

Delhi Sales Tax On Works Contracts Act, 1999

9 of 1999

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :- INCIDENCE AND LEVY OF TAX

3. Incidence Of Tax
4. Liability Of The Dealer
5. Levy Of Tax
6. Composition Of Tax
- 6A. Collection Of Tax By Dealer
7. Deduction Of Tax At Source

CHAPTER 3 :- TAX CLEARANCE CERTIFICATE AND ACCOUNTS

8. Tax Clearance Certificate
9. Information To Be Furnished For Awarding A Works Contract
10. Accounts

CHAPTER 4 :- REGISTRATION, RETURNS AND PAYMENT OF TAX

11. Registration
12. Returns, Payment Of Tax And Interest

CHAPTER 5 :- INSPECTION, SEARCH, SEIZURE AND ANTI-EVASION PROVISIONS

13. Power Of Entry, Inspection And Seizure Of Accounts And Goods
14. Prosecution And Penalties Under The Act
15. Investigation Of Offences

CHAPTER 6 :- CERTAIN PROVISIONS OF THE DELHI SALES TAX ACT APPLICABLE

16. Authorities Under The Delhi Sales Tax Act Empowered To Assess, Reassess, Etc., Tax Under This Act

CHAPTER 7 :- MISCELLANEOUS AND RULES

17. Power To Make Rules
18. Power To Remove Difficulty

Delhi Sales Tax On Works Contracts Act, 1999

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An Act to levy and collect the tax on the transfer of property in goods whether as goods or in some other form involved in the execution of works contract in the National Capital Territory of Delhi. BE it enacted by the Legislative Assembly of National Capital Territory of Delhi in the Fiftieth year of the Republic of India as follows:-- 1. Vide No. F 14/22/95-99/L.A./367, dated 15th October, 1999, published in the Delhi Gazette, Extra., Pt, IV, dated 15th October, 1999. Received the assent of Lt. Governor of Delhi on 14th October, 1999.

CHAPTER 1

PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Delhi Sales Tax on Works Contracts Act, 1999.
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions :-

- (1) In this Act, unless the context otherwise requires,--
 - (a) "assessing authority" means any person appointed by the Commissioner of Sales Tax to perform all or any of the functions of assessing authority under this Act;
 - (b) "Commissioner" means the person appointed to be the Commissioner of Sales Tax under the Delhi Sales Tax Act, 1975 (43 of 1975);
 - (c) "contractor" means any person who executes a works contract and includes a sub-contractor;
 - (d) "contractee" means any person for whom or for whose benefit a works contract is executed;
 - (e) "The Delhi Sales Tax Act" means the Delhi Sales Tax Act, 1975 (43 of 1975);
 - 1[(f) "dealer" means any person, who whether for valuable consideration, commission, remuneration or otherwise, while executing a works contract transfers property in goods (whether as

goods or in some other form) involved in the execution of such works contract and includes any State Government and the Central Government which so transfers such property in goods, and any society, club or association of persons which so transfers the property in goods to its members;]

2[(g) "declared goods" means goods as defined in section 14 of the Central Sales Tax Act, 1956 (14 of 1956);]

(h) "Delhi" means the National Capital Territory of Delhi;

(i) "goods" means every kind of movable property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(j) "Government" means Lt. Governor as defined under Article 239AA of Constitution;

(k) "Lt. Governor" means Lt. Governor of National Capital Territory of Delhi as appointed by the President under Article 239 of the Constitution;

(l) "person" includes an individual, or body of individuals whether incorporated or not, a Hindu undivided family, a firm, a local authority, a corporation, a company body or authority owned or set up by, or subject to administrative contract of the Central Government or any State Government (including the Government of a Union territory) or a co-operative society, whether registered or not;

(m) "prescribed" means prescribed by rules;

3[(mm) private contract means a contract undertaken for any person other than the Central Government or the Government or their departments and undertakings, co-operative societies and corporate bodies;]

(n) "registered dealer" means a dealer registered under section 11;

(o) "rules" means rules made under this Act;

(p) "sale" means a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract in Delhi; and the word "sell" with all its grammatical variations and cognate expressions shall be construed accordingly;

4[(q) "sale price" means the amount of valuable consideration paid or payable to a dealer for the execution of the works contract;]

(r) "taxable turnover" means such turnover as is arrived at after deducting from the turnover of sales such as may be prescribed;

(s) "tax" means the tax payable under this Act and includes a lump sum amount by way of compensation payable in lieu of the amount of tax;

5[(t) "turnover of sales" means the aggregate of the amount of sale

price received or receivable by a dealer in respect of the execution of any works contract whether executed fully or partly during any period;]

6[(u) "works contract" includes any agreement for carrying out for cash or for deferred payment or for any valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repairing or commissioning of any movable or immovable property but shall not include such contracts as may be prescribed;] (v) "year" means the financial year.

(2) All words and expressions used and not defined in this Act but defined in the Delhi Sales Tax Act, 1975 shall have the meanings assigned to them in that Act.

1. Subs. by Delhi Act 5 of 2001, sec. 2, for clause (f) (w.e.f. 30-4-2001).

2. Subs. by Delhi Act 5 of 2001, sec. 2, for clause (g) (w.e.f. 30-4-2001).

3. Ins. by Delhi Act 5 of 2001, sec. 2 (w.e.f. 30-4-2001).

4. Subs. by Delhi Act 5 of 2001, sec. 2, for clause (q) (w.e.f. 30-4-2001).

5. Subs. by Delhi Act 5 of 2001, sec. 2, for clause (t) (w.e.f. 30-4-2001).

6. Subs. by Delhi Act 5 of 2001, sec. 2, for clause (u) (w.e.f. 30-4-2001).

CHAPTER 2

INCIDENCE AND LEVY OF TAX

3. Incidence Of Tax :-

1[(1) Every dealer whose turnover of sales during the year immediately preceding the commencement of this Act exceeds the taxable quantum, shall be liable to pay tax under this Act on his taxable turnover effected by him on or after such commencement.

(2) Every dealer to whom sub-section (1) does not apply, shall with effect from the date immediately following the day on which his turnover of all sales calculated from the commencement of any year first exceeds, within such year, the taxable quantum, be liable to pay tax under this Act on taxable turnover effected by him after that date.]

(3) Every dealer who becomes liable to pay tax under this Act, shall continue to be so liable until his registration certificate is duly cancelled; and upon such cancellation his liability to pay tax, other

than tax already levied or leviable, shall, until his turnover of all sales again first exceeds the limit specified in sub-section (1), cease:

Provided that where the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of such sales as take place during the period commencing on the date of cessation of liability to tax and, upto the time when his turnover of all sales does not exceed such limit, no tax shall be payable.

(4) For the purpose of this Act "taxable quantum" means five lakh rupees.

2[Explanation.---The gross turnover or the total contract amount received, shall be the basis for calculating the taxable quantum.]

1. Subs. by Delhi Act 5 of 2001, sec. 3, for sub-sections (1) and (2) (w.e.f. 30-4-2001).

2. Ins. by Delhi Act 5 of 2001, sec. 3 (w.e.f. 30-4-2001).

4. Liability Of The Dealer :-

1[4. Liability of the dealer.--

Subject to the provisions of this Act and the rules made thereunder, a tax shall be levied on the taxable turnover involving transfer of property in goods in the execution of works contract commenced or continued for execution on or after the commencement of this Act, whether such contract was entered into prior or subsequent to such commencement.]

1. Subs. by Delhi Act 5 of 2001, sec. 4, for section 4 (w.e.f. 30-4-2001).

5. Levy Of Tax :-

(1) Same as provided in sub-sections (2), (3), (4), (5) and (6), every dealer shall file return and pay tax under this Act for each year on his taxable turnover of sales or transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, in the manner as may be prescribed at the rate of eight paise on every rupee of his net turnover of sales.

(2) Tax shall be paid at the rate of four paise on every rupee of his net turnover of sales pertaining to declared goods, if the goods have not suffered tax earlier, and no tax shall be payable on the turnover of sales pertaining to declared goods, if such goods have suffered tax earlier under the Delhi Sales Tax Act and transferred from the contractor to the contractee in the same form in which

they were purchased by the contractor.

(3) No tax shall be levied on the turnover of sale on transfer of property in goods, specified in the Third Schedule to the Delhi Sales Tax Act, involved in the execution of works contract, if such goods are transferred from the contractor to the contractee in the same form in which they were purchased by the contractor.

(4) No such tax shall be leviable on the turnover of sales on transfer of property in goods, whether as goods or in some other form involved in the execution of works contract, if such transfer from the contractor to the contractee constitutes a sales in the course of inter-State trade or commerce under section 3 or a sale outside the State under section 4 or a sale in the course of import or export under section 5 of the Central Sales Tax Act, 1956.

(5) No tax shall be payable under this section on the turnover of sales relating to the amount paid to a sub-contractor as consideration for the execution of works contract whether wholly or partly subject to the production of proof, as may be prescribed, that such sub-contractor is a registered dealer liable to tax under the Act and that the turnover of such amount is included in the return of turnover filed by such sub-contractor and tax thereupon has been paid.

(6) No tax shall be payable under this section on the amount representing the value of the goods supplied to the contractor by the contractee, provided that the ownership of such goods remains with the contractee under the terms of the contract.

(7) Where in respect of sale price referred to in clause (q) of sub-section (1) of section 2, the contractor does not maintain proper accounts or the accounts maintained by him are not found by the assessing authority to be worthy of credence and the amount actually incurred towards charges for labour and other services and profit relating to supply of labour and services are not ascertainable, such charges for labour and services and such profit may, for the purposes of deductions, be determined on the basis of such percentage of the value of the works contract as may be prescribed and different percentages may be prescribed for different types or works contract.

6. Composition Of Tax :-

(1) Subject to such conditions and in such circumstances as may be prescribed, the assessing authority of the area may, if a dealer, liable to pay tax under this section so elects, accept in lieu of the

amount of tax payable by him under section 5 of this Act during the year by way of composition an amount at the rate of four per cent. of his total amount of the contract or the total aggregate value of the contracts received or receivable towards the execution of works contract:

1[Provided that a dealer who makes inter-State purchases of the material used in the execution of the works contracts, on the strength of his registration certificate, shall not be entitled to opt for composition of tax under this section.]

(2) No tax shall be payable under this section on the turnover relating to the amount paid to a sub-contractor as consideration for the execution of works contract, whether wholly or partly, subject to the production of proof as may be prescribed that such sub-contractor is a registered dealer liable to tax payment of composition of tax under the Act as the case may be, and that the turnover of such amounts is included in the return of turnover filed by such sub-contractor and tax or the compensation, as the case may be has been paid thereupon.

(3) Every dealer who elects to pay tax under this section shall apply in the prescribed form to the assessing authority to be permitted to pay the amount of tax under sub-section (1) and, on being so permitted, in the prescribed manner and form shall pay the same.

1. Ins. by Delhi Act 5 of 2001, sec. 5 (w.e.f. 30-4-2001).

6A. Collection Of Tax By Dealer :-

1[6A. Collection of tax by dealer.

A dealer registered under this Act may collect tax on the works contract executed by him in Delhi in accordance with the provisions of this Act at the rates, not exceeding the rates specified under section 5 or section 6, as the case may be, of this Act.]

1. Ins. by Delhi Act 5 of 2001, sec. 6 (w.e.f. 30-4-2001).

7. Deduction Of Tax At Source :-

1[(1) Every person other than individual and Hindu undivided family responsible for making payment to any dealer (hereinafter this section referred to as "the contractor") for discharge of any liability on account of valuable consideration payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of a contract, shall at the time of credit of such sum to the account of the contractor or at the time of making such payment to the contractor either in cash or in any other manner,

deduct an amount equal to two per cent. from such sum towards the tax payable under this Act.]

(2) Where, on an application being made by the contractor in this behalf, the Commissioner is satisfied that any works contract involves both transfer of property in goods and labour and service, or involves only labour and service and accordingly, justifies deduction of tax on a part of the sum in respect of the works contract or, as the case may be, justifies no deduction of tax, he shall, after giving the contractor a reasonable opportunity of being heard, grant him such certification as may be appropriate:

Provided that nothing in the said certificate shall affect the assessment of the sales tax liability of the contractor under this Act:

Provided further that where any deduction has been made by a contractor from the payments made to his sub-contractor in accordance with sub-section (3) the amounts of such payments shall be deducted from the amount on which deduction is to be made under this sub-section subject to production of a certificate as prescribed in sub-section (5) of this section.

2[(3) Any contractor responsible for making any payment or discharge of any liability to any sub-contractor, in pursuance of a contract with the sub-contractor, for the transfer of property in goods (whether as goods or in some other form) involved in the execution, whether wholly or in a part, of the works contract undertaken by the contractor, shall, at the time of such payment or discharge, in cash or by cheque or draft or any other mode, deduct an amount equal to two per cent. of such payment or discharge, purporting to be part or full amount of the tax payable under this Act.

(3A) (i) A contractor with respect to the contracts other than the private contracts, may make an application to the contractee authorising him to deduct tax at the rate of four per cent. towards the tax payable under this Act instead of two per cent. as provided in sub-section (1) of this section.

(ii) Where an application is made by the contractor under clause (i) of this sub-section, and a copy thereof is forwarded to the appropriate assessing authority by the contractor, the contractor shall be deemed to have opted for composition under section 6 of this Act.

(iii) A contractor, to whom the provision of clause (i) of this sub-section applies, may be assessed in a summary manner on the basis of the annual return filed by him without being called upon to

produce the books of accounts and other records relating to his business.]

(4) The amount deducted under sub-section (1) or sub-section (2) or sub-section (3) shall be deposited into the Government treasury by the person making such deduction before the expiry of fifteen days following the month in which such deduction is made in the manner as may be prescribed.

(5) The person making such deduction under sub-section (1) or sub-section (2) or sub-section (3) shall, at the time of payment or discharge, furnish to the dealer from whose bills or invoices such deduction is made a certificate as may be prescribed in respect of the amount deducted, the rate at which it has been deducted and the details of deposit into the treasury.

(6) Any deduction made in accordance with the provisions of this section and credited into the Government treasury shall be treated as payment of tax on behalf of the person from whose bills or invoices the deduction has been made, and credit shall be given to him for the amount so deducted on the production of the certificate, referred to in sub-section (5) above, in the assessment made for the relevant assessment year.

3[(7) If any person, as is referred to in sub-section (1) or sub-section (2) or sub-section (3) of sub-section (3A), fails to make the deduction, or after deducting, fails to deposit the amount so deducted as required by sub-section (4), the assessing authority may, after giving to such person an opportunity of being heard, by order in writing, direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount deductible under this section besides tax deductible but not so deducted and, if deducted, not so deposited into the Government treasury.]

(8) Without prejudice to the provisions of sub-section (7), if any person fails to make deduction, or, after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the rate of two per cent. per month on the amount deductible under this section but not so deducted and, if deducted, not so deposited from the date on which such amount was deductible to the date on which such payment is actually deposited.

(9) Where the amount has not been, deposited after deduction, such amount together with interest and penalty referred to in sub-section (7) and sub-section (8) shall be a charge upon all the assets of the person concerned and recoverable as arrears of land revenue.

4[(10) Every person responsible for making deduction of tax under

this section shall apply to the Commissioner for a Tax Deduction Account Number within the prescribed time and in the prescribed form and shall also furnish an annual return in the prescribed form within the prescribed period.

Explanation.--Nothing contained in this section shall apply to works contract executed in the course of inter-State trade or commerce or outside the State, or in the course of import or export out of India.]

6. Subs. by Delhi Act 5 of 2001, sec. 7, for sub-section (1) (w.e.f. 30-4-2001).

7. Subs. by Delhi Act 5 of 2001, sec. 7, for sub-section (3) (w.e.f. 30-4-2001).

8. Subs. by Delhi Act 5 of 2001, sec. 7, for sub-section (7) (w.e.f. 30-4-2001).

9. Ins. by Delhi Act 5 of 2001, sec. 7 (w.e.f. 30-4-2001).

CHAPTER 3

TAX CLEARANCE CERTIFICATE AND ACCOUNTS

8. Tax Clearance Certificate :-

(1) Notwithstanding anything contained in any other law for the time being in force, no person shall enter into any works contract with any dealer for execution by him of such works contract and shall make payment to such dealer for execution of works contract, unless the Commissioner certifies in the prescribed manner that such dealer--

(i) has no liability to pay tax, interest, penalty or any amount due or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all tax payable under this Act;

(ii) has not defaulted in making payment of tax otherwise payable by or due from him under this Act;

(iii) has made satisfactory provision for securing the payment of tax by furnishing bank guarantee in favour of the Commissioner or otherwise, as the case may be;

(iv) has made an undertaking for getting himself registered as dealer observing and complying with provisions of this Act, if the contractor has started the business of transfer of property in goods involved in execution of works contract for first time in Delhi.

(2) Where on application made by a dealer in the prescribed form, the Commissioner, after making such enquiry as he deems fit and proper, is satisfied and issues a certificate in the prescribed form to the effect that such dealer is not liable to pay tax under section 5

or that he has paid tax payable by, or due from him under that section, or has undertaken to register itself and to comply the provisions of the Act and the Rules, payment may, notwithstanding anything contained in sub-section (1), be made to such dealer for execution by him of a works contract referred in section 5 on production by him of such certificate of the Commissioner.

(3) The application for the certificate required under sub-section (1) shall be made by the contractor or dealer to the Commissioner and shall be in such form and shall contain such particulars as may be prescribed.

1[(4) The provisions of this section shall not apply to a contractor or dealer registered under this Act who has made an application under sub-section (3A) of section 7.]

1. Ins. by Delhi Act 5 of 2001, sec. 8 (w.e.f. 30-4-2001).

9. Information To Be Furnished For Awarding A Works Contract :-

Any person entering into any contract/letter of intent with any contractor for transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract shall furnish within fifteen days from the date of signing of the contract/letter of intent such information as may be prescribed to the assessing authority under whose jurisdiction the contractors place of business is situated. Failure to do so shall entail a penalty not exceeding five hundred rupees per day of default after affording such person a reasonable opportunity of being heard.

10. Accounts :-

(1) Every dealer liable to pay tax under this Act, shall keep at his place of business a true account in the manner and form as may be prescribed.

(2) All other provisions relating to accounts, inspection, search and seizure as prescribed in Delhi Sales Tax Act shall apply mutatis mutandis.

CHAPTER 4

REGISTRATION, RETURNS AND PAYMENT OF TAX

11. Registration :-

(1) No dealer shall, while being liable to pay tax under this Act, execute or continue to execute a works contract, unless he

possesses a valid certificate of registration as provided by the Act: Provided that it shall be lawful for the dealer to execute or continue to execute a works contract if the dealer has applied for registration within the prescribed time.

(2) Every dealer required to possess a certificate of registration shall apply in such manner and to such authority as may be prescribed.

(3) The provisions of section 18 of the Delhi Sales Tax Act and rules framed thereunder as regards security shall apply to a dealer under this Act mutatis mutandis.

(4) If the authority, after such inquiry as it deems fit, is satisfied that an application for registration is in order, it shall register the applicant and issue to him a certificate of registration in the prescribed form.

(5) The authority may, after considering any information furnished or otherwise called for or received under any provisions of this Act, amend from time to time, the certificate of registration.

(6) If any person, upon an application made by him, has been registered as a dealer, and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax on his sales made from the date on which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay tax under section 3.

(7) Where a registered dealer discontinues, transfers or otherwise disposes of his activity of execution of works contract or the turnover of sales of a registered dealer has, during any year, not exceeded the limits specified in section 3 and on an application made for cancellation of his registration certificate, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.

(8) Where the Commissioner is satisfied that any registered dealer has discontinued, transferred or otherwise disposed of the activity of execution of works contract and the dealer has failed to apply under sub-section (6) for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the said activity has been discontinued, transferred or otherwise disposed of, as the case may be:

Provided that the cancellation of certificate of registration on an application of the dealer or otherwise shall not affect the liability of

the dealer to pay the tax (including any interest and penalty) due for any period upto the date of cancellation whether such tax (including any interest and penalty) is assessed before the date of cancellation but remains unpaid or is assessed thereafter.

12. Returns, Payment Of Tax And Interest :-

Every dealer registered under this Act shall file returns and make payment of tax and interest in the manner and form as may be prescribed.

CHAPTER 5

INSPECTION, SEARCH, SEIZURE AND ANTI-EVASION PROVISIONS

13. Power Of Entry, Inspection And Seizure Of Accounts And Goods :-

(1) An assessing authority or any officer not below the rank of Inspector, authorised by the Commissioner in this behalf with such conditions and restrictions as may be specified by the Commissioner, shall have the power--

(a) to inspect or survey the place of business of a dealer or any other place where it is believed by such authority or officer that business is being done or accounts are being kept by such dealer;

(b) to direct such dealer to produce accounts registers and documents relating to his business activities for examinations;

(c) to inspect, the goods in the possession of the dealer or in the possession of any body else on behalf of such dealer, wherever such goods are placed;

(d) to make search of such place including the search of the person found there, where concealment of facts relating to business is suspected;

(e) to break open the doors of any premises or to break open any almirah, box, receptacle in which any goods, accounts, registers or documents of the dealer are suspected to be kept, but access to such premises, almirah, box or receptacle is denied;

(f) to record the statement of the dealer or his manager, agent or servant or to take extracts from any record and to put identification marks on accounts, registers or documents and on any door, almirah, box or receptacle.

Explanation(1) There shall be a presumption in respect of goods, accounts registers or documents, which are found at any place of business of a dealer during any inspection or search that they relate to his business unless the contrary is proved by him.

- (2) The power under clauses (d) and (e) of sub-section (1) shall be exercised by the Inspector in the presence of any authority not below the rank of assistant sales tax officer.
- (3) Where any accounts, registers or documents are produced before any assessing authority or any officer not below the rank of assistant sales tax officer in any proceeding under the Act, such authority or officer may, of reasons to be recorded in writing, impound and retain them in its custody for a period not exceeding six months, and shall give the dealer or any other person who has produced such accounts, registers or documents a receipt of the same.
- (4) Whereas at the time of inspection, the assessing authority or any officer not-below the rank of assistant sales tax officer authorised by the Commissioner in this behalf has reason to suspect that the dealer is attempting to avoid or evade tax or is concealing his tax liability in any manner, it may, for reasons to be recorded in writing seize such accounts, registers or documents of the dealer as it may consider necessary and shall give the dealer, or any other person from whose custody such accounts, registers or documents are seized a receipt for the same, and may retain the same in its custody for examination, enquiry, prosecution or other legal action for a period not exceeding six months.
- (5) The accounts, registers or documents impounded under sub-section (2) or seized under sub-section (4) could be retained even beyond a period of six months and upto a maximum period of two years from the date of impounding or seizure, as the case may be, by such authority or officer, after having obtained permission in writing of the Commissioner or the Deputy Commissioner authorised by the Commissioner.
- (6) The assessing authority or any other officer not below the rank of assistant sales tax officer authorised by the Commissioner under sub-section (4) may seize any goods liable to tax, which are found in the possession of a dealer or in the possession of any body else on behalf of such dealer and which are not accounted for in his accounts, registers or documents maintained in the course of his business; and a list of goods so seized shall be prepared by such authority or officer and a copy thereof shall be given to the dealer or any other person from whose custody such goods are seized.
- (7) Where it is not feasible to seize the accounts, registers or documents under sub-section (4) or the goods under sub-section (6), the assessing authority, or the officer concerned may serve on the owner or the person who is in immediate possession or control

thereof an order that he shall not remove, part with or otherwise deal with them except with the previous permission of such authority or officer, which may, after serving such order, take such steps as may be deemed necessary under the circumstances.

(8) The assessing authority or the officer referred to in sub-section (6) may, after having given the dealer an opportunity of being heard and after having held such further enquiry as it may consider fit, impose on him, for the possession of goods not accounted for, whether seized or not under sub-section (6), a penalty equal to the amount of five times of the tax leviable on such goods or thirty per cent. of the value of such goods, whichever is less, and such authority or officer may release the goods, if seized, on payment of the penalty imposed or on furnishing such security for the payment thereof as it may consider necessary.

(9) The assessing authority or other officer as referred to in sub-section (6), may require any person--

(a) who transports or holds in custody any goods of a dealer, to give any information in his possession in respect of such goods or to allow inspection thereof, as the case may be; and

(b) who maintains or has in his possession any accounts, registers or documents relating to the business of a dealer, to produce such accounts, registers or documents for inspection.

14. Prosecution And Penalties Under The Act :-

(1) Where any person--

(a) liable to be registered under the Act fails to register himself; or
(b) fails to file return or pay tax according to such return within the time stipulated alongwith interest knowingly prepares or produces false accounts, registers or documents, or knowingly furnishes false returns in relation to his business, or makes a false disclosure or averment in any statement required to be recorded or in any declaration required to be filled under this Act or the rules; or

(c) fraudulently avoids or evades tax or deliberately conceals his tax liability in any manner; or

(d) fails to pay the amount of any demand notice and a period of not less than six months has elapsed since the receipt of the demand notice by him; or

Explanation of an offence under this clause shall be deemed to be a continuing offence until full payment is made;

(e) deliberately disregards a notice of demand; or

1[(f) fails to make deduction of tax at source or after deducting

fails to deposit amount so deducted as required under section 7;]

(g) prevents or obstructs in any manner the competent officer under the Act, to enter, inspect and search the business place or any other place where the goods or the accounts, registers and documents are believed to be kept, or prevents or obstructs such officer to seize the goods or the accounts, registers and documents; or

2[(h) enters into works contract with any contractor without obtaining from the contractor a tax clearance certificate under section 8;]

3[(i) fails to furnish information and/or return as required under section 9;]

(j) fails to maintain accounts in the manner as required under section 10 of the Act;

(k) aids or abets any person in the commission of any such offence as aforesaid, on a complaint being made against such person by the assessing authority of the area or any other competent officer having obtained sanction from the Deputy Commissioner having jurisdiction, shall on conviction by a Metropolitan Magistrate having jurisdiction, be punishable with simple imprisonment for a term which may extend to six months and with fine not exceeding rupees twenty thousand.

(2) Where an offence under this section is committed with regard to a business, every person, who was responsible for the conduct of the business at the time when the offence was committed or who was answerable for a legal lapse in any manner by his action or omission shall be liable to be proceeded against and punished under this section.

(3) Without prejudice to the provisions contained in sub-section (2), where an offence under this section is committed by a firm or a company and it is found that the offence has been committed with the consent or connivance of or is attributable to any neglect, on the part of any partner of the firm, or Chairman-cum-Managing Director, Managing Director, Executive Director, Director of the Company, such partner, Chairman-cum-Managing Director, Managing Director, Executive Director or Director, shall be liable to be proceeded against and punished under this section.

(4) Any proceeding under this Act including the proceeding of assessment, re-assessment, rectification or recovery other than the proceeding for imposition of penalty, shall be carried on without prejudice to any prosecution under this section.

(5) If a dealer fails without reasonable cause to comply with any of

the provisions of this Act or the rules made thereunder, shall, if no other penalty is provided under this Act for such contravention or failure, be liable to imposition of a penalty, not exceeding rupees twenty thousand and where such contravention or failure is continuing one, to a daily penalty not exceeding rupees five hundred during the period of the continuance of the contravention or failure provided that no such penalty shall be imposed without affording the dealer an opportunity of being heard.

1. Subs. by Delhi Act 5 of 2001, sec. 9, for clause (f) (w.e.f. 30-4-2001).

2. Subs. by Delhi Act 5 of 2001, sec. 9, for clause (h) (w.e.f. 30-4-2001).

3. Subs. by Delhi Act 5 of 2001, sec. 9, for clause (i) (w.e.f. 30-4-2001).

15. Investigation Of Offences :-

(1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases, any officer not below the rank of an assistant sales tax officer to investigate all or any of the offences punishable under this Act.

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

CHAPTER 6

CERTAIN PROVISIONS OF THE DELHI SALES TAX ACT APPLICABLE

16. Authorities Under The Delhi Sales Tax Act Empowered To Assess, Reassess, Etc., Tax Under This Act :-

(1) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the Delhi Sales Tax Act assess, re-assess, collect and enforce payment of tax including any interest or penalty payable by a dealer under this Act as if the tax or interest or penalty payable by such a dealer under this Act is a tax or interest or penalty payable under the Delhi Sales Tax Act and for this purpose they may exercise all or any of the powers they have under the Delhi Sales Tax Act, and the provisions of the Delhi Sales Tax Act, relating to returns, notices, assessment, re-assessment, rectification, collection, registration of

any dealer liable to pay tax under this Act, imposition of the tax liability of any firm or Hindu Undivided Family to pay tax in the event of the dissolution of such firm or partition of such family, special mode of recovery of tax, appeals, revisions, references, refunds fines, penalties, charging or payment of interest, and the treatment of documents furnished by a dealer as confidential shall mutatis mutandis, apply accordingly.

(2) All the provisions relating to offences and penalties (including provisions relating to penalty in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence) of the Delhi Sales Tax Act shall mutatis mutandis, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of the tax required to be collected under this Act or in relation to any process connected with such assessment, re-assessment, collection or reinforcement of payment as if the tax payable under this Act were the tax payable under the Delhi Sales Tax Act.

CHAPTER 7

MISCELLANEOUS AND RULES

17. Power To Make Rules :-

(1) The Government may make rules generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rule may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

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

(4) Rules made under this section be subject to the condition of previous publication:

Provided that if the Government is satisfied that circumstances so exist which render it necessary to take immediate action, it may dispense with the condition of previous publication of any rules to be made under this section.

(5) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Delhi while it is in session for a total period of thirty days which may be

comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or the Legislative Assembly agrees that the rule should not be made and notifies such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

18. Power To Remove Difficulty :-

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

Provided that no such order shall be made after the expiry of a period of two years from the date of publication of this Act in the Official Gazette.