

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Chhattisgarh Value Added Sales Tax Act, 2005

[24 March 2005]

An Act to levy tax on sales and purchases of goods in the State of Chhattisgarh. Be it enacted by the Chhattisgarh Legislature in the Fifty-fourth Year of the Republic of India as follows:-- * Published in C.G. Rajpatra (Asadharan) dated 24-3-2005 Pages 108(89-155).

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Chhattisgarh Value Added Sales Tax Act, 2005.
- (2) It extends to the whole of Chhattisgarh.
- (3) It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject of context--

- (a) "Appellate Deputy Commissioner" means an Appellate Deputy Commissioner of Sales Tax appointed under Section 3 and includes an Additional Appellate Deputy Commissioner of Sales Tax;
- (b) "Assistant Commissioner" means an Assistant Commissioner of Sales Tax appointed under Section 3 and includes an Additional Assistant Commissioner of Sales Tax;
- (c) "Board" means Board of Revenue constituted under the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959);
- (d) "Business" includes,--
 - (i) any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern and irrespective of the volume, frequency, continuity or regularity of such trade, commerce, manufacture, adventure or concern, and
 - (ii) any transaction of sale or purchase of goods in connection with or incidental or ancillary to the trade, commerce, manufacture, adventure or concern referred to in clause (i), that is to say--
 - (a) goods whether or not they are in their original form or in the form of second hand goods, unserviceable goods, obsolete or discarded goods, mere scrap or waste material; and

(b) goods which are obtained as waste products or by-products in the course of manufacture or processing of other goods or mining or generation of or distribution of electrical energy or any other form of power;

(e) "Capital Goods" means plants, machinery and equipment directly used in the process of manufacture excluding such civil works as may be prescribed;

(f) "Commissioner" means the Commissioner of Sales Tax appointed under Section 3;

(g) "Dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash, or for deferred payment or for commission, remuneration or other valuable consideration and includes --

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

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

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

(iv) any person who transfers the right to use any goods including leasing thereof for any purpose, (whether or not for a specified period) in the course of business to any other person.

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

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

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

(iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment, and every local branch of a firm or company situated outside the State, shall be deemed to be a dealer for the purpose of this Act.

Explanation II.--The Central or a State Government or any of their departments or offices which, whether or not in the course of business, buy, sell, supply or distribute goods, directly or

otherwise, for cash or for deferred payment, or for commission, remuneration or for other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.

Explanation III.--Any non-trading, commercial or financial establishment including a bank, an insurance company, a transport company and the like which whether or not in the course of business buys, sells, supplies or distributes goods, directly or otherwise, for cash or for deferred payment, commission, remuneration or for other valuable consideration, shall be deemed to be a dealer for the purposes of this Act;

(h) The expression "declared goods" shall have the same meaning assigned to it in the Central Sales Tax Act, 1956 (No. 74 of 1956);

(i) "Deputy Commissioner" means a Deputy Commissioner of Sales Tax appointed under Section 3 and includes an Additional Deputy Commissioner of Sales Tax;

(j) "Document" means title deeds, writings or inscriptions and includes "electronic record" and "electronic form" as defined in the Information Technology Act, 2000 (No. 21 of 2000) and the like that furnishes evidence;

(k) "Goods" means all kinds of movable property including computer software but excluding actionable claims, newspapers, stocks, shares, securities or Government stamps and includes all materials, articles and commodities, whether or not to be used in the construction, fitting out, improvement or repair of movable or immovable property, and also includes all growing crops, grass, trees, plants and things attached to, or forming part of the land which are agreed to be severed before the sale or under the contract of sale;

(l) "Import" means the bringing or causing to be brought of goods in to the State of Chhattisgarh from any place outside the State;

(m) "Input tax" means an amount paid or payable by way of tax under clause (i) of Section 8 by a registered dealer in respect of the purchase of any goods specified in Schedule II, to a selling registered dealer and who is liable to pay tax under the said clause on the sale of such goods;

(n) "Manufacture" includes any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformation into a new and different article so understood in commercial parlance having a distinct name, character, use, but does not include such activity of manufacture as may be notified;

(o) "Place of business" means any place where a dealer purchases

or sells any goods or stores goods or keeps documents or accounts of his purchases or sales or both and also includes--

(i) the place of business of an agent where a dealer carries on business through an agent;

(ii) any place or building whether any business is carried on therein or not, in which the person carrying on the business, keeps any of his books of accounts, documents, stocks or other things, relating to his business;

(p) "Prescribed" means prescribed by rules made under this Act;

(q) "Purchase price" shall comprise of--

(i) the amount payable by a dealer as valuable consideration for the purchase of goods simplicitor;

Provided that where goods are purchased together with the packing material or container, then notwithstanding anything contained in this Act, the purchase price of such goods shall be inclusive of the price or cost or value of such packing material or container, whether such price or cost or value is paid separately or not as if such packing material or container were the goods purchased;

(ii) transport costs, if any;

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

(iv) forwarding and handling charges, if any;

(v) insurance charges, if any;

(vi) local taxes, if any;

(vii) excise duty, if any, leviable under the Central Excise Act, 1944 (No. 1 of 1944);

(viii) cost of packing, if any; and

(ix) any other charges or costs other than those specified above, if incurred or paid in respect of goods so purchased.

Explanation.--For the purpose of this clause "transport cost" includes such expenses as are incurred by the dealer on transportation of goods after taking delivery from the seller;

(r) "Registered dealer" means a dealer registered under this Act;

(s) "Sale" with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or for other valuable consideration and includes--

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

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

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

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

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

(vi) a transfer of the right to use any goods including leasing thereof for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and purchase of those goods by the person to whom such transfer, delivery or supply is made, but does not include a mortgage, hypothecation, charge or pledge.

Explanation.--

(a) Notwithstanding anything contained in the Sale of Goods Act, 1930 (III of 1930), where a sale or purchase of goods takes place in pursuance of a contract of sale, such sale or purchase shall be deemed for the purposes of this Act to have taken place in the State of Chhattisgarh irrespective of the place where the contract of sale or purchase might have been made, if the goods are within the State--

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

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation; and

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

(t) "Sale price" means the amount or any other consideration payable to a dealer as valuable consideration for the sale of any goods less any sum allowed as cash discount according to ordinary trade practice but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof other than the cost of freight or delivery or the cost of installation when such cost is separately charged.

Explanation.--

(i) Where goods are sold on hire purchase or any system of payment by installments, the sale price of such goods shall be exclusive of insurance charges, interest and hire charges and such other charges as may be prescribed.

(ii) Where goods are sold by way of transfer of right to use such goods, the sale price thereof shall be the amount of valuable consideration received or receivable by the transfer or for such transfer;

(u) "Sales Tax Officer" means a sales tax officer appointed under Section 3 and includes an Additional Sales Tax Officer;

(v) "Tax" means the tax payable under this Act;

(w) "Taxable turnover" in relation to a dealer for any period means that part of dealers turnover which remains after deduction therefrom--

(1) the sale price of goods declared tax free under Section 15;

(2) in respect of goods on which tax is payable under clause (i) of Section 8:-

(i) the sale price of goods in relation to which deduction is provided under the Act,

(ii) the amount arrived at by applying the following formula:--

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	rate of tax under section 8(i) X Aggregate of sale prices	

	100+rate of tax under Section 8(i)	

(3) in respect of goods on which tax is payable under clause (ii) of Section 8:--

(i) the sale price of such goods which are in the nature of tax paid goods in the hands of such dealer,

(ii) the sale price of goods in relation to which deduction is provided under the Act,

(iii) the amount arrived at by applying the following formula--

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	rate of tax under section 8(ii)XAggregate of sale prices arrived at after allowing deduction under paragraph(ii) of sub-clause (2)	

	100+rate of tax under Section 8(ii)	

Provided that:--

(a) no deduction on the basis of the above formula under paragraph (ii) of sub-clause (2) or paragraph (iii) of sub-clause (3) shall be made if the amount of tax under clause (i) or clause (ii) of Section 8 collected by a registered dealer in

accordance with the provisions of the Act, has been otherwise deducted from the aggregate of sale prices;

(b) where the turnover of a dealer is taxable under clause (i) or clause (ii) of Section 8 at different rates, the formula under paragraph (ii) of sub-clause (2) or paragraph (iii) of sub-clause (3) shall be applied separately in respect of such part of the turnover liable to a different rate of tax.

Explanation.--For the purpose of levy of tax under clause (i) and tax under clause (ii) of Section 8, the taxable turnover shall be determined separately;

(x) "Tax paid goods" in relation to goods specified in parts III and IV of Schedule II on which tax is payable under clause (ii) of Section 8, means any such goods which have been purchased by a dealer from a registered dealer inside the State of Chhattisgarh within the meaning of Section 4 of the Central Sales Tax Act, 1956 (No. 74 of 1956);

(y) "Turnover" in relation to any period means the aggregate of the amount of sale prices received and receivable by a dealer in respect of any sale or supply or distribution of goods made during that period, whether or not the whole or any portion of such turnover is liable to tax but after deducting the amount, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within six months from the date of such sale:

Provided that--

(i) in the case of sale by bonafide agriculturist as defined in clause (e) of sub-section (1) of Section 2 of the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959), of ghee produced by himself; or

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

(z) "Value added sales Tax" means a tax on sale or purchase of goods payable under this Act;

(a-1) Year means the twelve months ending on the 31st day of March.

CHAPTER 2 TAXING AUTHORITIES

3. Taxing Authorities And Other Officers :-

(1) There may be appointed a person to be the Commissioner of Sales Tax and the following category of officers to assist him, namely:--

(a) Additional Commissioner of Sales Tax;

(b) Appellate Deputy Commissioner or Additional Appellate Deputy Commissioner of Sales Tax;

(c) Deputy Commissioner or Additional Deputy Commissioner of Sales Tax;

(d) Assistant Commissioner or Additional Assistant Commissioner of Sales Tax;

(e) Sales Tax Officer or Additional Sales Tax Officer

(f) Assistant Sales Tax Officer; and

(g) Inspector of Sales Tax.

(2) The Commissioner of Sales Tax and the Additional

Commissioner of Sales Tax shall be appointed by the State Government and the other officers referred to in sub-section (1) shall be appointed by the State Government or such other authority as it may direct.

(3) The Commissioner of Sales Tax and the Additional Commissioner of Sales Tax shall exercise all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act throughout the State and for this purpose any reference to the Commissioner in this Act, shall be construed as a reference to the Additional Commissioner of Sales Tax.

(4) Other officers referred to in sub-section (2) shall, within such areas as the appointing authority may, by general or special order specify, exercise such powers as may be conferred and perform such duties as may be imposed by or under this Act.

CHAPTER 3 INCIDENCE OF TAX

4. Incidence Of Tax :-

(1) Every dealer whose turnover during a period of twelve months immediately proceeding the commencement of this Act exceeds the prescribed limits which shall not exceed rupees five lacs, shall from such commencement be liable to pay tax under this Act in respect of sales or supplies of goods effected by him in Chhattisgarh. Different limits may be prescribed for different category of dealers.

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay tax under this Act in respect of sales or supplies of goods effected by him in Chhattisgarh with effect from the date on which his turnover in a year first exceeds the limit prescribed under in the said sub-section but for the purpose of assessment of the tax for that year, only so much of his turnover as is in excess of such limit, shall be taken into consideration.

5. Determination Of Liability To Pay Tax :-

(1) The Commissioner shall, in the prescribed manner, institute proceedings for the purpose of determining the liability of a dealer to pay tax under this Act. Such liability shall be determined by an order and such determination shall be made within a period of twelve months from the date of institution of such proceedings.

(2) Notwithstanding anything contained in sub-section (2) of Section 4, liability of a dealer to pay tax under this Act shall not be determined from a date earlier than five years prior to--

- (i) the date of institution of proceedings under sub-section (1); or
- (ii) the date of validity of the registration certificate, whichever is earlier.

6. Joint And Several Liability Of Certain Class Of Dealers :-

(1) (a) Where a dealer who carries on the business of supplying goods in the course of execution of a works contract entered into by him (hereinafter referred to as a contract) through another such dealer (hereinafter referred to as a sub-contractor) directly or otherwise, and the subcontractor executes such works contract and each or either of them is liable to pay tax under this Act, then notwithstanding anything contained in this Act, the contractor and the sub-contractor shall be jointly and severally liable to pay tax in respect of transfer of property in goods whether as goods or in some other form involved in the execution of such works contract;

(b) If the contractor proves in the prescribed manner to the satisfaction of the Commissioner that the tax has been paid by the sub-contractor on the turnover of the goods supplied in the course of execution of the works contract, the contractor shall not be liable to pay tax again on the turnover of such goods.

(2) (a) Where a dealer who bonafidely buys or sells for an agreed consideration (hereinafter referred to as the commission agent) any goods specified in Schedule II on behalf of his principal, such commission agent and his principal shall both be jointly and severally liable to pay tax under this Act;

(b) (i) If the principal on whose behalf the commission agent has sold the goods proves in the prescribed manner to the satisfaction of the Commissioner that tax has been paid or payable by his commission agent on such goods, the principal shall not be liable to pay tax in respect of the sale of such goods;

(ii) If the commission agent who has sold goods on behalf of the principal proves in the prescribed manner to the satisfaction of the Commissioner that the tax has been paid by his principal on such goods, the commission agent shall not be liable to pay tax in respect of the sale of such goods.

(3) Where any dealer or person with a view to evade payment of tax or in order to claim any input tax rebate which he otherwise is not eligible for or was carrying on business in the name of or in association with any other person either directly or indirectly, whether as an agent, employee, manager, partner or power of attorney holder, guarantor, relative or sister concern or any other

capacity, such person and the dealer in whose name the registration certificate was obtained shall jointly and severally be liable for the payment of tax assessed, reassessed, interest payable and penalty imposed under the Act and such tax, interest and penalty shall be recovered from all or any of such persons as if such person or persons are dealer under the Act.

7. Liability Of A Dealer Registered Under Central Act No. 74 Of 1956 To Pay Tax :-

(1) A dealer registered under the Central Sales Tax Act, 1956 (No. 74 of 1956) who is not liable to pay tax under Section 4 shall nevertheless be liable to pay tax at the rate specified in Section 8 on his sales of any goods in respect of the purchases of which he has furnished a declaration under sub-section (4) of Section 8 of the said Act or on the sales of any goods in the manufacture of which such goods have been used.

(2) Every dealer to whom sub-section (1) applies shall for the purposes of Section 19, 21, 25, and 41 be deemed to be a registered dealer.

CHAPTER 4 LEVY OF TAX

8. Levy Of Tax :-

There shall be levied on goods specified in,--

(i) part I, II, IV and V of Schedule II, a tax at the rate mentioned in the corresponding entry in column (3) thereof on the taxable turnover; and

(ii) parts III and IV of the said Schedule, a tax at the rate mentioned in the corresponding entry in column (4) thereof on the taxable turnover, and such tax shall be levied on the taxable turnover of a dealer liable to pay tax under this Act.

9. Levy Of Purchase Tax :-

(1) Every dealer who in the course of his business purchases any goods specified in Schedule II from any person other than a registered dealer or from a registered dealer in the circumstances in which no tax under Section 8 is payable by that registered dealer on the sale price of such goods except where the goods are tax-paid goods within the meaning of clause (x) of Section 2, shall be liable to pay tax on the purchase price of such goods if,--

(a) after their purchase, the goods are not sold within the State of

Chhattisgarh or in the course of inter-state trade or commerce or in the course of export out of the territory of India but are sold or disposed of otherwise, or consumed or used in the manufacture of goods declared tax-free under Section 15; or

(b) such goods covered by Schedule III are used or consumed in the manufacture of goods; or

(c) such goods not covered by Schedule III, after use or consumption in the manufacture of any goods specified in Schedule II.

(i) the manufactured goods are disposed of otherwise than by way of sale in the State of Chhattisgarh or in the course of inter-state trade or commerce or in the course of export out of the territory of India;

(ii) the manufactured goods are sold in the State of Chhattisgarh or in the course of interstate trade or commerce or in the course of export out of the territory of India; and such tax shall be levied,--

(a) in respect of goods referred to in clause (a), clause (b) and sub-clause (i) of clause (c) at the rate specified in column (3) and (4) of Schedule II; and

(b) in respect of goods referred to in sub-clause (ii) of clause (c) at the rate specified in column (4) of the said Schedule, at the rate at which tax would have been levied on the sales of such goods within the State on the date of such purchase.

(2) No tax under this section shall be levied in respect of any year on--

(a) a dealer whose turnover in a year does not exceed the limit prescribed under sub-section (1) of Section 4;

(b) any other dealer who has no turnover, if his aggregate of purchase prices of all the goods does not exceed such amount as may be prescribed.

(3) Every dealer who has no turnover and is liable to pay tax under sub-section (1) shall, for the purpose of Sections 19, 21, 22, 25, 26 and 41 be deemed to be a registered dealer.

10. Composition Of Tax :-

(1) (a) The Commissioner may, subject, to such restrictions and conditions as may be prescribed, permit any registered dealer who carries on wholly or partly the business of supplying goods in the course of execution of works contract entered into by him, to pay in lieu of tax payable by him under this Act a lumpsum at such rate not exceeding 15 percent, as may be prescribed, determined in the

prescribed manner, by way of composition;

(b) For the purpose of determination of the lumpsum by way of composition under clause (a) the State Government may prescribe different rates for different kinds of contracts.

(2) (a) A registered dealer purchasing goods specified in Schedule II from an other such dealer within the state after payment of tax under clause (1) of Section 8 and/or purchasing goods specified in Schedule I, and whose turnover in a year does not ordinarily exceed rupees fifteen lac may opt, in the prescribed form within one month of the commencement of the year, for payment in lieu of tax payable by him under clause (1) of Section 8 a lumpsum at such rate, in such manner and subject to such restrictions and conditions as may be prescribed;

(b) If a registered dealer during the year for which an option has been given by him contravenes any of the restrictions and conditions prescribed under clause (a) of this section, the option given by him shall stand revoked;

(c) A registered dealer who opts for composition of tax under clause (1) of this section shall not be eligible to any input tax rebate in respect of the goods sold during the year in relation to which such option is exercised by the dealer.

(3) The provisions of Sections 19, 21, 41 and 42 shall not apply to a registered dealer to whom permission to pay a lumpsum by way of composition has been granted under sub section (1) in relation to the period for and the goods in respect of which such composition has been granted and to such dealer who has opted for composition of tax under sub-section (2) for the period for which such option has been exercised.

11. Dealer Not To Pass Incidence Of Tax To Agriculturists And Horticulturists Under Certain Circumstances :-

No dealer shall collect any amount, by way of tax, from a person who sells agricultural or horticultural produce grown by himself or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant or otherwise, when such produce is sold in the form in which it was produced, without being subjected to any physical, chemical or other process for being made fit for consumption save mere dehusking, cleaning, grading or sorting.

12. Rate Of Tax On Container Or Packing Material :-

Notwithstanding anything contained in Section 8 or Section 9 where

any goods packed in any container or packing material are sold or purchased, the container or packing material in which such goods are so packed shall be deemed to have been sold or purchased along with such goods and the tax under Section 8 or Section 9 shall be levied on the sale or purchase of such container or packing material at the rate of tax, if any, applicable to the sale, or as the case may be the purchase of the goods themselves;

Provided that no tax under Section 8 or Section 9 shall be levied where the container or packing material is sold or purchased along with the goods declared tax-free under Section 15.

13. Rebate Of Input Tax :-

(1) Subject to the provisions of subsection (5) and such restrictions and conditions as may be prescribed, a rebate of input tax as provided in this section shall be claimed by or be allowed to a registered dealer in the circumstances specified below,--

(a) when a registered dealer purchases any goods specified in Schedule II, within the State of Chhattisgarh from another such dealer for sale within the State of Chhattisgarh or in the course of inter-state trade or commerce or in the course of export out of the territory of India, after payment to him of the tax under clause (i) of Section 8, he shall claim or be allowed in such manner and within such period as may be prescribed, input tax rebate of the amount of such tax;

(b) when a registered dealer purchases any goods specified in Schedule II other than those specified in Schedule III within the State of Chhattisgarh from another such dealer after payment to him of the tax under clause (i) of Section 8, for use or consumption of such goods including capital goods for/ in the manufacture or for/in mining of any goods specified in Schedule II for sale within the State of Chhattisgarh or in the course of inter-state trade or commerce and any goods specified in Schedule I or Schedule II for sale in the course of export out of the territory of India, he shall claim or be allowed, in such manner and within such period as may be prescribed, input tax rebate of the amount of such tax;

(c) where a dealer makes an application for grant of a registration certificate under clause (a) or clause (c) of sub-section (2) of Section 16 on or after the commencement of the Act, he shall In respect of,--

(1) goods specified in Schedule II purchased on or after such commencement by him within the State of Chhattisgarh from

another such dealer after payment to him of tax under clause (i) of Section 8 for the purpose specified in clause (a); or

(2) goods specified in Schedule II other than those specified in Schedule III, purchased on or after such commencement by him within the State of Chhattisgarh after payment to him of tax under clause (i) of Section 8 for the purpose specified in clause (b).

and held in stock by him on the date of validity of the registration certificate issued to him under clause (a) of sub-section (2) of Section 16, claim or be allowed,--

(i) in respect of goods referred to in clause (a), an input tax rebate under the said clause, the amount of such tax,

(ii) in respect of goods referred to in clause (b), an input tax rebate under the said clause of the amount of such tax, in such manner and within such period as may be prescribed.

(2) (a) Notwithstanding anything contained in sub-section (1), where a registered dealer purchases any goods specified in Schedule II in the circumstances stated in clauses (a) and (b) of the said sub-section and dispatches such goods or the goods manufactured by him, to a commission agent registered under the Act for sale, the input tax rebate in respect of such goods purchased for the purpose of sale within the State of Chhattisgarh shall be claimed by or be allowed to the registered dealer who receives the goods for sale on commission;

(b) No input tax rebate shall be claimed by or be allowed to the dealer (principal) who dispatches such goods for the said purpose.

(3) The input tax rebate by a registered dealer under subsection (1) or sub-section (2) shall be adjusted in such manner as may be prescribed towards the tax payable by him under this Act or under Central Sales Tax Act, 1956 (No. 74 of 1956) and the balance, if any, shall be carried over for adjustment towards tax payable in the subsequent year,

(4) The amount of input tax rebate, to which a registered dealer is entitled in respect of purchase of goods made by him for sale in the course of export out of the territory of India or for sale to a registered dealer in Special Economic Zone as per the provisions of clause (iv) of sub-section (1) of Section 38, which is not adjustable towards any tax payable by him in accordance with the provisions of sub-section (3), shall be granted to him by way of refund.

(5) (a) (i) Where a registered dealer having purchased any goods referred to in clause (a) of sub-section (1), from another such dealer for the purpose of sale has claimed input tax rebate in respect of such goods under clause (a) or sub-clause (i) of clause

(c) of the said sub-section and adjusted such rebate towards the tax payable by him according to his return or returns, such dealer shall, in the event of disposal of such goods otherwise than by way of sale within the State of Chhattisgarh or in the course of inter-state trade or commerce or in the course of export out of the territory of India, be liable to pay the amount of tax towards which input tax rebate in respect of the aforesaid goods was adjusted by him:

(ii) Where a registered dealer having purchased any goods referred to in clause (b) or sub-clause (ii) of clause (c) of sub-section (1) from another such dealer for the purpose of use or consumption of such goods for/in the manufacture or mining of any goods specified in Schedule II has claimed input tax rebate in respect of such goods under clause (b) or clause (c) of the said sub-section, and adjusted such rebate towards the tax payable by him according to his return or returns, such dealer shall, in the event of the disposal of goods manufactured or mined, in a manner otherwise than by way of sale in the State of Chhattisgarh or in the course of inter-state trade or commerce or in the course of export out of territory of India, be liable to pay the amount of tax towards which the aforesaid input tax rebate relating to such goods was adjusted by him;

(iii) Where the registration certificate of a registered dealer who having purchased any goods referred to in clause (a) or clause (b) of sub-section (1) and having claimed input tax rebate in respect of the said goods under the said clauses, is cancelled under sub-section (10) of Section 16, such dealer shall pay the amount claimed by way of input tax rebate under the said clauses in respect of the goods held in stock by him on the date the order of cancellation of the registration certificate takes effect;

(b) Where the amount of tax or the amount of input tax rebate which a registered dealer is liable to pay under clause (a) is not adjustable towards any input tax rebate to his credit, such dealer shall be liable to pay on the amount of tax so payable interest at the rate of one percent per month for the period commencing from the date of disposal of the goods in the manner stated in sub-clause (i) or sub-clause (ii) of clause (a) to the date of its payment.

(6) No input tax rebate under subsection (1) shall be claimed or be allowed to a registered dealer,--

(i) in respect of any goods specified in Schedule II purchase by him from another such dealer for sale but given away by him by way of free sample or gift or given to or received by him by way of

replacement;

(ii) in respect of goods specified in Schedule II for use or consumption for manufacture or mining of goods but the goods manufactured or mined are given away by him by way of free sample or gift or given to or received by him by way of replacement;

(iii) in respect of goods purchased by a dealer who opts for the composition of tax under the provisions of Section 10.

(7) (a) The State Government, if it deems fit, may, by notification specify any goods mentioned in part III of Schedule II for the purpose of claiming or allowing input tax rebate under this section, when such goods are purchased by a registered dealer from another such dealer within the State of Chhattisgarh,--

(i) after payment to him of tax under clause (ii) of Section 8, or

(ii) which are tax paid goods at the hands of the selling registered dealer, for use or consumption of such goods for/in the manufacture or for/in mining of any goods specified in Schedule II for sale within the State of Chhattisgarh or in the course of inter-state trade or commerce or in the course of export out of the territory of India and thereupon the input tax rebate in respect of such goods shall be claimed or be allowed in such manner, to such extent, within such period and subject to such restrictions and conditions as may be specified in the notification;

(b) The provisions of sub-clause (ii) of clause (c) of sub-section (1) and sub-sections (2) to (5) shall apply to input tax rebate that may be claimed or allowed in respect of goods referred in clause (a).

14. Burden Of Proof :-

The burden of proving that any sale or purchase effected by a dealer is not liable to tax under Section 8 or Section 9 as the case may be, or that he is eligible for an input tax rebate under Section 13 shall be on the dealer.

15. Tax Free Goods :-

No tax shall be payable on the sale or purchase of goods specified in Schedule I, subject to the conditions and exceptions, if any, set out in the corresponding entry in the third column thereof.

CHAPTER 5 REGISTRATION OF DEALERS

16. Registration Of Dealers :-

(1) Every dealer whose turnover during the twelve months immediately preceding the commencement of this Act exceeds the limits specified in sub-section (1) of Section 4 shall get himself registered in the prescribed manner within thirty days of the commencement of this Act.

(2) (a) Every dealer other than a dealer to whom sub-section (1) applies shall get himself registered within the prescribed period from the date on which his turnover in a year first exceeds the limits specified in sub-section (1) of Section 4;

(b) Every person who is required to obtain a registration certificate in pursuance of the provisions of subsection (6) of Section 17 shall get himself registered within the period specified in the said sub-section;

(c) Every dealer being a transferee of a business within the meaning of sub-section (1) of Section 30 shall get himself registered within thirty days from the date of transfer of the business of which he is a transferee.

(3) (a) Every dealer required to get himself registered under sub-section (1) or sub-section (2), shall make an application to the Commissioner in such form and manner as may be prescribed, giving correct and complete particulars therein. Such application shall be accompanied by an affidavit in support of the particulars given in the application and also a satisfactory proof of payment of a registration fee of five hundred rupees in that behalf in the prescribed manner to the Commissioner;

(b) A dealer or person who though not liable to pay tax under Section 4 desires to obtain a registration certificate voluntarily, may make an application to the Commissioner in such form and manner as may be prescribed giving correct and complete particulars therein. Such application shall be accompanied by an affidavit in support of the particulars given in the application and also a satisfactory proof of payment of registration fee of five hundred rupees, in that behalf. Where a dealer or person undertaking works contract makes the application a copy of award of the contracts shall also accompany the application;

Provided that no registration fee shall be payable under clause (a) where the application is made by a person holding a provisional registration certificate under Section 17.

(4) (a) On the day the application for grant of a registration certificate as required by sub-section (1) or sub-section (2) is received, the said authority, shall grant the applicant a temporary registration certificate in the prescribed form;

(b) After issue of the temporary registration certificate on application referred to in clause (a), the Commissioner shall require the applicant to produce before him evidence and document in respect of the particulars given in the application as also the accounts relating to the business for verification. On production of the evidence, documents and accounts the Commissioner shall verify the particulars given in the application. On being satisfied about the correctness of the particulars, the Commissioner shall issue to the applicant a permanent registration certificate in the prescribed form not later than thirty days of the date of receipt of the application for grant of a registration certificate;

(c) If the Commissioner is satisfied that the particulars given by the applicant in his application are incorrect or that the applicant has misrepresented certain facts, he shall, after giving the applicant an opportunity of being heard and recording the reasons in writing reject the application and cancel the temporary registration certificate issued to the applicant under clause (a) from the date of its issue, not later than thirty days of the date of receipt of the application.

(5) The registration certificate granted under subsection (4) shall take effect from--

(a) in a case where a dealer required to get himself registered under clause (a) or clause (b) of sub-section (2) within the period prescribed under clause (a) or specified in clause (b) of the said sub-section, the date on which his turnover in a year first exceeds the limits specified in sub-section (1) of Section 4;

(b) in a case where a dealer required to get himself registered under subsection (2) has applied for registration after the expiry of the prescribed or specified period as the case may be, the date on which he applies for registration;

(c) in a case where a dealer required to apply for registration under clause (c) of sub-section (2) has applied for registration within thirty days of the transfer of business, the date of transfer of the business;

(d) in a case where a dealer required to get himself registered under clause (c) of sub-section (2), has applied for registration after the expiry of thirty days of the transfer of business, the date on which he applies for registration;

(e) where a dealer has applied for registration voluntarily under sub-clause (b) of sub-section (3), the date of such application.

(6) Without prejudice to the provisions of sub-section (6) of Section 21 when a dealer has without reasonable cause, failed to get

himself registered within the prescribed time as required by sub-section (1) or sub-section (2) the Commissioner may, after giving such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the fee payable, a sum not exceeding rupees five hundred.

(7) Every dealer who at the commencement of this Act holds a registration certificate under the provisions of the Act repealed by this Act shall, on such commencement, be deemed, for all purposes of his Act, to be a dealer registered and holding a registration certificate under this section.

(8) If any registered dealer or other dealer who is required to furnish returns under sub-section (1) of Section 19.--

(a) sells or otherwise disposes off his business or any part or place or his business or effects or comes to know of any other change in the ownership of the business, or

(b) discontinues his business or changes his place of business or opens a new place of business, or

(c) changes the name or nature of his business, he or if he dies, his legal representative shall within the prescribed time, inform the prescribed authority accordingly.

(9) (a) The Commissioner shall--

(i) on an application made by a registered dealer for amendment of his registration certificate in pursuance of the provisions of sub-section (8) or otherwise, amend the registration certificate of the dealer or reject the application within 30 days of the date of receipt of such application, after making such enquiry as he deems fit; and
(ii) on being satisfied that the registration certificate issued to a dealer requires amendment with regard to certain particulars specified therein, amend the registration certificate after giving the dealer an opportunity of being heard;

(b) When the registration certificate is amended under sub-clause (i) of clause (a) in pursuance of any of the events specified in subsection (8), such amendment shall take effect from the date such event has taken place and in all other cases falling under the said sub-clause the amendment shall take effect from the date of application. An amendment made under sub-clause (ii) of clause (a) shall take effect from the date of order for making such amendment.

(10) When-

(a) a registered dealer discontinues or transfers his business; or

(b) the liability of a registered dealer to pay tax ceases; or

(c) a registered dealer has been granted a registration certificate by

mistake; or

(d) a registered dealer is in arrears of tax or penalty or any other sum due under this Act or under the Act repealed by this Act; or

(e) the Commissioner for reasons to be recorded in writing, is of the opinion that the registration certificate should be cancelled for any other reason,

the Commissioner may either on his own motion or on the application of the dealer in this behalf cancel the registration certificate but notwithstanding such cancellation the dealer shall be liable to pay tax for the period during which his registration certificate remained in force;

Provided that where the Commissioner proposes to cancel the registration certificate under this sub-section, he shall give the dealer an opportunity of being heard.

(11) Any dealer--

(i) whose application for registration is rejected under clause (c) of sub-section (4); or

(ii) whose registration certificate is cancelled under clause (d) or clause (e) of sub-section (10),

shall, for the purpose of sub-section (6) of Section 21 be deemed to be a dealer, who has failed to apply for registration, but shall not be liable to pay any penalty under the said sub-section.

17. Provisional Registration Of Intending Manufactures :-

(1) Any person intending to establish a business in the state for the purpose of manufacturing goods for sale of value exceeding rupees one lac in a year and who is registered with the Industries Department of the State Government for establishing a small scale industrial unit in the state or who is issued a license wherever necessary or has sent a memorandum of information to the Central Government to establish a new industrial undertaking in the State under the provision of the Industries (Development and Regulation) Act, 1951 (No. 65 of 1951) may, notwithstanding that he is not liable for registration under Section 16 make an application to the Commissioner in such form and manner as may be prescribed, accompanied by a satisfactory proof of payment of registration fee of rupees five hundred in that behalf for grant of a provisional registration certificate under this Act.

(2) On the day the application is received the said authority shall grant the applicant a provisional registration certificate in the prescribed form.

(3) The provisional registration certificate granted under sub-section (2) shall take effect from the date on which the person had applied for registration and notwithstanding the provisions of Section 4 every person who has been granted a provisional registration certificate under this section shall, during the period from such date till such certificate remains in force, be liable to pay tax under this Act.

(4) A provisional registration certificate granted under this section shall be in force for such period as may be specified therein and the provisions of sub-sections (9) and (11) of Section 16, shall, so far as may be, apply in respect thereto:

Provided that the Commissioner on an application made by the holder of such certificate before the expiry of the period of validity mentioned in the certificate, may for reasons to be recorded in writing, extend the period specified in the provisional registration certificate by a further period not exceeding six months on each occasion.

(5) Every person who has been granted a provisional registration certificate under this section shall for the purpose of this Act be deemed to be a registered dealer.

(6) Where a person who has been granted a provisional registration certificate under this section starts manufacturing and selling of goods during the period the provisional registration certificate is in force, he shall get himself registered under Section 16, before the date on which the provisional registration certificate is due to expire or within thirty days of the date on which he becomes liable to pay tax under Section 4, and on the grant of the registration certificate under Section 16, the provisional registration certificate shall cease to be in force as from such date.

(7) The provisions of this section shall also apply to the Central Government or the State Government or public sector undertaking intending to establish any new industrial undertaking in the State.

Explanation.--In this section the expression Industrial Undertaking shall have the same meaning assigned to it in clause (d) of Section 3 of the Industries (Development and Regulation) Act, 1951 (No. 65 of 1951).

18. Registration Of Persons Liable For Tax Deduction At Source :-

(1) Every person, liable for deduction of tax at source under Section 27, shall obtain a certificate of registration from the

Commissioner in such manner and form as may be prescribed.

(2) Every person required to obtain a certificate of registration under sub-section (1), shall, within 30 days of his becoming liable to pay tax under this Act, apply for the certificate of registration to the Commissioner, in the prescribed form and that authority shall, after such inquiry as it considers necessary, within 30 days of the receipt of application, if the application is in order, grant certificate of registration.

(3) Where a person liable for registration has failed to apply for such certificate within the time specified in sub-section (2), the Commissioner may, after giving him a reasonable opportunity of being heard, impose penalty not exceeding one hundred rupees for each day of delay subject to a maximum of five thousand rupees.

(4) Where a person liable for registration has given false information in any application submitted under this section, the Commissioner may, after giving him a reasonable opportunity of being heard, impose a penalty not exceeding five hundred rupees.

CHAPTER 6 RETURNS, ASSESSMENT, PAYMENT AND RECOVERY OF TAX

19. Returns :-

(1) (a) (i) Every such dealer as may be required so to do by the Commissioner by notice served in the prescribed manner;

(ii) every registered dealer; and

(iii) every dealer whose registration certificate has been cancelled under clause (d) or clause (e) of sub-section (10) of Section 16, shall furnish return in such form, in such manner, for such period, by such dates and to such authority as may be prescribed:

Provided that the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such dealer from furnishing such returns and statement or permit any such dealer to furnish the return for such different period, in such other form to such other authority, as he may direct;

(b) Every dealer required to furnish returns, under clause (a), shall furnish a statement in such forms and manner for such period, by such date and to such authority as may be prescribed;

(c) Every dealer required to furnish audit report under sub-section (2) of Section 41 shall send such report of audit along with the statement referred to in clause (b).

(2) If any dealer discovers any omission, error or wrong statement in any return furnished by him under clause (a) of sub-section (1)

he may furnish a revised return in the prescribed manner and within the prescribed time.

(3) Every dealer required to file return under sub-section (1) shall pay the full amount of tax payable according to the return as required by sub-section (2) of Section 25 or the difference of the amount of tax payable according to the revised return as required by subsection (3) of the said section and the full amount of interest, if any, payable under clause (a) or clause (b) of sub-section (4) and shall furnish the proof of such payment along with the return or the revised return, as the case may be.

(4) (a) If a dealer required to furnish return under sub-section (1),-

(i) fails to pay the amount of tax payable according to a return for any period in the manner prescribed under sub-section (2) of Section 25 or

(ii) furnishes a revised return under sub-section (2) showing a higher amount of tax to be due than was shown by him in the original return; or

(iii) fails to furnish return, such dealer shall be liable to pay interest in respect of,--

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

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

(3) the tax payable for the period for which he has failed to furnish return,

at the rate of 1.25 per cent per month from the date the tax so payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier.

Explanation.--For the purpose of this clause--

(1) where the period of default covers a period less than a month the interest payable in respect of such period shall be computed proportionately;

(2) month shall mean thirty days;

(b) If a registered dealer having furnished a return under sub-section (1) or a revised return under sub-section (2) for any period and paid the tax payable according to such return or revised return after the time prescribed here-fore, fails to pay interest along with such return or revised return in accordance with the provisions of clause (a), the Commissioner shall levy the interest liable to be paid by the dealer and after giving the dealer a reasonable opportunity of being heard, may direct him to pay in addition to the tax payable or paid and the interest payable by him, by way of penalty

a sum equal to two per cent per month of the amount of interest from the date such interest had become due to the date of its payment or to the date of order of assessment, whichever is earlier;

(c) If a dealer fails without sufficient cause to comply with the requirement of notice issued under sub-section (1), the Commissioner may after giving the dealer a reasonable opportunity of being heard, direct him to pay, in addition to any tax payable or paid by him, by way of penalty a sum of one hundred rupees per day of default subject to a maximum of rupees five thousand.

(d) Where,-

(i) no tax is payable by a registered dealer committing a default under sub-clause (iii) of clause (a); or

(ii) a registered dealer having paid the tax payable according to a return in time fails to furnish the return in time, the Commissioner may after giving such dealer a reasonable opportunity of being heard direct him to pay by way of penalty a sum of rupees fifty per day of default subject to a maximum of rupees one thousand.

20. Returns To Be Furnished By A Person Liable For Tax Deduction At Source :-

(1) Every person registered under Section 18 shall furnish a return in such form, in such manner, for such period by such dates and to such authority as may be prescribed.

(2) Every such return shall be accompanied by a treasury challan in proof of payment of full amount of tax due according to the return. A return without such proof of payment shall not be deemed to have been duly filed.

(3) Where a person has without reasonable cause failed to file such a return within the prescribed time, the Commissioner may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding one hundred rupees for each day of delay.

(4) The State Government may, subject to such conditions as may be specified, exempt any person or class of persons from furnishing returns.

21. Assessment Of Tax :-

(1) The assessment of every registered dealer shall be made separately for every year:

Provided that,--

(a) the Commissioner, may, subject to such conditions and restrictions as may be prescribed assess the tax due from any dealer for any part of a year;

(b) a registered dealer who claims a refund of input tax rebate under the provisions of sub-section (4) of Section 13,--

(i) in his return for any quarter of a year and makes an application for that purpose, along with such return or before the date on which the return for the subsequent quarter becomes due, or

(ii) in his returns for a year and makes an application for that purpose before the date on which the return for the first quarter of the subsequent year becomes due,

the assessment of such dealer for that quarter or year, as the case may be shall be made in accordance with the provisions of sub-section (4) within a period of three months from the date of receipt of the application,

(2) Where a registered dealer other than the registered dealer referred to in the proviso to subsection (1) has furnished,--

(i) all the returns for a year and/or;

(ii) revised return for any quarter or quarters of such year, in the prescribed manner and within the prescribed time or before the date on which the return for the first quarter of the subsequent year becomes due;

(iii) has paid the tax payable according to such returns or revised returns as also interest payable, if any; and

(iv) has furnished the statement under clause (b) of subsection (1) of Section 19, within the prescribed time,

the returns furnished or revised returns furnished by such dealer for that year shall be accepted and his assessment shall be deemed to have been made for the purpose of sub-section (1);

Provided that the assessment under this sub-section of every such registered dealer who is required to furnish audit report under sub-section (2) of Section 41 shall be deemed to have been made if such dealer has furnished the audit report along with the statement referred to in sub-clause (iv).

(3) Notwithstanding the provisions of sub-section (2), the Commissioner shall select for re-assessment a number of such dealers as he deems fit whose assessment for a year is deemed to have been made under sub-section (1) in accordance with the provisions of sub-section (2) and such selection shall be made during the year immediately following the said year.

(4) (a) The Commissioner shall serve on a registered dealer

referred to in the proviso to sub-section (1) or in subsection (3) or a registered dealer who is not eligible for assessment under sub-section (2) with a notice in the prescribed form appointing a place and day and directing him,--

(i) to appear in person or by an agent entitled to appear in accordance with the provisions of Section 24; or

(ii) to produce evidence or have it produced in support of the returns; or

(iii) to produce or cause to be produced accounts, registers, cash memoranda or other documents relating to his business;

(b) The Commissioner, after hearing the registered dealer or his agent and examining the evidence produced in compliance with the requirements of sub-clause (ii) or sub-clause (iii) of clause (a) and such further evidence as he may require, shall assess or reassess him to tax.

(5) If a registered dealer referred to in clause (a) of sub-section (4),--

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

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

(c) having furnished such returns has failed to comply with any of the terms of a notice issued under clause (a) of sub-section (4); or

(d) (i) has not maintained any accounts, or

(ii) the accounts maintained by him are not in accordance with the provisions of sub-section (1) of Section 41, or

(iii) has not regularly employed any method of accounting, or

(iv) the method employed is such that in the opinion of the Commissioner assessment cannot properly be made on the basis thereof,

the Commissioner, shall after issue of a notice in the prescribed form and in the prescribed manner, assess the dealer to the best of his judgment.

(6) (a) If upon any information which has come into his possession, the Commissioner is satisfied that any dealer, being liable to pay tax in respect of any period has failed to apply for registration, the Commissioner shall within one calendar year from the date of completion of the proceedings under sub-section (1) of Section 5 proceed, in such manner as may be prescribed, to assess such dealer and assess him to tax to the best of his judgment in respect of the whole of such period and shall impose upon him, by way of penalty, a sum two times of the amount of tax so assessed;

(b) In respect of periods, subsequent to the period referred to in clause (a), during which the dealer has failed to apply for registration, the amount of tax due from him referred to in the said clause shall be assessed separately for each year,

(7) (i) the assessment in respect of a registered dealer referred to in clause (a) of sub-section (4) shall be made within a period of one calendar year from the end of the period for which the assessment is to be made;

(ii) the assessment in respect of a dealer referred to in clause (b) of sub-section (6) for any period shall be made within a period of one calendar year from the end of such period; and

(iii) in respect of a dealer, under clause (a) of sub-section (6) shall be made within a period of one calendar year from the commencement of proceedings under the said sub-section;

Provided that--

(a) where a fresh assessment has to be made to give effect to any finding or direction contained in any order under Sections 48, 49 and 55 or to any order of the Civil Court, High Court or Supreme Court, such assessment shall be made within a period of one calendar year from the date of the order containing such finding or direction or the order of the Civil Court, High Court or Supreme Court, as the case may be;

(b) where an order of ex-parte assessment of a registered dealer referred to in clause (a) of sub-section (4) is set-aside and case reopened under Section 36 for making a fresh assessment, such fresh assessment shall be made within a period of six calendar months from the date of setting aside the ex-parte order of assessment or within the period laid down in clause (i) whichever is later; and

(c) nothing contained in this sub-section shall apply to proceedings initiated under Section 22 or any proceeding other than assessment or re-assessment of tax that may be instituted under any other provisions of this Act.

(8) Notwithstanding anything contained in sub-section (7), where assessment or re-assessment proceedings in respect of any dealer relating to any period cannot be completed before the expiry of the period specified therefore in the said sub-section, the State Government, may by notification, for reasons to be recorded in writing, extend the period of the completion of such assessment proceedings in respect of such dealers by such further period as may be specified in such notification.

(9) (a) where, a registered dealer claims refund of tax or input tax

rebate in his return for any quarter or return or returns for any year and makes an application for his assessment for that quarter or that year but his assessment is not completed within the time specified in the proviso to sub-section (1) the claim made in the return or returns for that quarter or year shall stand accepted and such dealer shall be entitled to the refund of the amount of the tax or input tax rebate;

(b) where the assessment for any year of a registered dealer,--

(i) other than a registered dealer referred to in the proviso to sub-section (1), and

(ii) a registered dealer who has not furnished any return or returns for that year, is to be made under the provisions of subsection (4) or sub-section (5) is not made within the time provided in sub-section (7) or within the time extended under sub-section (8), then,--

(a) the returns furnished by the registered dealer in (i) above shall stand accepted and he shall be deemed to have been assessed for the purpose of the Act;

(b) the assessment of the registered dealer in (ii) above shall become time-barred.

22. Assessment/Reassessment Of Tax In Certain Circumstances :-

(1) Where an assessment or re-assessment of a dealer has been made under this Act or the Act repealed by this Act and for any reason any sale or purchase of goods liable to tax under this Act or the Act repealed by this Act during any period,--

(a) has been under assessed or has escaped assessment, or

(b) has been assessed as a lower rate, or

(c) any wrong deduction has been made while making the assessment, or

(d) a rebate of input tax has incorrectly been allowed while making the assessment,

(e) is rendered erroneous and prejudicial to the interest of revenue consequent to or in the light of any judgment or order of any Court or Board, which has become final,

the Commissioner may, at any time within a period of three calendar years from the date of order of assessment, proceed in such manner as may be prescribed, to assess or reassess, as the case may be, the tax payable by such dealer after making such enquiry as he considers necessary, and assess or re-assess to tax.

(2) The Commissioner shall, where the omission leading to assessment or reassessment made under sub-section (1) is attributable to the dealer, impose upon him a penalty not exceeding twice the amount of tax so assessed, or re-assessed but shall not be less than the amount of tax assessed.

(3) The assessment or reassessment under sub-section (1) shall be made within a period of two calendar years from the date of commencement of the proceedings under the said sub-section.

23. Exclusion Of Time In Assessment Proceedings :-

In computing the period of limitation prescribed for assessment or reassessment as the case may be, under Section 21 or Section 22, the time during which any assessment or reassessment proceedings remained stayed under the order of any civil or other competent court, or under the special or general order of the Commissioner issued under Section 47, shall be excluded.

24. Appearance Before Taxing Authorities :-

(1) Any dealer who is entitled or required to attend or appear before any officer appointed under Section 3 in connection with any proceedings under this Act, otherwise than when required under Section 45 to attend personally for examination on oath or affirmation, may authorize in writing to attend or appear on his behalf, a person being a relative of or a person regularly employed by the dealer, or a legal practitioner or a chartered accountant or a tax practitioner.

(2) For the purpose of sub-section (1) any person who--

(a) before coming into force of this Act, had been enrolled as a sales tax practitioner/tax practitioner, or

(b) holds a degree in law or commerce or the degree of bachelor of arts with economics as one of his subjects conferred by any Indian university incorporated by any law for the time being in force or by any other university as the State Government may, from time to time by notification, specify; or

(c) does not possess any of the qualifications referred to in sub-clause (b) but has held a post, in the Sales/Commercial Tax Department, not below the rank of an Assistant Sales Tax Officer/Assistant Commercial Tax Officer for at least ten years and is granted a certificate by the Commissioner having regard to his record of service in the department as being a fit and proper person to appear in any proceeding under this Act, shall be entitled to

appear as a tax practitioner.

(3) Every person referred to in clause (b) or clause (c) of sub-section (2) who is eligible to appear as a tax practitioner in any proceedings under this Act shall get himself enrolled on payment of such fee as may be prescribed.

(4) If the Commissioner is satisfied that the application for enrollment is in order, he shall issued to the applicant an enrollment certificate in the prescribed form. If the Commissioner, after making such enquiry as he deems fit, and after giving the applicant a reasonable opportunity of being heard is not so satisfied, he shall, for reason to be recorded in writing, reject the application.

(5) Notwithstanding anything contained in sub-sections (1) and (2) no person who has held any post in the commercial/sales tax department not below the rank of a Commercial/Sales Tax Inspector shall be entitled to represent any dealer in any proceeding under this Act:--

(i) if he has at any time, passed any order in such proceeding, while he was holding any post in the department;

(ii) if the place of business of the dealer whom he desires to represent is in the district or circle within the territorial jurisdiction of which the head quarter of the office of the commercial tax department in which he had held such post was located, unless a period of two years has elapsed since he ceased to hold that post: Provided that nothing in clause (ii) shall apply to such person if the representation is to be made before an officer holding a rank higher than the rank last held by such person.

(6) No person who has been dismissed from Government service shall be qualified to represent any dealer under sub-section (1).

(7) If any tax practitioner is found guilty of misconduct by the Commissioner in connection with any proceeding under this Act or the Central Sales Tax Act, 1956 (No. 74 of 1956) or the Act repealed by this Act, the Commissioner may pass any order for awarding him punishment including disqualification from appearing as a tax practitioner in any proceeding under the aforesaid Acts, as he deems fit:

Provided that no such order shall be passed unless he is given a reasonable opportunity of being heard.

(8) Any tax practitioner whose application for enrollment is rejected under sub-section (4) or who is disqualified under sub-section (7) may within sixty days of the direction relating thereto, appeal to the Board.

(9) If any advocate or chartered accountant is found guilty of misconduct in connection with any proceeding under this Act or the Act repealed by this Act, the Commissioner shall refer the matter to the authority empowered to take disciplinary action against the persons of these professions for taking appropriate action.

25. Payment And Recovery Of Tax, Interest, Penalty And Other Dues :-

(1) The tax payable for each year shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Before any registered dealer furnishes any return as required by sub-section (1) of Section 19, he shall pay in the prescribed manner and time, the full amount of tax payable according to such return and the amount of interest under sub-section (4) of Section 19, if any payable by him.

(3) If the statement to be furnished under clause (b) of sub-section (1) of Section 19 or a revised return furnished by a registered dealer in accordance with the provisions of sub-section (2) of the said section shows a higher amount of tax to be due than was shown in the original return or returns, he shall pay the difference and the interest payable, if any, under sub-section (4) of Section 19 in such manner and time as may be prescribed.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), where the registered dealer is the Central Government or a State Government or any of their departments, the Commissioner may, subject to such terms and conditions as may be prescribed, permit such dealer to pay the amount of tax by book adjustment.

(5) The amount of tax--

(a) due where the returns were furnished without full payment of tax; or

(b) assessed or re-assessed under sub-sections (4) and (5) of Section 21 less the sum, if any, already paid by the dealer or person in respect of the said year together with interest, if any, required to be paid and the penalty if any, directed to be paid under clause (c) of sub-section (4) of Section 19; or

(c) (i) assessed under sub-section (6) of Section 21 or Section 22 together with the interest and/or penalty, if any, directed to be paid thereunder; and

(ii) the amount of penalty if any imposed or directed to be paid under any provisions of this Act not covered under sub-clause (b)

and (c), shall be paid by the dealer or person in the prescribed manner by such date as may be specified in a notice in the prescribed form to be issued by the Commissioner for this purpose and the date to be so specified shall ordinarily be not less than thirty days from the date of service of such notice.

(6) Where on an admission of a first appeal or a second appeal, the appellate authority stays the recovery of any amount of tax assessed or penalty imposed and on a decision in such appeal by it the amount of tax or penalty so stayed has been maintained in whole or in part by it, the dealer shall be liable to pay interest under sub-section (4) of Section 19 on such amount at the rate of 1.25 per cent per month for the period from the date on which the recovery of such amount was stayed by the appellate authority to the date of its payment after the decision in appeal.

(7) If, for any reason, a dealer or person, is unable to pay the tax assessed, interest payable or levied or the penalty imposed on him under this Act or the tax payable by him in advance of assessment within the time specified therefor in the notice of demand, he may apply to the Commissioner in writing to grant him further time for payment of such amount or to permit him to pay such amount in installments. Subject to such conditions and restriction as may be prescribed, the Commissioner may grant further time to such dealer or person or allow him to pay such amount in installments on such conditions as he may deem fit to impose. Where any extension of time or permission to pay by installments is granted, the dealer or person shall be liable to pay interest on such amount from the last date on which the amount was due to be paid in accordance with such notice of demand. The interest shall be paid at fifteen per cent per annum for the period commencing from such last date.

(8) Where a dealer or person does not pay the tax assessed or the interest levied or the penalty imposed on him or any other amount due from him under this Act within the time specified therefor in the notice of demand and the dealer or person, has not obtained any order under sub-section (7) or has failed to pay the amount in accordance with the order passed by the Commissioner under sub-section (7), the Commissioner shall, after giving the dealer or person a reasonable opportunity of being heard, direct that such dealer or person shall, in addition to the amount due, pay by way of penalty a sum equal to 1.25 per cent of such amount of tax, penalty or any other amount due, for every month, for the period for which payment has been delayed by him after the last date on which such amount was due to be paid.

(9) (a) Where the State Government after such enquiry as it may deem fit, is of the opinion that genuine hardship is being caused to a dealer or person due to any proceedings initiated for recovery of any amount outstanding against him, the State Government may, subject to such restrictions and conditions as may be prescribed, grant to the dealer or person additional time to pay such amount or may grant facility to pay such amount in installments and pending the completion of such enquiry, the State Government may stay the recovery of the dues. In respect of every such facility the dealer or person shall be liable to pay interest at the rate specified in sub-section (7):

Provided that no such facility shall be granted to the dealer or person unless he has in the first instance applied in this behalf to the Commissioner under sub-section (7);

(b) If the dealer or person does not comply with any order passed by the State Government, the Commissioner shall impose on him penalty under sub-section (8).

(10) Where the Commissioner is of the opinion that interest payable by a dealer to whom any facility has been given under sub-section (7) or sub-section (9) has caused him hardship, the Commissioner may remit such portion of the interest payable on the dues or on the penalty imposed in accordance with the order of assessment or the order imposing penalty, as is in excess of the tax or the penalty paid or payable:

Provided that the Commissioner shall not remit the interest unless the dealer has paid in full the amount of tax and/or penalty required to be paid by him.

(11) (a) If any amount of tax, interest, penalty, or any other amount due under this Act or the Acts repealed by Section 52 of Act No. 2 of 1959 or the Act repealed by Section 81 of Act No. 5 of 1995 or the Act repealed by this Act (hereinafter referred to as the repealed Act) remains unpaid on the expiry of the period prescribed for the payment thereof by or under this Act or the repealed Act or on the expiry of the period specified in any notice of demand or order issued or made under this Act or the repealed Act or the rules made thereunder, for the payment thereof, the dealer or person liable to pay such amount shall be deemed to be in default as to the whole of the amount then outstanding;

(b) When a dealer or person is in default or is deemed to be in default under clause (a), the amount outstanding shall be recoverable as an arrear of land revenue according to the provisions of Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959) and for

the purpose of effecting the recovery of such amount--

(i) the Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the Commissioner under the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959);

(ii) an Additional Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the Additional Commissioner under the said code;

(iii) a Deputy Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the collector under the said code;

(iv) an Assistant Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the assistant or a deputy collector under the said code;

(v) a Sales Tax Officer and Assistant Sales Tax Officer shall have and exercise all the powers and perform all the duties of the tahsildar under the said code;

(c) Every notice issued or order passed in exercise of the powers conferred by clause (b), shall for the purpose of Sections 48, 49, 55, 56 and 66 of this Act be deemed to be a notice issued or an order passed under this Act.

(12) Where in pursuance of sub-section (11) any proceedings for the recovery as an arrears of land revenue of any tax, penalty interest or part thereof or any other amount remaining unpaid, have been commenced and the amount of tax, penalty, interest, or any other amount is subsequently modified enhanced or reduced in consequence of any assessment made or order passed in appeal under Section 48 or revision under Section 49 or rectification of mistake under Section 56, the Commissioner shall, in such manner and within such period as may be prescribed, inform accordingly the dealer or person and the authority by whom or under whose order the recovery is to be made and thereupon such proceedings may be continued as if the amount of tax, penalty, interest or any other amount as modified, enhanced or reduced, had been substituted for the tax, penalty, interest or any other amount which was to be recovered under sub-section (11).

26. Payment Of Tax In Advance Of Assessment On Failure To Furnish Returns :-

Where any registered dealer fails to furnish any return for any period as required by sub-section (1) of Section 19 and fails to pay the tax payable for such period.--

- (a) the Commissioner may, if the tax payable by such dealer in a year does not ordinarily exceed ten thousand rupees; and
- (b) the Commissioner shall, if the tax payable by such dealer in a year exceeds rupees ten thousand, require such dealer to pay such tax, in the manner laid down in the following sub-sections, in advance of an assessment which may be made under Section 21.
- (2) The amount Of tax payable in advance under sub-section (1) shall be computed by the Commissioner as under:--
- (a) where a registered dealer has been assessed to tax for any previous year or part thereof, the tax payable in advance shall be an amount which bears to the amount of tax assessed in respect of the latest previous year or part thereof the same proportion as the period for which the tax payable in advance bears to the period for which the latest assessment was made;
- (b) Where a registered dealer has not been assessed to tax for any previous year or part thereof but has furnished the return as required by sub-section (1) of Section 19 for any period, the tax payable in advance shall be an amount which bears to the maximum amount of tax payable according to any such return the same proportion as the period for which the tax payable in advance bears to the period for which such maximum amount of tax was payable according to such return;
- (c) Where a registered dealer has not been assessed to tax under this Act for any previous year and no returns have been furnished by him for such year or where a registered dealer has no previous year, the tax payable in advance shall be such amount as the Commissioner may determine to the best of his judgment.
- (3) After the expiry of the date by which the return has become due, the Commissioner may issue a notice in the prescribed form to a registered dealer who has failed to furnish such return requiring him to pay in the prescribed manner and within the prescribed time the tax payable in advance computed in accordance with sub-section (2).
- (4) If any registered dealer who is required under sub-section (3) to pay the tax in advance furnishes the return under sub-section (1) of Section 19 and pays the amount of tax in accordance with the provisions of sub-section (2) of Section 25 on or before the date specified in the notice issued under sub-section (3) or satisfies the Commissioner that the return had already been furnished by him by the date by which it was due, the said notice shall stand cancelled.
- (5) The tax payable in advance or any part thereof left unpaid

within the time specified in the notice issued under sub-section (3) shall be recoverable as an arrear of land revenue for which purpose the provisions of sub-sections (11) and (12) of Section 25 shall mutatis mutandis apply.

(6) The tax paid under this section shall be adjusted towards the tax assessed or reassessed under Section 19.

27. Deduction And Payment Of Tax In Certain Cases :-

(1) Any person responsible for making payment of any sum to any dealer as a consideration for the sale or supply of any goods in pursuance of a contract between such dealer and the Central Government or a State Government (hereinafter referred to in this section as the purchaser), shall before crediting such sum to the account of the dealer or before payment thereof in cash or by issue of a cheque or draft or by any other mode, deduct an amount equal to the amount payable by the purchaser to the dealer by way of tax, where the total amount of the bill exceeds rupees five thousand and shall pay it to the State Government in such manner as may be prescribed.

(2) Notwithstanding anything contained in any other provision of this Act, any person letting out a works contract of value exceeding rupees three lac to a contractor involving sale of any goods in the course of execution thereof by the contractor shall before making the payment of any amount towards the value of such contract to him, deduct at the rate of two percent an amount towards the tax payable by the contractor under this Act.

(3) On deduction of the amount under sub-section (1), or sub-section (2) the person making such deduction shall issue to the dealer or the contractor, as the case may be, a certificate therefor in the prescribed form and shall deposit such amount into the Government Treasury in such manner and within such period as may be prescribed.

(4) Any person making the payment under sub-section (1) or sub-section (2) shall be deemed to have made the payment on the authority and on behalf of the dealer or the contractor and the receipt for such payment shall constitute a good and sufficient discharge of the liability of the purchaser to the dealer or the contractor to the extent of the amount specified in the receipt.

(5) Where any payment under subsection (1) or sub-section (2) is made by a purchaser or the person letting out the contract, on behalf of the dealer or the contractor such payment shall constitute

a goods and sufficient discharge of the liability of the dealer or the contractor to pay tax in respect of such transaction and the amount so paid shall be adjusted by him in such manner as may be prescribed.

(6) Where a person contravenes the provisions of sub-section (1), sub-section (2), or sub-section (3) the Commissioner may impose upon such person by way of penalty an amount which shall be 2 percent per month of the amount required to be deducted under sub-section (1) or sub-section (2), subject to a maximum of 25 percent of such amount.

(7) Any sum which a person is required to deduct under sub-section (1) or sub-section (2) or the penalty imposed under subsection (6) if it remains unpaid, be recoverable as an arrear of land revenue.

(8) Every person making a deduction under sub-section (1) or sub-section (2) shall furnish a statement in such form, to such authority, in such manner and within such time as may be prescribed.

Explanation.--For the purpose of sub-section (2), "person" means--

- (i) Department of the Central or the State Government;
- (ii) Public Sector Undertaking;
- (iii) Municipality and Municipal Corporation;
- (iv) authority constituted under any law for the time being in force;
- (v) Limited company.

28. Saving For Person Responsible For Deduction Of Tax At Source :-

Notwithstanding anything contained in Section 27 no deduction towards tax under the provisions of the said sections shall be made from any consideration payable to a dealer or person, if such dealer or person furnishes to the person responsible for paying any amount in respect of the sale or supply of goods a certificate in writing in such form by such authority in such manner as may be prescribed.

29. Special Mode Of Recovery :-

(1) Notwithstanding anything contained in Section 25 or any law or contract to the contrary, the Commissioner or any officer other than the officer appointed under clause (g) or sub-section (1) of Section 3, may at any time or from time to time, by a notice in the prescribed form a copy of which shall be sent to the dealer or

person, at his last address known to the officer issuing the notice, require,--

(a) any person from whom any amount is due or may become due to a dealer or person who has failed to comply with a notice of demand for any amount due under this Act;

(b) any person who holds or may subsequently hold any money for or on account of such dealer or person, to pay to the Government under this sub-section, either forthwith or upon the money becoming due or being held, or within the time specified in the notice (not being before the money becomes due or is held), so much of the money, as is equal the amount due from the dealer or person in respect of the arrears of the tax, interest and penalty under this Act or the whole of the money when it is less than that amount.

Explanation.--For the purpose of this sub-section the amount due to a dealer or person or money held for or on account of a dealer or person, by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer or person to such person, as may be lawfully subsisting,

(2) The Officer 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 thereof.

(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 or person and the treasury receipt for such payment shall constitute a good and sufficient discharge of the liability of such a person to the dealer to the extent of the amount specified in the receipt.

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

(5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the officer who issued the notice that the sum demanded or any part thereof was not due to the dealer or person or that he did not hold any money for or on account of the dealer or person, at the time the notice was served on him, then nothing contained in this section shall be deemed to require such person to pay to the Government any such money or part thereof, as the case may be.

(6) Any amount of money, which a person is required 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) The provisions of this section shall be without prejudice to any action that may be taken for recovery of the arrears of tax, interest and penalty, if any, due from the dealer or person.

30. Payment Of Tax In Case Of Transfer Or Discontinuance Of Business :-

(1) When the ownership of the business of a dealer liable to pay tax under this Act is entirely transferred, the transferor and the transferee shall jointly and severally be liable to pay the tax together with penalty, if any, or interest or penalty payable in respect of such business for any year or relatable to a part of any year and remaining unpaid at the time of the transfer and the transferee shall also be liable to pay the tax on the sales or purchases of goods effected by him with effect from the date of such transfer and shall within thirty days of the transfer apply for registration unless he already holds a registration certificate.

(2) When a dealer is a firm or association of persons or a joint Hindu Family and such firm, association or family has discontinued business--

(a) the tax payable under this Act by such firm, association or family for the period upto the date of such discontinuance may be assessed and determined as if not such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance a partner of such firm or a member of such association or family shall notwithstanding such discontinuance, be liable severally and jointly for the payment of the tax payable by such firm, association or family, whether such assessment is made prior to or after such discontinuance and, subject as aforesaid the provisions of this Act shall apply as if every such person or partner were himself a dealer: Provided that when it is found that a change has occurred in the constitution of the firm or association or that such firm or association has transferred its business and the tax payable by a partner or member as aforesaid cannot be recovered from him, it may be recovered from the firm or association as reconstituted or from the transferee:

Explanation.--The dissolution or reconstitution of a firm or association of persons or partition of Joint Hindu family shall be

deemed to be discontinuance of business within the meaning of this sub-section.

(3) The provisions of this section shall mutatis mutandis apply to any arrears of tax payable under the Act repealed by Section 81 of Act No. 5 of 1995 or the Act repealed by this Act and due for any year or relatable to a part of any year prior to such transfer of business, discontinuance or dissolution of the partnership or the partition of undivided Hindu family, as the case may be.

31. Liability Of Firms :-

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

Provided that where any such partner retires from the firm, he shall also be liable to pay the tax, interest and the penalty, if any remaining unpaid at the time of his retirement and any tax due upto the date of retirement though un-assessed on that date.

32. Transfers To Defraud Revenue Void :-

Where during the pendency of any proceeding under this Act or under the Act repealed by Section 81 of Act No, 5 of 1995 or the Act repealed by this Act or under the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959) any dealer creates a charge on or parts with the possession by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever of any of his assets in favour of any other person with the intention to defraud revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the dealer as a result of the completion of such proceeding under this Act or under the Act repealed by Section 81 of Act No. 5 of 1995 or the Act repealed by this Act or in pursuance of such proceeding under the Chhattisgarh Land Revenue Code, 1959 (No. 20 of 1959).

33. Assessment/Reassessment Of Legal Representatives :-

Where a dealer dies, his executor, administrator, or other legal representatives shall be deemed to be a dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer:

Provided that in respect of any tax assessed/re-assessed or any penalty imposed or any interest payable by the deceased dealer or

any tax, or penalty or interest, which would have been payable by him under this Act, if he had not died, the executor, administrator or other legal representatives shall be liable to the extent of the assets of the deceased in his hands.

34. Assessment In Special Cases :-

In the case of any guardian, trustee or agent of any minor or other incapacitated person carrying on business on behalf of and for the benefit of such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in the like manner and to the same extent as it would be leviable on, and recoverable from, any such minor or other 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 and rules made thereunder shall apply accordingly.

35. Tax To Be First Charge :-

Notwithstanding anything to the contrary, contained in any law for the time being in force and subject to the provisions of Section 530 of the Companies Act, 1956 (No. 1 of 1956), any amount of tax and/or penalty or interest, if any, payable by a dealer or other person under this Act shall be first charge on the property of the dealer or such person.

36. Power To Set Aside An Exparte Order :-

Where in the proceedings for assessment/reassessment of any dealer for any period an order is passed ex-parte the dealer may:--

(a) if he had previous intimation of the date of hearing, within thirty days of date of hearing; and

(b) if the dealer had no previous intimation of the date of hearing, within thirty days from the date of service of such order apply to the Commissioner to set aside the order and reopen the case and if the Commissioner is satisfied that the applicant did not receive notice or was prevented by such sufficient cause from appearing on the date fixed, he may set aside the order and reopen the case for hearing:

Provided that:--

(i) no application for setting aside an ex-parte assessment order shall be entertained unless it is accompanied by satisfactory proof

of payment of the amount of tax admitted by the dealer:

(ii) such an application shall be entertained only once in the course of such proceeding

37. Collection Of Tax By Dealers :-

(1) No person other than,--

(i) a registered dealer; or

(ii) a person who is deemed to be a registered dealer under subsection (9); or

(iii) a person required to deduct any amount by way of tax under the provisions of the Act,

shall collect any amount by way of tax under this Act. No collection of tax shall be made by the person specified in (i) to (iii) above except in accordance with the provisions of this Act and the rules made thereunder.

(2) Any amount collected by any person in contravention of the provisions of subsection (1) or any amount collected by any person by way of tax or in any other manner not payable under any provision of this Act and not returned by him to the person from whom it was collected shall be liable to forfeiture to the State Government.

(3) If the Commissioner, in the course of any proceeding under this Act or otherwise, has reason to believe that any amount is liable for forfeiture under sub-section (2), he shall serve, on the person who has collected such amount, a notice in the prescribed form requiring him to show cause why the said amount should not be forfeited to the State Government and on receipt of the reply, if any, thereto, the Commissioner shall make inquiry and shall make such order including an order of forfeiture as he thinks fit, after giving such person a reasonable opportunity of being heard.

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

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

(6) On the publication of the notice under sub-section (5) a refund

of such amount or part thereof may be claimed from the State Government within one year from the date of publication of the said notice by the person from whom it was unauthorisedly realised by way of tax and for this purpose the person claiming the refund shall make an application in the prescribed form.

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

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

(9) A dealer specified in sub-section (11) of Section 16 shall be deemed to be a registered dealer for the purpose of sub-section (1).

38. Sales Not Liable To Tax :-

(1) Notwithstanding anything contained in this Act, a tax on the sale or purchase of goods shall not be imposed under this Act--

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

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

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

(iv) where sale is made to such registered dealer for the purpose of manufacture, production, processing, assembling repairing, reconditioning, re-engineering, packaging or for use as trading or packing material or packing accessories in a unit located in any Special Economic Zone, who has been authorised to establish such unit by the authority specified by the Central Government in this behalf.

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

- (i) outside the State of Chhattisgarh; or
- (ii) in the course of inter-State trade or commerce; or
- (iii) in the course of the import of goods into the territory of India or the export of goods out of such territory.

shall be determined in accordance with the principles specified in Section 3, 4 and 5 of the Central Sales Tax Act, 1956 (No. 74 of 1956).

- (iv) the expression "Special Economic Zone" shall have the meaning assigned to it in clause (iii) to explanation 2 to the proviso to Section 3 of the Central Excise Act, 1944(1 or 1944).

CHAPTER 7 REFUND

39. Refund :-

(1) If the Commissioner is satisfied that the tax or penalty or both or interest paid by or on behalf of a dealer for any year exceeds the amount of the tax to which he has been assessed or the penalty imposed or the interest payable under this Act for that year or that a registered dealer is entitled to the refund of rebate under sub-section (3) of Section 13, he shall, in the prescribed manner, refund any amount found to have been paid in excess in cash or by adjustment of such excess towards the amount of tax due in respect of any other year from him.

(2) If the Commissioner is satisfied that due to an error committed by the dealer while crediting any amount payable under this Act or the Act repealed by this Act or the Central Sales Tax Act, 1956 (No. 74 of 1956), into Government treasury the amount so paid cannot be accounted for the purpose for which it is credited, he shall subject to the provisions of sub-section (4) refund that amount in the manner prescribed either in cash or by adjustment towards the amount of tax due in respect of any other year from him.

(3) If the appellate authority or the Commissioner is satisfied to the like effect it shall cause refund to be made of any amount found to have been wrongly paid or paid in excess.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3) the authority empowered to grant refund shall apply the refundable amount in respect of any year towards the recovery of any tax, penalty, interest or part thereof due under this Act or under the Act repealed by this Act or under the Central Sales Tax Act, 1956 (No. 74 of 1956) and shall then refund the balance remaining, if any.

(5) Where a refund of any amount under sub-section (1) or sub-

section (3) is not made or is not applied for the purposes mentioned in sub-section (4) within sixty days from the date of passing of the order for refund, the dealer shall be entitled and be paid interest at the rate of one per cent per month on the amount of refund for the period commencing from the date of expiry of the said period of sixty days and ending with the day on which the refund is made to him under sub-section (1) or sub-section (3) or is applied for the purposes mentioned in sub-section (4), as the case may be.

Explanation--

(i) Under this sub-section where the period for which interest is payable covers a period less than a month, the interest payable in respect of such period shall be computed proportionately.

(ii) For the purpose of this sub-section "month" shall mean thirty days.

40. Power To Withhold Refund In Certain Cases :-

Where an order giving rise to a refund is passed and the Commissioner is satisfied that the grant of the refund is likely to be prejudicial to the interest of revenue and action under sub-section (3) or sub-section (6) of Section 49 is required to be initiated or an application to the Board to enhance the tax levied or penalty imposed is required to be made or the said order is the subject matter of any proceeding under Section 55, the Commissioner may withhold the refund till such time as the aforesaid proceedings are finally decided:

Provided that the dealer shall be paid interest under subsection (5) of Section 39 on the amount of refund ultimately determined to be due as a result of the aforesaid proceedings for the period commencing after the expiry of sixty days from the date of receipt of the order giving rise to the refund.

CHAPTER 8 ACCOUNTS AND ISSUE OF BILLS, INVOICE OR CASH MEMORANDA

41. Accounts :-

(1) Every registered dealer and every dealer liable to pay tax under this Act shall maintain correct account of his purchases, sales and stocks showing value, of different kinds of goods subject to different rates of tax under this Act.

(2) Every dealer whose turnover in a year exceeds rupees forty lac

shall get his accounts audited by a Chartered Accountant before the prescribed date and furnish the report of such audit in such form and in such manner and within such time as may be prescribed.

(3) If the Commissioner considers that the accounts maintained by any dealer or any class of dealers do not sufficiently enable him to verify the returns referred to in subsection (1) of Section 19 or the assessment cannot be made on the basis thereof, he may by an order, require any dealer or by notification any class of dealers, to keep such accounts including records of manufacture, sales, purchases or transfers in such form and in such manner as he may, subject to rules made under this Act, direct.

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

42. Dealers To Issue Bills, Invoices Or Cash Memoranda :-

(1) Every registered dealer, for each sale made by him shall issue to the purchaser, a bill, invoice or a cash memorandum including machine generated bill, invoice or a cash memorandum signed and dated by such dealer containing prescribed particulars including the amount of tax collected, if collected separately. Every such dealer shall also maintain a counterfoil or duplicate of each bill, invoice or cash memorandum issued by him with signature, date and all other aforesaid particulars and shall preserve it for a period of not less than five years from such date or till the completion of assessment whichever is earlier;

Provided that a bill, invoice or cash memorandum may not be issued where sale of any goods of value not exceeding rupees five hundred is made to any person other than a registered dealer.

(2) If a registered dealer contravenes the provisions of sub section (1), the Commissioner may, after giving such dealer an opportunity of being heard, direct him to pay by way of penalty a sum of rupees one hundred for each sale in respect of which such contravention has taken place subject to a maximum of rupees five thousand.

CHAPTER 9 CERTAIN POWERS OF THE COMMISSIONER AND DELEGATION BY THE COMMISSIONER OF HIS POWERS

43. Delegation Of Commissioners Powers And Duties :-

Subject to the provisions of this Act and to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers and duties under this Act except those under clause (b) of sub-section (2) of Section 57 and under sub-section (2) of Section 64 to any person appointed under Section 3 to assist him:

Provided that powers under Section 40 and 49 shall not be delegated to an officer below the rank of a Deputy Commissioner of Sales Tax.

44. Transfer Of Proceedings :-

(1) The Commissioner may transfer any proceedings or class of proceedings under any provision of this Act from himself to any person appointed under Section 3 to assist him and he may likewise transfer any such proceeding (including the proceeding already transferred under this sub-section) from one such person appointed under Section 3 to assist him to another such person or to himself. Intimation about the transfer of any such proceeding or proceedings shall be sent to the dealer.

(2) Where any proceeding or class of proceedings is transferred, the person to whom such proceeding or class of proceedings is transferred shall proceed to dispose it off, as if it had been initiated by the said person, irrespective of the local limits of his jurisdiction. Such transfer shall not render necessary the reissue of any notice already issued before the transfer and the person to whom the proceeding or class of proceedings is transferred may, continue it from the stage at which it was left by the person from whom it was transferred.

45. Power Of Commissioner And His Assistants To Take Evidence On Oath, Etc. :-

(1) The Board, the Commissioner or any person other than the officer referred to in clause (g) in sub-section (1) of Section 3 shall, for the purposes of this Act, have the powers of Court of civil jurisdiction under the Code of Civil Procedure, 1908 (V of 1908),--

- (i) to summon and enforce the attendance of any person and examine him on oath or affirmation;
- (ii) to compel the production of documents or accounts and to impound or detain them;
- (iii) to issue commissions for the examination of witness;

(iv) to require or accept proof of facts by affidavits; and

(v) such further powers as may be prescribed.

(2) Every proceeding under this Act before the Board or the Commissioner or any person other than an Inspector, appointed to assist the Commissioner under sub-section (1) of Section 3 shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 and for the purposes of Section 196 of the Indian Penal Code, 1860 (XLV of 1860).

46. Power Of Commissioner To Call For Information In Certain Cases :-

The Commissioner may, for the purposes of this Act-

(a) require any firm or any undivided Hindu family to furnish a statement of the names and addresses of the partners of such firm, or of the names and addresses of the manager and members of such family, as the case may be;

(b) require any person whom he has reason to believe to be a trustee, guardian, manager or agent to furnish a statement of the name and address of the person for whom he is a trustee, guardian, manager or agent;

(c) require any person whom he has reason to believe to have purchased goods from outside or within the State of Chhattisgarh to furnish a statement of the name and address of the person from whom he has purchased such goods and the description and price thereof and the manner in which they were delivered to him;

(d) require any person in respect of whom he has reason to believe that he has despatched goods to any place outside or within the State of Chhattisgarh, to furnish a statement of the name and address of the person to whom he has despatched such goods and of the description and price thereof.

47. Power Of Commissioner To Stay Proceedings :-

The Commissioner may by special or general order:--

(a) pending examination of any question of law--

(i) before him, or

(ii) before the Board on an appeal under sub-section (1) of Section 55, or

(iii) before the High Court on an application under sub-section (2) of Section 55, or

(b) for any other reason to be recorded in writing,

stay any proceeding or proceedings under Section 21 in respect of

any dealer or class of dealers.

CHAPTER 10 APPEAL, REVISION AND RECTIFICATION

48. Appeal :-

(1) Any dealer or person aggrieved by an order of assessment under Section 21 with or without penalty or by an order of reassessment under Section 22 with or without penalty passed in respect of him or by an order imposing penalty on him or to an order resulting in the reduction of refund or the input tax rebate or by any order passed under Section 56 may, in the prescribed manner, appeal against such order to the Appellate Deputy Commissioner;

Provided that in a case where an application made under Section 36 is rejected, such dealer or person may in the like manner appeal against the ex-parte order of assessment and in computing the period of limitation for filing the appeal, the period from the date of filing the application under Section 36 to the date of service of order rejecting such application shall be excluded.

(2) Any dealer or person aggrieved by an order passed in appeal filed under sub-section (1), may, in the prescribed manner, appeal against such order to the Board.

(3) Notwithstanding anything contained in the rules or the regulations framed by the Board under any law for the time being in force, any officer not below the rank of Deputy Commissioner duly authorised by the Commissioner in this behalf shall also have the right to be heard at the hearing of the appeal under sub-section (2).

(4) No appeal shall be admitted,--

(i) by the Appellate Deputy Commissioner under sub-section (1), unless out of the total balance due from the dealer,--

(a) where all the returns for the period to which the order appealed against relates have been filed and tax payable according to such returns has been paid, ten per cent. of such balance;

(b) where one or more of the returns for the period for which the order appealed against relates have not been filed and tax has not been paid or where such return or returns have been filed but tax has not been paid, such part of the balance which shall be equal to,--

(i) thirty three per cent., where the default relates to one quarter;

(ii) fifty per cent., where the default relates to two quarters; and

(iii) seventy five per cent., where the default relates to more than

two quarters;

(c) fifty per cent. of such balance, where a penalty under Section 54 has been imposed;

(d) fifty per cent. of such balance, where the order appealed against has been passed under Section 22 and a penalty has been imposed under the said Section, and

(e) twenty five per cent of such balance, in any other case, and

(ii) by the Board under sub-section (2), unless out of the total balance due from the dealer after the order passed by the Appellate Deputy Commissioner in appeal under sub-section (1), twenty per cent. of such balance,

is paid and the memorandum of appeal is accompanied by a satisfactory proof of payment of such amount and thereupon the Appellate Deputy Commissioner or the Board, as the case may be, shall stay the recovery of the balance of tax and/or penalty till the decision of appeal.

Provided that where in the case of an appeal being filed under sub-section (1), a dealer is covered by more than one of the sub-clauses in clause (i), the provisions of the sub-clause requiring the payment of the highest amount, shall apply to such dealer and the appeal shall be admitted by the Appellate Deputy Commissioner only after he has paid such amount.

(5) Every appeal under sub-section (1) shall be filed within thirty days and every appeal under subsection (2) shall be filed within sixty days from the date of communication of the order against which the appeal is to be filed.

(6) Subject to such procedure as may be prescribed and after such further inquiry as it may think fit the Appellate Deputy Commissioner or the Board in disposing of any appeal under sub-section (1) or sub-section (2), as the case may be, may--

(a) confirm, reduce, enhance or annul the assessment of tax or the imposition of penalty or both, or

(b) set aside the assessment or the imposition of penalty or both and direct the officer whose assessment or penalty order or appellate order has been appealed against to make a fresh assessment or to re-impose penalty after such further enquiry as may be directed; or

(c) pass such order, as it may think fit.

(7) In the case of an order passed by the Appellate Deputy Commissioner such order subject to the provisions of sub-section (2) of this Section or sub-section (1) of Section 49, as the case may be, shall be final, and in the case of an order passed by the Board,

such order shall, subject to the provisions of Section 55 be final.

49. Appeal :-

49 Power of revision by Commissioner

(1) The Commissioner--

(i) in respect of any order passed by any officer specified in clauses (b) to (f) of sub-section (1) of Section 3, may on his own motion; or

(ii) in respect of any order passed by any officer specified in clauses (d) to (f) of sub-section (1) of Section 3, on an application by a dealer or person made within the prescribed period from the date of order, shall,

call for the record of the proceeding in which such order was passed and on receipt of the record may make such enquiry or cause such enquiry to be made, as he considers necessary and subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the dealer or person as he thinks fit:

Provided that--

(a) the Commissioner shall not revise any order under this sub-section, where an appeal against the order is pending before the Appellate Deputy Commissioner or the Board or where, if such appeal lies, the time within which it may be filed has not expired;

(b) no revision shall lie,--

(i) against an order determining the liability of a dealer to pay tax or against a notice issued under this Act for assessment except after an assessment order is passed; and

(ii) against an order passed under Section 36.

Explanation.--An order by the Commissioner, declining interference shall not be deemed to be an order prejudicial to the dealer or person.

(2) The Commissioner may on his own motion call for the record of any proceeding in which any order under sub-section (1) has been passed by an officer to whom the Commissioner has delegated his powers under this Section in pursuance of the provisions of Section 43 and on receipt of the record, may make such enquiry or cause such enquiry to be made as he considers necessary and subject to the other provisions of this Act, may pass such order thereon not being an order prejudicial to the dealer or person as he thinks fit.

(3) The Commissioner may on his own motion or on information received, call for and examine the record of any proceeding under this Act, if he considers that any order passed therein by any person appointed under Section 3 to assist him including any officer

to whom he has delegated his powers under sub-section (1), is erroneous in so far as it is prejudicial to the interest of the revenue, and he may, after giving the dealer or person a reasonable opportunity of being heard, and after making or causing to be made such enquiry as he deems necessary, pass within one calendar year from the date of initiation of proceeding such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment:

Provided that,--

(a) no proceeding shall be initiated under this sub-section after the expiry of three calendar years from the date of the order sought to be revised;

(b) no order shall be revised by the Commissioner under this sub-section where a second appeal against such order is pending before the Board or such appeal has been decided by the Board on merits.

(4) Any dealer or person objecting to an order passed by the Commissioner under sub-section (3) may appeal to the Board within sixty days of the date on which the order is communicated to him.

(5) The provisions of sub-section (4), (5) and (6) of Section 48 shall, mutatis mutandis, apply to appeals filed under sub-section (4).

(6) Where the Commissioner considers that any order passed under sub-section (1) by his predecessor or any Additional Commissioner of Sales Tax in so far as it is prejudicial to the interests of revenue he may file an appeal against such order before Board within two years from the date of such order. The provisions of Section 48 shall mutatis mutandis apply to the appeals filed under this subsection.

50. Additional Evidence In Appeal Or Revision :-

A dealer shall not be entitled to produce additional evidence whether oral or documentary in appeal before the Appellate Deputy Commissioner or the Board or in revision before the Commissioner except where the evidence sought to be adduced is evidence, which the assessing authority had wrongly refused to admit or which after exercise of due diligence was not within his knowledge or could not be produced by him before the assessing authority or for the production of which adequate time was not given by the assessing authority and in every such case upon the additional evidence

being taken on record, reasonable opportunity for challenge or rebuttal shall be given to the Commissioner.

51. Court Fee Stamps On Memorandum Of Appeal And Application For Revision

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A memorandum of appeal filed under Section 48 or sub-section (4) or sub-section (6) of Section 48 and an application for revision made under sub-section (1) of Section 49 shall bear court fee stamps of such value as may be prescribed.

52. Application Of Sections 4 And 12 Of The Limitation Act, 1963 :-

In computing the period laid down under Sections 48, 49 and 55 the provisions of Sections 4 and 12 of the Limitation Act, 1963 (No. 36 of 1963), so far as may be, shall apply.

53. Extension Of Period Of Limitation In Certain Cases :-

The provisions of Section 5 of the Limitation Act, 1963 (36 of 1963), so far as may be, shall apply to appeals and applications for revision under this Act.

54. Power Of Commissioner Or Appellate Deputy Commissioner Or Board To Impose Penalty In Certain Circumstances :-

(1) If the Commissioner or the Appellate Deputy Commissioner or the Board, in the course of any proceedings under this Act is satisfied that a dealer has concealed his turnover or the aggregate amount of purchase prices in respect of any goods or has furnished false particulars of his sales or purchases, as the case may be, in his return or returns for any year or part thereof or has furnished a false return or returns for such period, the Commissioner or the Appellate Deputy Commissioner or the Board as the case may be, may initiate proceedings separately for imposition of penalty under this Section.

(2) The proceeding under sub-section (1) shall be initialed by the Commissioner or the Appellate Deputy Commissioner or the Board, as the case may be, by issue of a notice in the prescribed form for giving the dealer an opportunity of being heard. On hearing the dealer, the Commissioner or the Appellate Deputy Commissioner or

the Board as the case may be, shall pass an order not later than one calendar year from the date of initiation of such proceeding, directing the dealer that he shall in addition to the tax payable by him, pay by way of penalty a sum which shall not be less than three times but shall not exceed five times of the amount of tax evaded.

(3) If the total tax shown as payable according to the return or returns and paid by a dealer for any period or part thereof is less than eighty per cent of the total tax assessed/re-assessed under Section 21 such dealer shall be deemed to have concealed his turnover or aggregate of his purchase prices or to have furnished false particulars of his sales or purchases in his return or returns or to have furnished a false return or returns for the purpose of sub-section (1) unless he proves to the satisfaction of the Commissioner or the Appellate Deputy Commissioner or the Board, as the case may be, that the concealment of the said turnover or the aggregate of purchase prices or furnishing of particulars of sales

55. Statement Of Case To High Court :-

(1) Within sixty days from the date of communication by the Board of any order to dealer or to the Commissioner under Section 48 or Section 49 or Section 56 the dealer or the Commissioner may, by application in writing accompanied, where the application is made by a dealer by a fee of one hundred rupees, require the Board to refer to High Court any question of law arising out of such order and where the Board decides to make a reference to the High Court, it shall draw up statement of the case and refer it accordingly.

(2) If for reasons to be recorded in writing, Board refuses to make a reference, the applicant may within sixty days from the date of communication of such refusal,--

(a) withdraw his application and if he does so, the fee paid shall be refunded, or

(b) apply to the High Court to require the Board to make a reference.

(3) If upon the receipt of an application under clause (b) of sub-section (2) the High Court is satisfied that the refusal was not justified, it may require the Board to state the case and refer it, and on receipt of such requisition, the Board shall act accordingly.

(4) If the High Court is satisfied that the case stated is not sufficient to enable it to determine the question of law raised, it

may call upon the Board to make such additions or alterations as the Court may direct in that behalf.

(5) The High Court upon hearing of a reference under this section shall decide the question of law raised therein and shall deliver judgment thereon containing the grounds of decision and shall send to the Board a copy of the judgment under the seal of the Court and the signature of the Registrar, and the Board shall dispose of the case accordingly.

(6) Where an appeal against the judgment of the High Court under sub-section (5) is entertained by the Supreme Court, the Board shall dispose of the case in accordance with the judgment delivered by the Supreme Court and for this purpose a copy of the judgment of the Supreme Court shall be sent to the Board by the High Court under its seal and the signature of the Registrar.

(7) The cost of reference under this section, including the disposal of the fee referred to in sub-section (1) shall be in the discretion of the Court.

(8) The tax ordered by the Board to be paid by an order in respect of which an application has been made under sub-section (1) shall notwithstanding the making of such application or any reference in consequence thereof, be payable upon the making of the order.

(9) Where as a result of a reference under this section the tax due from any dealer is reduced below the amount paid by him under sub-section (8), the difference shall be refunded to him in accordance with the provisions of Section 39.

56. Rectification Of Mistakes :-

(1) Rectification means correcting any clerical or arithmetical mistake apparent from the face of the record.

(2) The Commissioner may --

(i) on his own motion at any time within six months from the date of any order passed by him; or

(ii) on an application made by a dealer within six months from the date of receipt of such application, rectify such order, in such manner as may be prescribed, or pass such order as he deems fit:

Provided that,--

(i) the Commissioner shall not entertain any application by the dealer unless it is made within six months from the date of the order sought to be rectified;

(ii) no such rectification shall be made if it has the effect of

enhancing the tax or reducing the amount of refund unless the Commissioner has given notice in the prescribed form to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(3) (a) The provisions of sub-section (1) and sub-section (2) shall apply to the rectification of a mistake in any order passed by the Board or passed by the Appellate Deputy Commissioner as they apply to the rectification of a mistake by the Commissioner.

(b) The Board may rectify any order passed by it--

(i) on its own motion at any time within six months from the date of passing of such order; and

(ii) on an application made by the dealer or the Commissioner, at any time within six months from the date of receipt of such application.

(4) Where any such rectification has the effect of reducing the amount of tax, the Commissioner shall in the prescribed manner refund any amount due to the dealer,

(5) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Commissioner shall recover the amount due from the dealer in the manner provided in Section 25.

CHAPTER 11 DETECTION AND PREVENTION OF TAX EVASION

57. Constitution Of A Committee For Detection And Checking Of Evasion Of Tax By Dealers Liable To Pay Tax And Power Of The Commissioner To Act Suo Motu Or Upon The Report Of Such Committee To Investigate Into Tax Evasion By A Dealer :-

(1) The State Government may constitute a committee for detection and investigation of evasion of tax under this Act or the Act repealed by this Act. The Committee shall consist of such number of members as the State Government may determine. The Committee shall be assisted by such officers specified in Section 3 as the State Government may appoint for the purpose. The authority and the officers appointed to assist it shall perform such functions as the State Government may direct.

(2) (a) If upon any information which has come into its possession the committee has reason to believe that any dealer has evaded payment of tax or is indulging in evasion of tax under this Act or under the Act repealed by this Act, it may draw its report in the matter and send it to the Commissioner to investigate into the tax

evasion by such dealer;

(b) If in any emergent case, upon any information which has been received by the Commissioner he has reason to suspect that a dealer is attempting to evade or has reason to believe that a dealer has evaded payment of tax or is indulging in evasion of tax, he may, for reasons to be recorded in writing, direct any of the officers referred to in clauses (c) to (g) of sub-section (1) of Section 3 to proceed to investigate into the tax evasion by such dealer.

(3) On the receipt of the report from the committee in respect of a dealer or on his own motion in pursuance of the provisions of clause (b) of sub-section (2), the Commissioner shall, subject to such conditions as may be prescribed:--

(a) require the dealer to produce before him any accounts, registers or documents relevant to his business or to furnish such other information as he may deem fit for scrutiny; or

(b) inspect the place of business of such dealer and for this purpose all accounts, registers and documents relating to the business of such dealer and all the goods kept in such place of business shall be open to inspection by the Commissioner.

(4) If on scrutiny of the records produced by the dealer or on inspection of his place of business under sub-section (3), the Commissioner is satisfied that the dealer has evaded payment of tax payable by him for any year, he may for reasons to be recorded in writing, seize such accounts, registers or documents relating to the business of such dealer as he considers necessary, and grant a receipt therefor to the dealer and shall retain them only for so long as may be necessary, for examination thereof or for assessment of tax or for prosecution.

(5) For the purpose of clause (b) of sub-section (3), the Commissioner may--

(a) enter and search any place of business of such dealer or any other place whether such place be the place of his business or not, where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stock of goods relating to his business and the Commissioner may, for exercising the powers under this clause, seal or break open the lock of any door, box, locker, safe, almirah or any other receptacle where the keys thereof are not produced on demand or are not available; and

(b) also search any person who leaves or is about to enter or is already in the place referred to in clause (a), if the Commissioner has reason to suspect that such person has secreted about his

person, books of accounts or other documents relating to the business of such dealer.

(6) (a) If in the course of scrutiny of accounts, registers or documents produced by the dealer or in the course of inspection of the place of business of such dealer, the Commissioner has reason to believe that the dealer has stored or kept goods liable to tax, without accounting for them in books, registers or accounts maintained by him in the course of his business, with a view to their surreptitious sale in order to evade payment of tax, in any building, place or vehicle under the ownership or control of the dealer in either case whether exclusively or in association with some other person or in any building, place or vehicle in each case belonging to some other person with express or implied permission of such other person, the Commissioner may enter any such building, place or vehicle and inspect and verify if the goods have been accounted for and in the event of his reasonable belief that the dealer has not accounted for such goods with the intention of evading tax, the Commissioner may seize all such goods and take all necessary steps for their removal, proper custody and preservation:

Provided that a list of all goods seized under this clause shall be prepared by the Commissioner in presence of at least two respectable persons and a copy thereof shall, on demand, be furnished to the dealer or, as the case may be, to the person from whose possession or custody they were seized;

(b) The Commissioner shall as soon as possible, after seizure of the goods under clause (a), serve upon the dealer a notice in the prescribed form to show cause within a period of thirty days of service of such notice as to why a penalty equal to five times the amount of tax payable and calculable on the price which such goods would have fetched on their assumed sale in Chhattisgarh, on the date of seizure, be not imposed on him for the dealer's default in not making entries in respect of such goods in his books of account or register or other documents, as the case may be, maintained by him in the course of his business;

(c) If the Commissioner, after taking into consideration the explanation of the dealer and after giving him an opportunity of being heard, is satisfied that the entries relating to the said goods were not made in the books of accounts, registers or other documents of the dealer without any proper justification, the Commissioner shall pass an order imposing a penalty not less than three times but not exceeding five times of the amount of tax

referred to in clause (b);

(d) The Commissioner may, at any time after the service of the notice under clause (b) and before passing an order imposing penalty under clause (c), release the goods seized if the dealer or the person from whom the goods were seized furnishes security in the form of cash security or bank guarantee to the satisfaction of the Commissioner, in each case for such reasonable amount as the Commissioner may specify by order in writing with due regard to the amount of penalty proposed. On payment by the dealer of the penalty imposed upon him under clause (c), if the security furnished is in the form of bank guarantee, the bank guarantee shall be released and if such security has been furnished in the form of cash security, it shall be adjusted towards the penalty so imposed and the balance, if any, shall be refunded to the dealer;

(e) Where no security is furnished under clause (d), the dealer shall pay the amount of penalty, within thirty days of the service of the order imposing penalty on him and on payment of such amount goods seized shall be released forthwith;

(f) If the dealer fails to pay within the period specified in clause (e) the penalty imposed under clause (c), the Commissioner shall, subject to other provisions of this Section, dispose of the goods by way of sale in such manner as may be prescribed and apply the sale proceeds thereof towards the penalty imposed and the expenses incurred on account of and incidental to the custody, protection, preservation and sale of such goods and shall refund the balance, if any, to the dealer or person entitled;

(g) The penalty imposed under clause (c) shall be without prejudice to any other action under any other provision of this Act;

(h) Where any objection is made to the seizure of the goods seized under clause (a) on the ground that such goods do not belong to the dealer or are not otherwise liable to seizure, the Commissioner shall proceed to decide the objection:

Provided that no such objection shall be entertained--

(i) where, before the objection is made, the goods seized had already been sold, or

(ii) where the Commissioner considers that the objection was designedly or unnecessarily made:

(i) All questions including question relating to right, title or interest in the goods seized arising between the parties to such proceeding or their representatives and relevant to the adjudication of the claim or objection, shall be determined by the Commissioner dealing with the claim or objection;

- (j) Upon the determination of the question referred to in clause (i), the Commissioner shall, in accordance with such determination:--
- (i) allow the claim or objection and release the seized goods either wholly or to such extent as he thinks fit, or
 - (ii) disallow the claim or objection, or
 - (iii) pass such order as, in the circumstances of the case, he deems fit;
- (k) Where any claim or objection has been adjudicated upon under clause (j) or where the Commissioner refuses to entertain a claim or objection under the proviso to clause (h), any such order made shall be deemed to be an order relating to assessment of tax against a dealer under Section 21 and shall be subject to the same condition as to appeal, revision or any other remedy under this Act.
- (7) Where the Commissioner, apprehends any resistance to entry, search or seizure of goods he may for reasons to be recorded in writing, requisition the services of any police officer of the State Government, having jurisdiction over the local area in which such entry, search or seizure is to be made, to assist him for all or any of the purposes specified in sub-section (3) or clause (a) of sub-section (5) or clause (a) of subsection (6) and it shall be the duty of such police officer to comply with such requirement.
- (8) The Commissioner while making entry, search and seizure under this Section shall, unless otherwise expressly provided by or under this Act exercise the same power and follow the same procedure as are exercised by and are required to be followed by a Police Officer in relation to entry, search and seizure under the provisions of the Code of Criminal Procedure, 1973 (No. 2 of 1974).

58. Establishment Of Check Posts And Erection Of Barriers

:-

- (1) The State Government and/or the Commissioner if it or he is satisfied that it is necessary so to do with a view to prevent or check evasion of tax under this Act may, by notification, setup or erect check post or barriers at such place or places within the State excluding railway premises, as may be specified in the notification: Provided that the Commissioner shall not set up a check post or erect a barrier for a period exceeding six months at a time.
- (2) (a) An officer not below the rank of a Sales Tax Officer shall be in-charge of the check post (hereinafter referred to as the check post officer) and shall be assisted by the other category of the officers;

(b) Subject to the other provisions of this section a check post officer shall exercise all powers conferred on him under this section.

(3) The driver or person incharge of any vehicle or the owner or person incharge of the goods carried in a vehicle (hereinafter referred to as the transporter) transporting such goods as may be notified by the State Government in this behalf (hereinafter referred to as the notified goods) shall carry with him an invoice, bill or challan or any other document by whatever name called, relating to the notified goods being transported in the vehicle, issued by the consignor of the goods giving such particulars as may be prescribed.

(4) (a) Every transporter transporting any notified goods shall, before crossing any check post or barrier set up or erected under sub-section (1), deliver to the check post officer a declaration duly signed by the consignor in such manner, in such form and containing such particulars as may be prescribed. A separate declaration shall be filed in respect of the consignment or consignments relating to each consignee where the goods are being imported into Chhattisgarh and of each consignor where the goods are being sent outside the State. No declaration in relation to goods to be delivered in Chhattisgarh shall be accepted if the consignee in Chhattisgarh is shown or described as "Self unless the full particulars and address of the person who will take delivery of the goods at the destination in Chhattisgarh are furnished;

(b) The form of declaration specified in clause (a) shall be obtained by a registered dealer in the prescribed manner and on payment of the prescribed fee.

(5) The transporter shall stop the vehicle at every check post or barrier and keep it stationary for so long as may reasonably be required by the check post officer and allow him to search the vehicle and inspect the notified goods and documents referred to in sub-section (3) and shall, if so required, given him his name and address and the names and addresses of the owner of the vehicle and of the consignor and the consignee of the goods.

(6) The check post officer shall have the power to detain or seize such of the notified goods or the vehicle alongwith the goods:--

(a) in respect of which there is no declaration under sub-section (4) or any such declaration filed is false or incorrect either in respect of the kind of goods or the quantity or value thereof; or

(b) as are not shown in the documents referred to in sub-section (3) or in respect whereof there are no such documents; or

(c) in respect whereof the said documents are false or are

reasonably suspected to be false.

(7) If the check post officer, after searching the vehicle and verifying the documents or the declaration, finds any omissions referred to in sub-section (6), he may presume, until contrary is proved that an attempt was being made to facilitate the evasion of tax in respect of such goods and he may, after recording the reasons therefor in writing, seize such goods or the vehicle alongwith the goods in such manner as may be prescribed.

(8) After seizing the notified goods under sub-section (7) the check post officer shall prepare a list of all such goods bearing his own signature and signature of the transporter and shall take all the measures for their safe custody.

(9) The check post officer seizing the notified goods or the vehicle alongwith the goods under sub-section (7) shall also record the statement of the transporter on all facts of the case and also obtain the particulars about the consignor or consignee of the goods and the vehicle seized. The reasons, if any, for violation of any provision of this section shall also be recorded.

(10) If after considering the statement of the transporter the check post officer is satisfied that the explanation is satisfactory and that there was no attempt to evade payment of tax in respect of the goods seized, he shall record his findings giving reasons therefor and release the goods or the vehicle alongwith the goods to the transporter in such manner as may be prescribed.

(11) If the check post officer is not so satisfied, he shall serve on the transporter a notice in the prescribed form requiring him to show cause ordinarily within fifteen days of the service of the notice, why a penalty of a sum not exceeding five times the amount of tax which would have been payable if the notified goods were sold within the State on the date of such seizure, as may be specified in the notice, should not be imposed upon him.

(12) The officer seizing the notified goods, at any time during the pendency of the proceedings under sub-section (13), may on furnishing of security in the form of cash security or irrevocable bank guarantee for such amount being deposited as, in his opinion, would be sufficient to cover the penalty likely to be imposed, release the goods or/and the vehicle in favour of the transporter.

(13) The check post officer after taking into consideration the explanation, if any, of the transporter and giving him an opportunity of being heard, shall if he is satisfied, for reasons to be recorded in writing with the explanation and the statement of the transporter, discharge the notice and release the goods or the

vehicle with or without the goods seized, in favour of the transporter in such manner as may be prescribed. If the said officer is not so satisfied, he shall record his finding accordingly, giving reasons therefor and shall pass an order imposing such penalty not exceeding the sum specified in the notice, as he may deem fit:

Provided that the amount of penalty shall not be less than three times but not exceeding five times of that amount of tax which would have been payable if the goods were sold within the state.

(14) A copy of the order imposing penalty under sub-section (13) shall be served on the transporter.

(15) The penalty or such part thereof as remains after adjustment of any amount deposited under sub-section (12) shall be deposited in the prescribed manner within fifteen days of service of the copy of order imposing the penalty. In default the check post officer shall cause the notified goods to be sold in such manner as may be prescribed and apply the sale proceeds thereof towards the penalty and refund the balance, if any, to the transporter. If the sale proceeds of the goods are not sufficient to cover the amount of penalty or the goods cannot be sold despite the efforts made for the same, the said officer shall cause the vehicle to be sold in the aforesaid manner and apply the sale proceeds thereof towards the balance of penalty and refund the balance of such sale proceeds, if any, to the dealer.

(16) Where the officer seizing the goods, at any time during the pendency of the proceeding under sub-section (11) or (13), is of the opinion that the notified goods are subject to speedy and natural decay or when the expenses of keeping them in custody are likely to exceed their value, he may cause them to be sold in such manner as may be prescribed without waiting for the completion of the proceedings relating to the imposition of penalty and keep the sale proceeds thereof in deposit till the completion of said proceedings. The amount so kept in deposit shall be applied towards such penalty, if any, as may be imposed and the balance, if any, shall be refunded to the transporter according to the provisions of sub-section (15).

(17) Every order under sub-section (13) shall, subject to the provisions of Section 48 and 49, be final.

(18) The consignor or the consignee shall preserve the copy of the declaration and other documents relating to the goods covered by the declaration for such period as may be prescribed and produce them before the assessing authority whenever demanded by it within that period.

59. Transit Of Goods By Road Through The State And Issue Of Transit Pass :-

(1) When a vehicle coming from any place outside the State and bound for any other place outside the State passes through the State, the driver or other person in-charge of such vehicle (hereinafter referred to as transporter) shall obtain in the prescribed form and manner, a transit pass from the check post officer of the first check post after his entry into the State and deliver it to the check post officer of the last check post before his exit from the State, failing which it shall be presumed that the goods carried in such vehicle have been sold within the State by the transporter.

(2) The check post officer at the entry point who issues the transit pass shall intimate the information contained in the transit pass issued by him to the check post officer of the check post or barrier near the point from which the transporter declares that the goods shall be taken out of the State. If within a week of receipt of the transit pass the vehicle or the goods covered by the transit pass do not report at the exit point the check post officer of the check post or barrier at the exit point shall bring immediately this fact to the notice of the check post officer of the check post or barrier, at the entry point. The latter officer shall then initiate action to recover the penalty which could have been levied under the provisions of Section 58 from the transporter.

(3) The provisions of Section 58 shall mutatis mutandis apply in relation to any goods or any vehicle alongwith the goods covered by the transit pass.

60. Power To Check Goods At The Point Of Loading And Unloading :-

Any officer appointed under Section 3, not below the rank of an Assistant Sales Tax Officer may inspect the goods at the point of loading or unloading along with the documents of title to such goods and the person owning or for the time being in-charge of the vehicle in which such goods are transported, shall render all assistance to such officer for this purpose.

61. Power To Check Goods In Transit :-

(1) Every transporter transporting any goods by road in the State of Chhattisgarh shall carry with him an invoice, bill or challan or any

other document, by whatever name called, issued by the consignor of the goods giving such particulars as may be prescribed.

(2) Any officer, not below the rank of a Commercial Tax Officer, as may be authorised by the Commissioner, may for the purposes of this Act, require the transporter to stop the vehicle at any place and allow him, and other persons assisting him, to search the vehicle and inspect the goods being carried, and to verify the documents relating to such goods which are in the possession of the transporter, are those as referred to in sub-section (1) and copy of the declaration referred to in sub-section (4) of Section 58 and also whether the documents are legible, correct and complete in all respects. The transporter, if so required by the officer, shall also give his name and address and the names and addresses of the owner of the vehicle, if the owner is different from the person in charge of the vehicle, and the consignor and consignee of the goods and also their registration certificate number if they are registered under this Act.

(3) If the officer referred to in sub-section (2) finds on the inspection of the vehicle, that the transporter is not carrying the document referred to in sub-section (1) or the document being carried are not in order or the transporter is not carrying a copy of the declaration referred to in sub-section (2), he may direct the transporter to take the vehicle along with the goods and the documents to the nearest check post or the circle or the sub-circle office to be named by him and stop it and keep it stationary there till such time as may be required for action in accordance with the provisions of Section 58.

(4) Thereupon the officer referred to in sub-section (2), may initiate action for seizure of the goods and/or the vehicle, and for imposition of penalty in accordance with the provisions of Section 58 and for that purpose--

- (i) he shall exercise all the powers exercisable by the check post officer under that section;
- (ii) he shall follow the procedure laid down therein; and
- (iii) the provisions of that section shall apply mutatis mutandis to such proceedings.

62. Control On Clearing, Forwarding Or Booking Agent And Any Person Transporting Goods And Furnishing Of Information By Such Agent Or Person :-

(1) Every clearing, forwarding or booking agent or broker or a

person transporting goods who in the course of his business handles documents of title to goods or transports goods or takes delivery of goods for or on behalf of a dealer and having his place of business in the State of Chhattisgarh shall, furnish information about his place of business to such authority, within such time, in such form as may be prescribed.

(2) Every such agent or person shall maintain true and complete accounts, registers and documents in respect of the goods handled by him and the documents of title relating thereto and shall furnish true and complete particulars and information relating to the transaction of goods of any dealer to any officer appointed under Section 3, not below the rank of an Assistant Commercial tax Officer as and when required by him and shall produce the said accounts, registers and documents before such officer as and when required by him.

(3) Any agent or person referred to in sub-section (1) who contravenes the provisions of the said sub-section or sub-section (2), the Commissioner may, after giving such agent or person an opportunity of being heard, direct him to pay by way of penalty:--

(i) one thousand rupees if the contravention is of the provisions of sub-section (1) on each occasion of inspection by any officer referred to in sub-section (2); and

(ii) not less than three times but not exceeding five times of the amount of tax payable in respect of the goods involved in the transactions of a dealer which appears to have been evaded by such dealer, if the contravention pertains to the provisions of sub-section (2).

Explanation.--For the purpose of this section,--

(i) "Clearing, forwarding, booking agent or broker" shall include a person who renders his services for clearing, forwarding or booking of or taking delivery of consignment of goods at railway premises, air cargo, complex containers depot, booking agency, goods transport company office or any place of loading or unloading of goods or contrives, makes and concludes, bargains and contracts for or on behalf of any dealer for a fee, reward, commission, remuneration or other valuable consideration or otherwise;

(ii) "Person transporting goods" shall, besides the owner, include manager, agent, driver, employee of the owner, a person-in-charge of a place of loading or unloading of goods or in charge of a goods carrier carrying such goods for dispatch to other places or gives delivery of any consignment of such goods to the consignee.

63. Power To Call For Information From Banking Companies And Non-Banking Financial Companies :-

The Commissioner or any other person appointed under Section 3 to assist him, not below the rank of an Assistant Sales Tax Officer may, for carrying out the purposes of this Act, require any banking or non-banking financial companies or any officer thereof to furnish any information or statement useful for or relevant to any proceeding under this Act.

CHAPTER 12 OFFENCES AND PENALTIES

64. Offences And Penalties :-

(1) Whoever--

- (a) collects any amount by way of tax in contravention of the provisions of Section 11 or sub-section (1) of Section 37; or
- (b) claims input tax rebate in contravention of the provisions of sub-section (1) of Section 13; or
- (c) (i) fails to get himself registered as required by sub-section (1) or sub-section (2) of Section 16; or
(ii) neglects to furnish any information as required by sub section (8) of Section 16; or
- (d) fails, without sufficient cause, to submit any return as required by sub-section (1) of Section 19 or submits a false return or furnishes a false statement; or
- (e) without reasonable cause fails to pay the tax due within the time allowed; or
- (f) fails to keep accounts or records of sales or purchases in accordance with any requirement made of him under Section 41; or
- (g) fails or neglects to issue bill, invoice or cash memorandum or to keep or preserve the counterfoil of the bill, invoice or cash memorandum as required under Section 42; or
- (h) knowingly produces incorrect accounts, registers or documents or knowingly furnishes incorrect information; or
- (i) refuses or fails to comply with any requirement made of him under Section 46 or Section 57; or
- (j) (i) fails to file a declaration under Section 58; or
(ii) prevents or obstructs the interception or search of any vehicle or obstructs inspection of any goods under Section 58; or
(iii) prevents or obstructs the interception or search of any vehicle or obstructs inspection of any goods under Sections 60 or 61; or
(iv) fails to furnish information or produce accounts, registers and

documents under Section 62; or

(v) fails to furnish information or statements as required by Section 63;

(k) makes a false statement in a verification or declaration prescribed under this Act which he either knows or believes to be false or does not believe to be true, shall in case of default and subject to the provisions of Section 67, be punishable with--

(i) (a) imprisonment which may extend to six months and a fine which may extend to two thousand rupees or equal to the amount of tax remained to be paid by the dealer whichever is higher, in respect of offence under clause (b) or (e); and

(b) imprisonment which may extend to six months and a fine which may extend to two thousand rupees in respect of offence under clause (d), (h) or (k); and

(ii) imprisonment which may extend to three months or a fine which may extend to one thousand rupees or both in respect of offences not covered by clause (i);

and where the offence in respect of which a fine has been imposed, is a continuing offence a further fine which may extend to rupees fifty for every day the offence continues.

Explanation.--For the purpose of liability to punishment under this sub-section, the expression "dealer or person" shall mean,--

(a) the partners in relation to a partnership concern;

(b) the president and secretary of the managing body in relation to co-operative society;

(c) the proprietor in relation to a proprietorship concern;

(d) the karta or manager in relation to Hindu Undivided Family; and

(e) the secretary, manager and directors in relation to a company incorporated under the Companies Act, 1956 (No. 1 of 1956).

(2) No court shall take cognizance of any offence punishable under this Act or any 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, 1973 (No. 2 of 1974), all offences punishable under this Act shall be cognizable and bailable.

(4) Subject to such conditions as may be prescribed, the Commissioner may authorise any person appointed under Section 3 to assist him to investigate all offences punishable under this Act.

(5) Every person authorised under sub-section (4) shall, in the conduct of such investigation exercise the powers conferred by the

Code of Criminal Procedure. 1973 (No. 2 of 1974) upon an officer-in-charge of a police station for the investigation of a cognizable offence.

CHAPTER 13 MISCELLANEOUS

65. Production Of Tax Clearance Certificate :-

Any department or office of the Central Government or other State Governments or any public sector undertaking of such Governments situated in Chhattisgarh or the State Government or any local authority or any public undertaking shall, before entering into a contract with any dealer for the sale or supply of any goods by him exceeding rupees three lac in value require such dealer to produce a tax clearance certificate in such form, to be issued by such authority, in such manner, for such period and within such time as may be prescribed.

66. Bar To Certain Proceedings :-

Save as provided in Section 55, no order passed or proceeding initiated under this Act or the rules made thereunder be called into question in any Civil Court and save as provided in Sections 48 and 49 no appeal or application for revision shall lie against any such assessment or order.

67. Bar Of Prosecution In Certain Cases :-

No prosecution for contravention of any provision of this Act or of the rules made thereunder shall be instituted in respect of the same facts on which a penalty has been imposed under this Act or the said rules, as the case may be, if the penalty has been paid within a period of six months from the date of service of the order imposing the penalty.

68. Protection Of Persons Acting In Good Faith And Limitation Of Suit And Prosecution :-

(1) No suit, prosecution or other proceedings shall lie against any officer or servant of the State Government for any act done or purporting to be done under this Act or the rules made thereunder without the previous sanction of the State Government.

(2) No officer or servant of the State Government shall be liable in respect of any such act, in any civil or criminal proceeding if the act

was done in good faith in the course of the execution of duties imposed on him or the discharge of functions entrusted to him by or under this Act.

(3) No suit shall be instituted against the State Government and no prosecution or suit shall be instituted against any servant of the State Government in respect of anything done or intended to be done under this Act unless the suit or prosecution has been instituted within three months from the date of the act complained of:

Provided that in computing the period of limitation under this sub-section the time taken for obtaining sanction under sub-section (1) shall be excluded.

69. Disclosure Of Information By Public Servant :-

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the provisions of this Act or in evidence recorded under this Act other than evidence given before a Criminal Court shall, save as provided in sub-section (3), be kept confidential, and notwithstanding anything contained in the Evidence Act, 1872 (1 of 1872) no Court shall, save as aforesaid, be entitled to require any servant of the State Government to produce before it, any such statement, return, account, document or recorded evidence or any part thereof or to give evidence before it in respect thereof.

(2) if, save as provided in sub-section (3), any servant of the State 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, which may extend to one thousand rupees or with both.

(3) Nothing contained in this Section shall apply to the disclosure--
(a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition for the purpose of any investigation or prosecution under this Act or under the Act repealed by this Act or under the Indian Penal Code, 1860 (XLV of 1860) or under any other enactment for the time being in force; or

(b) of any such particulars to any person entrusted with the administration of this Act for the purposes of carrying out the object of this Act; or

(c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act or any process for the service

of any notice or the recovery of any demand; or

(d) of any such particulars to a Civil Court in any suit to which the Government is a party and which relates to any matter arising out of any proceeding under this Act, under Act No. 2 of 1959 or the Act repealed by this Act; or

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

(f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Sales Tax Department to any person or persons appointed as the Commissioner under the Public Servant (Inquiries) Act, 1850 (XXX of 1850), or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or

(g) of such facts to an officer of the Central or a State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or

(h) of any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (II of 1899) to impound an insufficiently stamped document; or

(i) of any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act or the Act repealed by this Act against an advocate, tax practitioner, or chartered accountant, to the authority empowered to take disciplinary action against members practising the profession of an advocate, tax practitioner or chartered accountant as the case may be; or

(j) of any such particulars to the Director of Economics and Statistics as may be necessary, for enabling him to work out the incidence of tax on any commodity or for carrying out any statistical survey of trade, commodity or dealers; or

(k) of such information as may be required by any officer of department of the Central Government or of a State Government for the purpose of investigation into the conduct and affairs of any public servant or by a court in connection with any prosecution of the public servant arising out of any such investigation.

70. Determination Of Disputed Questions :-

(1) If any question is raised by a dealer in respect of the rate of tax on any goods the Commissioner shall, within six months from the date of receipt of the application made by the dealer for this purpose in the prescribed manner and on payment of such fee as may be prescribed, make an order determining the rate of tax on such goods in accordance with such procedure as may be prescribed.

(2) The Commissioner, if the circumstances so warrant, shall have the power to review any order passed under this section and pass such order as he deemed necessary;

Provided that,--

(i) no review of an earlier order shall be made unless a reasonable opportunity of being heard is given to the dealer who is likely to be adversely affected by the review, and

(ii) the Commissioner shall not reduce the rate of tax in review.

(3) Any order passed by the Commissioner under sub-section (1) and (2) shall have a prospective effect and shall be binding on the authorities referred to in Section 3 in all proceedings under this Act except appeals.

CHAPTER 14 POWER TO MAKE RULES, REPEAL AND SAVING, TRANSITORY PROVISIONS AND POWER TO REMOVE DIFFICULTIES

71. Power To Make Rules :-

(1) The State Government may, after previous publication and by notification in the official Gazette, make rules or any amendments thereto for carrying out the purposes of this Act:

Provided that if the State Government considers it necessary to bring the rules or any amendments thereto into force at once, it may make such rules or amendments thereto, without previous publication in the official Gazette.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules prescribing,--

(a) all mailers which under any provision of this Act are expressly required to be or may be prescribed under this Act;

(b) civil structure for the purpose of clause (e) of Section 2;

(c) the limit under sub-section (1) of Section 4 and clause (b) of sub-section (2) of Section 9;

(d) the manner in which proceedings shall be instituted under sub-section (1) of Section 5;

(e) the manner of proving the payment of tax by the contractor

and by the sub-contractor under subsection (1) of Section 6;

(f) the rate for the purpose of determination of the lumpsum to be paid, the manner in which the lumpsum may be determined and the time within which and manner in which the payment of such lumpsum may be made under sub-sections (1) and (2) of Section 10;

(g) the manner and period in which input tax rebate shall be claimed by or be allowed to a registered dealer under Section 13;

(h) (i) the manner in which a dealer shall get himself registered under sub-section (1) and (2) and the period within which a dealer shall get himself registered under clause (a) of sub-section (2) of Section 16, the form and manner in which the application for grant of a registration certificate shall be made under sub-section (3) of Section 16;

(ii) the form of a registration certificate under sub-section (4) of Section 16 and the manner of granting of registration certificate and verification of the particulars given in the application for grant of registration certificate under the said sub-section;

(iii) the time within which and the authority to whom information regarding the changes of business shall be furnished under subsection (8) of Section 16;

(iv) the form and manner in which application may be made under sub-section (1) of Section 17 and the form in which provisional registration certificate shall be granted under sub-section (2) of Section 17;

(v) the form and manner in which registration certificate shall be granted under sub-section (1) of Section 18;

(i) (1) the manner of service of notice and the authority to whom, the period for which, the form in which the manner in which and the dates by which returns shall be furnished under sub-section (1) of Section 19;

(2) the manner in which and the time within which revised return shall be furnished under sub-section (2) of Section 19;

(3) the form and manner in which, the period for which and the date by which the statement shall be furnished under clause (b) of sub-section (1) of Section 19;

(4) the manner in which and the authority to whom and the dates by which returns shall be furnished under sub-section (1) of Section 20;

(j) (i) the conditions and restrictions subject to which assessment may be made for part of a year;

(ii) the form of notice and manner in which tax shall be

assessed/re-assessed under sub-sections (4), (5) and (6) of Section 21 and re-assessed under Section 22;

(k) (i) the fee on payment of which a tax practitioner or a person entitled to appear as a tax practitioner shall get himself enrolled under sub-section (3) of Section 24;

(ii) the form of enrolment certificate under sub-section (4) of Section 24;

(l) (i) the manner in which, the time within which and the internals at which the tax shall be paid under sub-section (1) of Section 25;

(ii) the manner in which the amount of tax due shall be paid to Government under sub-section (2) of Section 25 and the terms and conditions subject to which permission for payment by book adjustment may be granted under sub-section (4) of Section 25;

(iii) the form of notice to be issued under sub-section (5) of Section 25;

(iv) the restrictions and conditions subject to which further time may be granted by the Commissioner under sub-section (7) of section 25;

(v) the manner in which and the period within which the Commissioner shall inform the dealer or person and the authority regarding recovery of arrears of tax under sub-section (11) of Section 25;

(vi) the form of notice and the manner in which and time within which the tax payable in advance shall be paid under sub-section (3) of Section 26;

(vii) the manner in which any amount deducted by the purchaser or the person letting out the contract shall be paid and adjusted under sub-section (4) and (5) of Section 27, the form of certificate to be issued under sub-section (3) of Section 27 and the form and manner in which the authority to whom and the period within which statement shall be furnished under subsection (8) of the said section;

(viii) the form and manner in which and the authority by whom the certificate shall be issued under Section 28;

(ix) the form of notice to be given under sub section (1) of Section 29;

(m) (i) the form of notice to be given under sub-section (3) of Section 37;

(ii) the form of the notice and the manner of publication of the notice under sub-section (5) of Section 37;

(iii) the form of application in which refund may be claimed under sub-section (6) of Section 37;

- (n) the manner in which, the refund shall be made under sub-section (1) of Section 39;
- (o) the date by which the accounts shall be got audited and the form and manner in which and the time within which report of audit shall be furnished under Section 41;
- (p) the particulars which shall be given in the bill, invoice, cash memorandum, issued under section 42;
- (q) the restrictions and conditions subject to which the Commissioner may delegate under section 43, his powers and duties under this Act;
- (r) the prescription of further powers of authorities under clause (v) of sub section (1) of Section 45;
- (s) (i) the manner in which appeal may be filed under Section 48 and subsections (4) and (6) of Section 49;
- (ii) the procedure to be followed by the Appellate Deputy Commissioner or the Board in disposing of appeals under sub-section (6) of Section 48;
- (iii) the form of notice under sub-section (3) of section 49;
- (iv) the procedure for and other matters including fees incidental to the disposal of appeals, applications for revision or rectification of mistake under Sections 48, 49 or 56 and other miscellaneous applications or petitions for relief under this Act;
- (t) the value of the court fee stamps which an appeal or application for revision shall bear, under Section 51;
- (u) the form of notice to be issued under sub-section (2) of Section 54;
- (v) the form of notice to be given under clause (ii) of the proviso to sub-section (1) of section 56;
- (w) (i) the conditions subject to which the Commissioner may require the production of accounts, register or documents or to furnish any other information under sub-section (3) of Section 57;
- (ii) the form of notice to be served under clause (b) of sub-section (6) of Section 57;
- (iii) the manner in which goods shall be disposed off under clause (f) of sub-section (6) of Section 57;
- (iv) (a) the manner in which check posts be set up or barriers be erected, the manner in which and the fee on payment of which the declaration shall be obtained, the form and manner in which a declaration and other documents to be delivered or filed, the manner in which goods shall be seized or released, the form of notice to be served, the manner in which penalty shall be deposited, the manner in which the goods seized shall be sold, the

period for which the declaration and other documents shall be preserved by the consignee under Section 58;

(b) the restrictions subject to which any vehicle may be intercepted under Section 58;

(c) the form and manner in which transit pass shall be obtained under section 59;

(d) the authority to whom, the time within which and the form in which information shall be furnished under section 62;

(x) the conditions subject to which the Commissioner may authorise the persons appointed under section 3 to assist him to investigate under sub-section (4) of Section 64 all offences under this Act;

(y) the form and the manner in which, the authority by whom, the time within which and the period for which tax clearance certificate shall be issued under Section 65;

(z) the form and manner in which application shall be made to the authority and the procedure according to which the authority shall pass an order under Section 70;

(a-1) (i) the manner and period in which input tax rebate shall be claimed or be allowed under Section 73;

(ii) the form and manner in which and the period within which the particulars of the stock of goods shall be furnished under sub-section (1) of Section 73;

(b-1) (i) how and within what time applications, information and notice shall be made, furnished or served under this Act;

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

(iii) general regulation of the procedure to be followed and the form to be adopted in the proceedings under this Act.

(3) The power to make rules under this Section shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act to the rules or any one of them.

(4) In making any rule the State Government may direct that--

(a) a breach thereof shall be punishable with fine not exceeding five hundred rupees, and if the offence is a continuing one, with a fine not exceeding twenty five rupees for every day the offence continues; and

(b) in respect of contravention of any rule, the Commissioner may impose a penalty not exceeding five hundred rupees:

Provided that no such penalty shall be imposed without giving the person concerned a reasonable opportunity of being heard.

(5) All rules made under this Section shall, as soon as may be after they are made, be laid on the table of Legislative Assembly.

72. Repeal And Savings :-

The Chhattisgarh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995) shall stand repealed on the date of coming into force of this Act:

Provided that--

(i) such repeal shall not affect--

(a) the previous operation of the Act so repealed or Act No. 2 of 1959 repealed by Act No. 5 of 1995 (hereinafter referred to as a repealed Act) or anything duly done or suffered, thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act, except that the facility of exemption from payment of tax extended to any registered dealer under that Act for his having established new industrial unit in the State or undertaken expansion, modernisation or diversification in such industrial unit, shall be converted into facility of deferment of payment of tax from the date of commencement of this Act by notification to be issued in this behalf;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed under the repealed Act: or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability; and

any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed and the said Act had not been repealed;

(ii) unless it is otherwise expressly provided, anything done or any action taken (including any appointment, notification, notice, order, rule, form, regulation or certificate) in the exercise of any power conferred by or under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force and be deemed to have been done or taken in the exercise of the powers conferred by or under the provisions of this Act as if this Act were in force on the date on which such thing was done or action was taken unless and until it is superseded by or under this Act and all arrears of tax and other amount due at the commencement of this Act may be recovered as if they had accrued under this Act;

(iii) any assessment, appeal, revision or other proceedings arising under the repealed Act and the rules made thereunder and or pending before an officer or authority duly empowered to make assessment or hear and decide such appeal, revision or other proceeding immediately preceding the commencement of this Act shall, on the date of such commencement stand transferred to the

officer or authority competent to make assessment or to hear and decide appeal or revision or other proceedings under this Act and thereupon such assessment, shall be made or such appeal or revision or other proceeding shall be heard and decided within the period, if any, specified therefor, by such officer or authority in accordance with the provisions of the repealed Act or the rules made thereunder as if they were the officer or authority duly empowered for the purpose under the repealed Act;

(iv) (a) any application by a dealer or the Commissioner to the Tribunal for making a reference to the High Court under sub-section (1) of Section 70 of the repealed Act; or

(b) any such application made under sub-section (2) of Section 70 of the repealed Act; or

(c) any reference made to the High Court under sub-section (1) or sub-section (2) of Section 70 of the repealed Act, is pending on the date of commencement of this Act shall be disposed of by the Board or the High Court, as the case may be, in accordance with the provisions of Section 70 of the repealed Act as if this Act had not been passed and the said Act had not been repealed;

(v) notwithstanding anything contained in clause (i), any appeal, revision or other proceedings arising under the repealed Act but preferred or initiated after the commencement of this Act, shall be heard and decided by the authority competent to entertain any appeal, revision or any other proceedings in accordance with the provisions of this Act.

73. Transitory Provisions :-

(1) Where a registered dealer holds the stock of any goods specified in Schedule II on the date of commencement of this Act, he shall furnish the particulars thereof in such form within such period, in such manner and to such authority as may be prescribed.

(2) Where any goods specified in Schedule II of this Act held in stock by registered dealer on the date of commencement of this Act are tax paid goods within the meaning of the Act repealed by this Act, and are for sale by him on or after the said date within the State of Chhattisgarh or in the course of inter-state trade or commerce, he shall claim or be allowed in respect of such goods, in such manner and within such period as may be prescribed, an input tax rebate.--

(i) at the rate specified in column (3) of Schedule II, if such goods are sold within the State; and

(ii) at the rate of four percent or the rate specified in column (3) of Schedule II, whichever is lower, if such goods are sold in the course of inter-state trade or commerce.

(3) (a) Where any goods specified in Schedule II of this Act held in stock by a registered dealer, on the date of commencement of this Act, are goods manufactured out of tax paid goods other than those specified in Schedule III consumed or used as raw material or used as packing material or explosives consumed in mining, of any goods specified in Schedule II, for sale in the State of Chhattisgarh or in the course of inter-state trade or commerce on or after the said date, such dealer shall claim or be allowed in such manner and within such period as may be prescribed, an input tax rebate in respect of such tax paid goods, at the rate specified in column (3) of Schedule II or at the rate at which such tax paid goods had borne tax under the Act repealed by this Act whichever is lower.

(b) where any goods specified in Schedule II other than those specified in Schedule III held in stock on the date of commencement of this Act are tax paid goods for consumption or use as raw material or for use as packing material or explosives for use in mining of any goods specified in Schedule II, for sale by him in the State of Chhattisgarh or in the course of inter-state trade or commerce such dealer shall claim or be allowed, in such manner and within such period as may be prescribed, an input tax rebate at the rate specified in column (3) of Schedule II or at the rate at which such tax paid goods had borne tax under the Act repealed by this Act, whichever is lower.

(4) The sale of tax paid goods within the meaning of the Act repealed by this Act, on or after the said date shall not be liable to tax under clause (ii) of Section 8 of this Act.

Explanation.--For the purpose of this clause the expressions "raw material" and "tax-paid goods" shall have the meaning assigned to them in clauses (r) and (x), respectively, of Section 2 of the Act repealed by this Act.

74. Powers To Remove Difficulties :-

If any doubt or difficulty arises in giving effect to any of the provisions of this Act in consequence of the transition to the said provisions from the corresponding provisions of the Act repealed by Section 72, the State Government may within two years from the date of commencement of this Act by order notified in the official Gazette of the State make such provision not inconsistent with this

Act as appear to be necessary or expedient for removing the doubt or difficulty.