

GUJARAT SALES TAX ACT, 1969

1 of 1970

[13th March, 1970]

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GUJARAT SALES TAX ACT, 1969

[13th March, 1970]

An Act to consolidate and amend the law relating to the levy of a tax on the sale or purchase of certain goods in the State of Gujarat. It is hereby enacted in the Twentieth year of the Republic of India as follows :-

CHAPTER 1

CHAPTER

1. Short title, extent and commencement. :-

(1) This Act may be called the Gujarat Sales Tax Act, 1969.

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date¹ as the State Government may, by notification in the Official Gazette, appoint.

(4) Any notification, order or rule may be made, and certificates of Registration, Licences, Recognitions or Permits may be granted or issued under this Act, at any time after the passing thereof : but such notification, order, rule or certificate of Registration, Licence, Recognition or permit made, granted or issued shall not take effect until the appointed day.

1. Remaining provisions of this Act came into force on and w.e.f 6.5.1970.

2. Definitions. :-

¹[In this Act, unless the context otherwise requires, -] ²[(1A) "additional tax" means the additional tax levied under section 4A .]

(1) "agriculture" with all its grammatical variations and cognate expressions includes horticulture, the raising of crops, grass or garden produce, and also grazing; but does not include dairy farming, poultry farming, stock breeding or the mere cutting of wood or grass or gathering of fruit.

(2) "agriculturist" means a person who. Cultivates land personally ;

(3) "appointed day" means the date on which the remaining provisions of this Act shall come into force under sub-section (3) of section 1 ;

³[(3A) "brand" means a particular make of goods, indicated by a

trademark or a mark such as symbol, monogram or label or other method, whether registered or not.]

(4) "business" includes -

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

(ii) any transaction of buying, selling or supplying plant, machinery, raw material, processing materials, packing materials, empties, consumable stores, waste products, or such other goods, or waste or scrap of any of them which is ancillary or incidental to or resulting from such trade, commerce, manufacture, adventure or concern; ⁴[XXX]

⁵(4A) "Casual dealer" means a person who whether as principal, agent or in any other capacity, undertakes occasional transaction of a business nature involving buying, selling, supply or distribution of goods in any exhibition - cum - sale or auction in the State, whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(5) "Commission agent" means a dealer who bonafide buys or sells, for an agreed commission, any goods on behalf of principals mentioned in his accounts in respect of each transaction;

(6) "Commissioner" means the person appointed to be the Commissioner of Sales Tax for the purposes of this Act;

(7) "to cultivate" with all its grammatical variations and cognate expressions, means to carry on any agricultural operation;

(8) "to cultivate personally" means to cultivate on one's own account,

(i) by one's own labour, or

(ii) by the labour of one's own family, or

(iii) by servants on wages payable in cash or kind (but not in crop share), or by hired labour under one's personal supervision or the personal supervision of any member of one's family;

Explanation I. - A widow or a minor, or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour;

Explanation II. - In the case of a Hindu undivided family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family;

(9) "declared goods" means declared goods as defined in the Central Sales Tax Act, 1956 (LXXIV of 1956)

(10) ⁶["dealer" means any person who buys or sells goods in connection with his business and includes, -

(a) the Central Government,

(b) a State Government,

(c) any local authority,

(d) any society, club or other association of persons which buys goods from or sells goods to its members or to other persons,

(e) any person who transfers, otherwise than in pursuance of a contract, property in any goods for cash, deferred payment or other valuable consideration,

(f) any person who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract.

(g) any person who delivers goods on hire purchase or any system of payment by instalments,

(h) any person who transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration,

(i) any unincorporated association or body of persons which supplies goods to a member thereof for cash, deferred payment or other valuable consideration,

(j) any person who supplies, by way of or as part of any service or in any other manner whatsoever, goods being food or any other article for human consumption or any drink (whether or not

[(k) a casual dealer]

Exception I. - An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause;

Exception II - A charitable, religious or educational institution, carrying on the activity of manufacturing, buying, selling or supplying goods, in performance of its functions for achieving its avowed objects, shall not be deemed to be a dealer within the meaning of this clause;

⁸[Exception III - An individual who sells exclusively any fish or any sea-food caught by him personally or by any member of his family on account of or on behalf of such individual, shall not be deemed to be a dealer within the meaning of this clause;]

⁹["(10A)" "designated day" means the date ¹⁰of the coming into force of the Gujarat Sales Tax (Amendment) Act, 1985;]

(11) "earlier law" means any of the following laws, that is to say -

(i) the Bombay Sales Tax Act, 1946 (Bom. V of 1946),

(ii) the Bombay Sales Tax (No. 2) Ordinance, 1952 (Bom. Ord. No. III of 1952)

(iii) the Bombay Sales Tax Act, 1953 (Bom. III of 1953)

(iv) the Bombay Sales of Intoxicants Taxation Act, 1953 (Bom. XLVII of 1953)

(v) the Saurashtra Sales Tax Ordinance, 1950 (Sau. Ord. No. XVIII of 1950)

(vi) The central Provinces and Berar Sales Tax Act, 1947 (C.P. and Berar Act No. XXI of 1947) as extended to the Kutch area of the State of Gujarat, or

(vii) the Bombay Sales Tax Act, 1959, (Bom. LI of 1959), as amended from time to time and includes enactments which have validated anything done or omitted to be done under these laws;

(12) "goods" means all kinds of movable property (not being newspapers or actionable claims or stocks, shares or securities) and all materials, articles and commodities, including standing timber and things attached to or forming part of the land, which are agreed to

be severed before sale or under the contract of sale;

(13) "importer" means a dealer who brings any goods into the State; or to whom any goods are despatched from any place outside the State;

(14) "Licence" means a licence granted under section 31 or, as the case may be, Section 36 and includes a Licence deemed to have been granted under this Act;

(15) "Licensed dealer" means a registered dealer holding a Licence;

¹¹[(16) "manufacture" with all its grammatical variations and cognate expressions, means producing, making, extracting, collecting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods; but does not include such manufactures or manufacturing processes as may be prescribed;]¹²

(17) "permit" means a permit granted to a commission agent under Section 33 and includes a permit deemed to have been granted under this Act;

(18) "person" includes any company or association or body of individuals, whether incorporated or not, a society, club or other institutions and also a Hindu undivided family, a firm, a local authority, Central Government or a State Government;

¹³[(19)"place of business" means any place where a dealer carries on business and includes a warehouse, godown or other place where a dealer stores his goods and any place where he keeps his books of accounts;]

(20) "prescribed" means prescribed by rules;

¹⁴[(21)"prohibited goods" means the goods described in entries 4, 5, .17, 19, ¹⁵[xx] 25, 27, ¹⁶[xx], 35, 36, 37, 38, 40, 44, 45, 46 and 54 in Schedule-11, Part A, or in ¹⁷[entry 7] in Schedule II, Part B and such other goods as the State Government may, from time to time, by notification in the Official Gazette, specify;]

(22) "purchase price" means the amount of valuable consideration paid or payable by a person for any purchase made including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation. ¹⁸[When such cost is separately charged and includes,-

(a) in relation to -

(i) the transfer, otherwise than in pursuance of a contract, of property in any goods,

(ii) the supply of goods by any unincorporated association or body of persons to a member thereof,

(iii) the supply by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating),

(b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable by a person for the execution of such works contract the amount representing labour charges for such execution;

(c) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable by a person for such delivery]

(23) "Recognised dealer" means a registered dealer who holds a Recognition;

(24) "Recognition" means a recognition granted under section 32 and includes a Recognition deemed to have been granted under this Act;

¹⁹[(25) "Registered dealer" means a dealer registered under section 29 ²⁰[or 30] and includes a dealer,

(i) who holds a certificate of registration deemed to have been granted under this Act; and

(ii) to whom a fresh certificate of registration has been granted under section 30A ;]

(26) "Resale" for the purposes of section 7 , Section 8 ,²¹[x] ²²[²³03,²⁴[15,(x)] and 19B] means a sale of purchased goods.

(i) in the same form in which they were purchased, or

(ii) without doing anything to them which amounts to, or results in, a manufacture, ²⁵[x]

(iii) ²⁶[xxx] and the word "resell" shall be construed accordingly;

(27) "Rule" means rules made under this Act :

27(28)"Sale" means a sale of goods made within the State for cash or deferred payment or other valuable consideration and includes, -

(a) any supply by a society or club or an association to its members on payment of a price or of fees or subscription,

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

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

(d) delivery of goods on hire purchase or any system of payment by instalments,

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

(f) 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,

Explanation I- For the purposes of this clause except sub- clauses (c) and (d), "sale" within the State includes a sale determined to be inside the State in accordance with the principles formulated in sub-section (2) of Section 4 of the Central Sales Tax Act, 1956 . (LXXIV of 1956)

28[Explanation II- For the purpose of sub-clause (c) of this clause, the expression "works contract" means a contract for execution of works and includes such works contract as the State Government may, by notification^{**29**}in the Official Gazette, specify;]

30[(29) "sale price" means the amount of valuable consideration paid or payable to a dealer for any sale made including 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 insurance for transit or of installation when such cost is separately charged and includes, -

(a) in relation to -

- (i) the transfer, otherwise than in pursuance of a contract, of property in any goods,
 - (ii) the transfer of the right to use any goods for any purpose (whether or not for a specified period),
 - (iii) the supply of goods by any unincorporated association or body of persons to a member thereof,
 - (iv) the supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating),
- (b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour charges for such execution;
- (c) in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery];

(30) "Schedule" means a Schedule appended to this Act;

31(30A) [xxx]

32(30B) "specified day" means the **33**[date] of the coming into force of the Gujarat Sales Tax (Second Amendment) Act, 1986 (Guj. 14 of 1986);

34[(30C) "Specified sale" means the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and unless the context otherwise requires, the words "sell", "buy", and 'purchase' with all their grammatical variations and cognate expressions shall be construed accordingly;]

(31) "the State" means the State of Gujarat.

(32) "tax" means a sales tax, general sales tax, **35**[xxx] or purchase tax, payable under this Act **36**[but does not include additional tax]

(33) "taxable goods" means goods other than those on the sale or purchase of which no tax is payable under section 5 or section 49

or a notification issued thereunder:

(34) "Tribunal" means the Tribunal constituted under section 28;

(35) "turnover of purchases" means the aggregate of the amounts of purchase price paid and payable by a dealer in respect of any purchase of goods made by him during a given period, after deducting the amount of purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the ³⁷prescribed period;

(36) "turnover of sales" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount of sale price, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the ³⁸prescribed period: ³⁹[**]

⁴⁰ [36A] "turnover of specified sales" means the aggregate of the amounts of sale price received or receivable by a dealer referred to in sub-clause (h) of clause (10) in respect of any specified sale made during a given period;]

(37) "year" means -

(i) in relation to any dealer who maintains regular books of accounts the year by reference to which the accounts are maintained by him; and

(ii) in relation to any other dealer, a financial year;

Provided that a Registered dealer shall not be entitled to vary the year by reference to which he maintains his books of accounts, except with the consent of the commissioner and upon such conditions as the Commissioner may determine.

1. This portion was substituted for the words "In this Act, unless the context otherwise requires" by Guj. Act 3 of 1981. S. 2(1) w.e.f. 5.1.81.

2. Clause (1A) inserted by Guj. Sales Tax (IIInd Amendment) Act, 2000, S. 2(1) w.e.f. 1-4-2000.

3. This clause (3A) was inserted by Guj. 13 of 1998, S.2(1), w.e.f. 1-8-98.

4. The words "but does not include any activity in the nature of mere service or profession" were deleted by Guj. 14 of 1985 S. 2 (1) w.e.f. 5-8-85.

5. This clause (4A) was inserted by Guj. 10 of 1992, S 2(1), w.e.f.

7-4-92

6. This portion was substituted by the Guj. 14 of 1985, S. 2(2), w.e.f. 5-8-85. Prior to substitution the portion read as : "(10) "dealer means any person who buys or sells goods in connection with his business; and includes Central Government, a State Government or any local authority and also any Society, Club or other association of person which buys goods from or sells goods to its members or other person;"

7. This sub-clause (K) was inserted by the Guj. 10 of 1992, S 2(2), w.e.f. 7-4-92.

8. This exception was inserted by President Act 10 of 1976, S. 2(a), w.e.f. 1-4-76.

9. Clause (10-A) was inserted by Guj. 14 of 1985, S. 2(3) w.e.f. 5-8-85

10. Designated day - the date on which the Gujarat Sales Tax Amendment Act 1985, came into force was 5-8-1985.

11. Clause (16) was substituted by guj. 9 1992 S. 2 w.e.f. 1-4-1992. This clause as at present was in force upto 31-3-89., but it was substituted Guj. 15 of 1989, w.e.f. 1-4-89

12. Rule 3 prescribes processes not to be treated as "manufacture".

13. Clause (19) was substituted by Guj. 14 of 1985, S. 2(4) w.e.f. 5-8-85. Prior substitution clause (19) reads as : (19) "place of business" includes a ware-house, godown or Other place where a dealer stores his goods and any place where he keeps his books of account."

14. Clause (21) was substituted by Guj. 9 of 1999, S. 2(1) w.e.f. 1-4-99. Prior to substitution clause 2(21) as substituted by Guj. 13 of 1998, and operative during 1-8-98 to 31-3-99 read as under : "prohibited goods" means the goods described in entries 2, 4, 5, 12, 15, 17, 19, 20, 21, 22, 25, 27, 32, 33, 34, 35, 36, 37, 38, 40, 42, 44, 45, 46, 54, 55 and 60 in Schedule-II, Part A, or in entries 1 and 7 in Schedule II, Part B and such other goods as the State Government may, from time to time, by notification in the Official Gazette, specify;]

15. Figures "20, 21" were deleted by Guj. 3 of 2002, S. 2(i) w.e.f. 1-4-2002.

16. Figure "32" was deleted by Guj. 20 of 2001, S. 2, w.e.f. 1-9-2001.

17. These words and figure were substituted for "entries 1 and 7" by Guj. 3 of 2002, S. 2(ii), w.e.f. 1-4-2002.

18. These words were substituted for the words "When such cost is separately charged" by Guj. 14 of 1985, S. 2(5) w.e.f. 5-8-85.

19. This clause was substituted by presi. Act No. 10 of 1976, S. 2(b), w.e.f. 1-4-76.

20. This word and figure were inserted by Guj. 9 of 1999, S.2(2) w.e.f. 1-4-99.

21. Figure "10" was deleted by Guj. 9 of 1992, S 2(4) (a) w.e.f. 1-4-92.

22. Word, figure and letter "13. 15 and 19 "A" were substituted for the original word and figures "13 and 15" by Guj. 3 of 1982, S 2.

w.e.f. 23-12-81.

23. These words, figures and letters were substituted for the words and figures "13, 15 and 19-A by Guj. 6 of 1983, S. 2, w.e.f. 4.2.83.

24. This figure "15" was substituted for "15, 19A" by Guj. 13 of 1998 S.2(4) w.e.f. 1-8-98.

25. Word "or" was deleted by Guj. 9 of 1992, S. 2(4) w.e.f. 1-4-92.

26. Subclause (iii) was deleted by Guj. 9 of 1992, S. 2 (4)(c), w.e.f. 1-4-92. Prior to deletion sub-clause (iii) read as under: "(iii) being goods specified in entries 1 to 3 In Part A of Schedule II and in entries 1 to 6 in Part B of Schedule II without doing anything to them which takes them out of the description thereof in those entires,"

27. Clause (28) was substituted by Guj. 14 of 1985, S. 2(6) w.e.f. 5-8-85. Prior to substitution clause 28 read as under: "(28) "safe "means a sale of goods made within the State, for cash or deferred payment or other valuable consideration, and includes- any supply by a society or club or an association to its members on payment of a price or of fees or subscription, but does not include a mortgage, hypothecation, charge or pledge, and the words "sell", "buy" and "purchase" with all their grammatical variations and cognate expressions, shall be construed accordingly;. Explanation : For the purposes of this clause, sale within the State includes a sale determined to be inside the State in accordance with the principles formulated in sub-section (2) of >section 4 of the Central Sales Tax Act, 1956 (LXXIV of 1956)".

28. Existing explanation in s.2(28) was renumbered as explanation I, and this explanation II was inserted by Guj.9 of 1999, S.2(3), w.e.f. 1-4-99.

29. PI. See GNFD dt. 12-4-1999 in Appendix 1A

30. Clause (29) was substituted by Guj. 14 of 1985, S. 2(7) w.e.f. 5-8-85. Prior to substitution clause (29) read us under: "(29) "sale price", means the amount of valuable consideration paid or payable to a dealer for any sale made including 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 insurance for transit or of installation when such cost is separately charged."

31. Clauses (30A) and (30B) were inserted by Guj. 10 of 1979, S. 2. w.e.f. 1-4-79.; where after Clause 30A was deleted by Guj. 10 of 1992, S. 2(3), w.e.f. 7-4-92. Prior to deletion clause (30A) read as under: "(30A) "Settlement Commission* means the Sales Tax Settlement Commission constituted under section 28A,"]

32. Clause (SOB) was substituted by Guj. 14 of 1986, S. 2. w.e.f. 1-4-86. Prior to substitution clause (306) read as under: "(308) "specified day" means the date of the coming into force of the Gujarat Sales Tax (Amendment) Act, 1979," (guj. 10 of 1979)".

33. The date so notified as "Specified day" was 1-4-86.

34. Clause (30C) was inserted by Guj. 14 of 1985, S. 2(8) w.e.f. 5-8-85.

35. Words "turnover tax" were deleted by Guj. 15 of 1997, S. 2(2)

w.e.f. 1-4-97. Prior to deletion words "turnover tax" were inserted by Guj. 8 of 1988, S. 2, w.e.f. 6-8-88.

36. Words "but does not include additional tax" were inserted by Guj. Sales Tax (11th Amendment) Act, 2000, S.2(2) w.e.f.1-4-2000.

37. Rule 4 prescribes the period for return of goods.

38. Rule 4 prescribes the period for return of goods.

39. The word "and" was deleted by Guj. 14 of 1985, S. 2(9) w.e.f. 1-5-85.

40. Clause (36-A) was inserted by Guj. 14 of 1985, S 2(10) w.e.f. 5-8-85.

CHAPTER 2

INCIDENCE AND LEVY OF TAX

3. Incidence of Tax. :-

¹ (1) Every dealer whose turnover either of all sales or of all purchases made during-

(i) the year immediately preceding the year within which the specified day falls, or

(ii) the year commencing on the first day of the year within which the specified day falls,

Provided that a dealer to whom clause (i) does not apply but clause (ii) applies and whose turnover either of all sales or of all purchases first exceeds the relevant limit specified in sub-section (4) after the specified day shall not be liable to pay tax in respect of sales and purchases which take place upto the time when his turnover of sales, or his turnover of purchases as computed from the first day of the year in which the specified day falls, first exceeds the relevant limit applicable to him under sub-section (4).

(2) Every dealer whose turnover, either of all sales or of all purchases made during any year being a year subsequent to the year mentioned in sub-section (1) first exceeds the relevant limit specified in sub-section (4) shall, until such liability ceases under sub-section (3) be liable to pay tax under this Act with effect on and from the first day of that year:

Provided that the dealer shall not be liable to pay tax in respect of such sales and purchases as take place during the period commencing on the first day of any such year, upto the time when his turnover of sales or turnover of purchases as computed from the said first day, first exceeds the relevant limit applicable to him

under sub-section (4).

(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax other than tax already levied or leviable; shall, until his turnover of sales or turnover of purchases again first exceeds the relevant limit specified in sub-section (4), 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 and purchases as take place, during the period commencing on the date of the cessation of liability to tax upto the time when his turnover of sales or of purchases first exceeds the relevant limit applicable to him under sub-section (4), no tax shall be payable.

(4) For the purposes of this section, the limits of turnover shall be as follows :

(5) For the purpose of calculating the limits of turnover for liability to tax :-

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

(b) the turnover shall include all sales and purchases made by a dealer on his own account, and also on behalf of principals mentioned in his accounts; and

(c) the value of packing material which is used in packing any goods specified in Schedule I and on which no tax is leviable under sub-section (1) of section 21 shall not be taken into account in computing the value of taxable goods under sub-section (4).]

1. This section was substituted by Guj. 14 of 1986, S. 3. w.e.f. 1-4-86. Prior to substitution section 3

3A. Liability of Tax on the transfer of right to use any goods. :-

1

²[(1) Every dealer referred to in sub-clause (h) of clause (10) of section 2 , Whose turnover,

(a) of specified sales made during, -

(i) the year immediately preceding the year within which the designated day falls, or

(ii) the year commencing on the first day of the year within which the designated day falls,

(b) of specified sales of goods specified in ³[(Schedule III) made by him during the period specified in sub-clause (i) or (ii) has exceeded or exceeds ⁴[Rs. 50,000;]

Provided that a dealer to whom clause (i) does not apply but clause (ii) applies and whose turnover of all specified sales first exceeds the limit specified in this sub-section after the designated day, shall not be liable to pay tax in respect of specified sales which take place upto the time when his turnover of specified sales as computed from the first day of the year in which the designated day falls first exceeds the limit specified in this section.

(2) Every dealer whose turnover of all specified sales made during any year being a year subsequent to the year mentioned in sub-section (1) first exceeds the limit specified in that sub-section shall, until such liability ceases under sub-section (3), be liable to pay tax under this section with effect on and from the first day of that year:

Provided that the dealer shall not be liable to pay tax in respect of specified sales as take place commencing on the first day of any such year upto the time when his turnover of specified sales as computed from the said first day, first exceeds the limit specified in sub-section (1).

(3) Every dealer, who has become liable to pay tax under this section, shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax on specified sales other than the tax already levied or, leviable shall until his turnover of specified 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 specified sales as take place during the period commencing on the date of the cessation of liability to pay tax upto the time when his turnover of specified sales first exceeds the limit

specified in sub-section (1), no tax shall be payable.

(4) For the purpose of calculating the limit of turnover for liability to tax under this section,-

(a) except as otherwise expressly provided, the turnover of all specified sales shall be taken into account whether such specified sales are taxable or not;

(b) the turnover shall include all specified sales made by a dealer on his own account, and also on behalf of principals mentioned in his account.

(5) There shall be levied a sales tax on the turnover of specified sales of goods specified in ⁵[Schedule III] at such rate not exceeding ⁶ [ten paise] in a rupee as the State Government may, by notification in the Official Gazette, specify, and different rates may be specified for different goods mentioned in that Schedule or different classes of dealers]

1. Section 3-A was inserted by Guj. 14 of 1985 S.3 w.e.f. 5-8-85.

2. Sub-section (1) (excluding its proviso,) was substituted by Guj. 14 of 1986, w.e.f. 1-4-86. Prior to substitution sub-section (1), excluding its proviso read as under: "Every dealer referred to in sub-clause (h) of clause (10) of section 2, whose turnover of specified sales made during, - (i) the year immediately preceding the year within which the designated day falls, or (ii) the year commencing on the first day of the year within which the designated day falls, has exceeded or exceeds Rs. 50,000 shall, until such liability ceases under sub-clause (3), be liable to pay tax under this section on his turnover of specified sales made on or after the deignated day,"

3. These words were substituted for 'Schedule IV 'by Guj. 9 of 1992, S. 3. w.e.f. 1-4-92.

4. These figures were substituted for Rs.50000, by Guj. 9 of 1999, S.3 w.e.f.1-4-99.

5. These words were substituted for "Schedule IV" by Guj. 9 of 1992, S 3. w.e.f. 1-4-92.

6. These words were substituted for "five paise" by Gujarat Act 10 of 1994, Section 2, w.e.f. 1-4-1994.

4. Liability of dealer registered under Act No. LXXIV of 1956 to pay tax. :-

(1) Notwithstanding anything contained in section 3 , a dealer who is registered under the Central Sales Tax Act, 1956 (LXXIV of 1956), but who is not liable to pay tax under the said section 3 , shall nevertheless be liable to pay tax-

(a) on sales of goods in respect of the purchase of which he has furnished a declaration under sub-section (4) of section 8 of the Central Sales Tax Act, 1956, and

(b) on - Sales of goods in the manufacture of which the goods so purchased have been used :

and accordingly, the provisions of section 7 to Section 13 (both inclusive) shall apply to such sales, as they apply to the sales made by a dealer liable to pay tax under section 3 :

Provided that the tax under this section shall not be payable if the seller shows to the satisfaction of the Commissioner that the purchaser of goods is a dealer registered under this Act and has furnished to such seller a certificate in the prescribed form¹ declaring inter alia that the goods so sold to him are intended for resale by him or for use by him in the manufacture or processing of any goods for sale.

(2) Every dealer who is liable to pay tax under sub-section (1) shall, for the purposes of section 40 , Section 41 , Section 44 , Section 45 , Section 46 , Section 47 , Section 56 , Section 57 and Section 58 be deemed to be a registered dealer.

1. Form 16 is prescribed. Rule 24(1)-.

4A. Section 4A :-

1/2

(1) There shall be levied and collected ³ [for the period beginning from the date of commencement of the Gujarat sales Tax (Second section 4 ; an additional tax on the sale or purchase of goods liable to tax under this Act, as the rate of ten paise in the rupee on the sales tax, general sales tax or, as the case may be, purchase tax, payable by such dealer:

Provided that the additional tax shall not be levied on the sale or purchase of any of the declared goods.

(2) Except as provided in sub-section (1) the provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the additional tax payable under sub-section (1), as they apply in relation to the tax payable by a dealer under this Act.

(3) For the removal of any doubt, it is hereby declared that

(a) additional tax levied under sub-section (1) shall not be

construed as partaking of the character of sales tax, general sales tax or, as the case may be, purchase tax, on which it is levied; and

(b) the additional tax shall be distinct from sales tax , general sales tax or, as the case may be, purchase tax."]

1. This section 4A was inserted by Guj. 4 of 1976, S. 2 w.e.f. 12-12-75 and was deleted by Guj. 9 of 1992, S 4. w.e.f. 1 -4-92. NOTE : For sake of ready reference, the rate of additional tax u/s. 4A, as in force for different Periods was as under: Rate of Addi. Tax as % of basic Tax. (1) 1-12-71 to 16- 3-73 2% (2) 17-3-73 to 11-12-75 Nil (3) 12-12-75 to 31-3-76 3% (4) 1-4-76 to 31-3-79 6% (5) 1-4-79 to 31- 3-87 10% (6) 1-4-87 to 5-8-88 20% (7) 6-8-88 to 31-7- 89 25% (8) 1-8-89 to 31-3-92 20% Prior to deletion S.4A read as under: "4A.Levy of additional tax:(1) There shall be levied and collected [from every dealer liable to pay tax under section 3 or section 3A or under section 4; an additional tax on the sale or purchase of goods liable to tax under this Act, as the rate of twenty paise in the rupee on the sale tax, general sales tax or purchase tax or on any two or more of them, as the case may be, payable by such dealer: Provided that in respect of the sale or purchase of any of the declared goods, the tax plus the additional tax shall not exceed four percent of the sale or purchase price thereof. (2) Except as provided in sub-section (1) the provisions of this Act and the rules made thereunder shall, so fast as may be, apply in relation to the additional tax payable under sub-section (1) as they apply in relation to the tax payable by a dealer under this Act. (3) (a) Notwithstanding any judgment, decree or order of any court, Tribunal or other authority, no additional tax levied under sub-section (1) shall be or shall be deemed ever to have been, construed as partaking of the character of sales tax, general sales tax or, as the case may be, purchase tax, on which it is levied; and (b) for the avoidance of any doubt it is hereby declared that the additional tax shall be and shall be deemed always to have been distinct from sales tax , general sales tax or, as the case may be, purchase tax."

2. Section 4A was inserted by Guj. Sales Tax (11nd Amendment) Act, 2000, S.3 w.e.f. 1-4-2000.

3. These words were substituted by Guj. 3 of 2002, s. 3, w.e.f. 1-4-2002. The substituted words were as : "for a period of two years from the date of commencement of the Gujarat Sales Tax (Second Amendmet) Act, 2000"

5. Sales and purchases of certain goods free from all tax. :-

(1) subject to the conditions or exceptions (if any) set out against each of the goods specified in column 3 of Schedule I, no tax shall be payable on the sales or purchases of any goods specified in that Schedule.

(2) The State Government may, by notification in the Official

Gazette add to, or enlarge, any entry in Schedule I, or relax or omit any condition or exception specified therein; and there upon, the said Schedule shall be deemed to be amended accordingly.

(3) Every notification issued under sub-section (2) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State legislature or to such modification as the state legislature may make, during the session in which it is so laid or the session immediately following. Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall there-upon take effect.

6. Taxes payable by a dealer. :-

Subject to the provisions of this Act, and to any rules made there-under there shall be paid by every dealer, who is liable to pay tax under this Act, the tax or taxes leviable in accordance with the provisions of this Chapter.

7. Levy of Sales tax on goods, in schedule II, Part A. :-

There shall be levied a sales tax on the turnover of sales of goods specified in Part A of Schedule II at the rate set out against each of them in column 3 thereof, but after deducting from such turnover,
-

(i) resales of goods on the purchase of which the dealer is liable to pay purchase tax under section 16 .

(ii) resales of goods purchased by him from a Registered dealer,

(iii) Sales of goods, or resales of goods to which clauses (i) and (ii) do not apply, to a Recognised dealer or to a Commission agent holding a permit who purchases on behalf of a principal, who is a Recognised dealer, upon such dealer or commission agent as the case may be, furnishing in the circum- stances and subject to the conditions specified in sub-clause (B) and item (ii) of sub-clause (C) ¹ [XX] of section 13 , a Certificate as provided therein, and

(iv) Sales of goods or resale of goods to which clauses (i) and (ii) do not apply, to a Licensed dealer or to a Commission agent holding a permit who purchases on behalf of a principal who is a Licensed dealer, upon such dealer or Commission agent as the case may be, furnishing in the circumstances and subject to the conditions specified in item (i) of sub-clause (A) and item (i) (a) of sub-clause (C) ¹ [XX] of section 13 , a Certificate as provided

therein.

1. Words "of sub-section (1)" were deleted by Guj. Act 10 of 1994, S. 3, w.e.f. 1-4-94.

8. Levy of general sales tax on goods in schedule II, Part B.

:-

There shall be levied a general sales tax on the turnover of sales of goods specified in Part B of Schedule II at the rate set out against each of them in column 3 thereof, but after deducting from such turnover, -

(i) resales of goods on the purchase of which the dealer is liable to pay purchase tax under section 16 .

(ii) resales of goods, purchased from a Registered dealer by a dealer who is not a Licensed dealer at the time of such purchase, and

(iii) Sales of goods, or resales of goods to which clauses (i) and (ii) do not apply, to a Licensed dealer, Recognised dealer or to a Commission agent holding a permit, who purchases on behalf of a principal who is a Licensed dealer or a Recognised dealer, upon such dealer or commission agent as the case may be furnishing, in the circumstances and subject to the conditions specified in section 13 , a certificate¹ as provided therein.

1. A Licensed dealer to furnish a certificate in F.17B or F.17BB, A Recongised dealer to furnish a Certificate in F.19 and a buying Commission Agent to furnish a Certificate in F.18B, F.18BB or F.18C as applicable. Rule 24.

9. The stage of levy of Sales Tax, General Sales Tax or Purchase Tax on declared goods. :-

¹ [(1) On the sale or purchase of declared goods, tax shall be levied only at one stage and that stage shall be

(a) in the case of the levy of sales tax under section 7 , the stage of sale of such goods by the first dealer liable to pay such tax under this Act;

(b) in the case of the levy of general sales tax under section 8 , the stage of sale of such goods by the last dealer liable to pay such tax under this Act;

(c) in the case of the levy of purchase tax under section 49 , the stage of purchase of such goods by the first dealer liable to pay

such tax under this Act;

(d) in the case of the levy of purchase tax under section 16 , the stage of purchase of such goods by the intermediate dealer liable to pay such tax under this Act;

(e) in the case of the levy of purchase tax under section 20 , the stage of purchase of such goods by the first dealer liable to pay such tax under this Act where the taxable goods purchased are of the class described in clause (i) of sub-section (1) of section 20 or the stage of purchase of such goods by the intermediate dealer liable to pay such tax under this Act where the taxable goods purchased are of the class described in clause (ii) of sub-section (1) or in sub-section (2) of section 20 ;

(f) in the case of levy of purchase tax under section 50 , the stage of purchase of goods by the first dealer liable to pay such tax under this Act;

(g) in the case of levy of sales tax under section 50 , the stage of sale of such goods by the intermediate dealer liable to pay such tax under this Act;

(h) in the case of levy of general sales tax under section 50 , the stage of sale of such goods by the intermediate dealer liable to pay such tax under this Act.

(2) The taxable turnover of any dealer for any period shall not include his turnover during that period of any sale or purchase of declared goods at any stage other than the stage referred to in any of the clauses (a) to (h) of sub-section (1) as may be relevant.

(3) Nothing in this section shall be deemed to authorise the levy of tax in respect of the turnover of the sales or purchases of any declared goods where the dealer is not liable to pay the tax in respect of such turnover in pursuance of the provisions of section 7 , Section 8 , Section 15 , Section 16 , Section 20 or as the case may be, 50 or any other provisions of this Act.

(4) If under this Act or any earlier law, any tax has been levied or is leviable on the sale or purchase of any declared goods, at any stage, then no further tax shall be levied under this Act at any subsequent stage on the sale or purchase thereof.

Explanations :-

(1) For the purpose of clause (a) of sub-section (1), the expression "First dealer" shall mean a dealer who,

(i) purchases the concerned goods from a person other than a registered dealer and resells the goods so purchased by him, and the dealer so purchasing and reselling the said goods is the first dealer liable to pay tax, who purchases the said goods from a person other than a registered dealer, or

(ii) purchases the concerned goods from a registered dealer where such purchase is not liable to tax by virtue of the provisions of section 87 and resells the goods so purchased by him, and the dealer so purchasing and reselling the goods is the first dealer liable to pay tax, who purchases the said goods from a registered dealer where such purchase is not liable to payment of tax by virtue of the provisions of section 87 , or

(iii) is a manufacturer of the concerned goods who sells the said goods, or

(iv) is an importer of the concerned goods who sells the said goods, or

(v) acquires, receives or comes in possession of the concerned goods in any manner other than by way of purchase and sells such goods.

(2) For the purpose of clause (b) of sub-section (1) the expression "last dealer" shall mean a dealer who -

(i) purchases the concerned goods from a person other than a registered dealer and resells the goods so purchased by him, and dealer so purchasing and reselling the said goods is the first dealer liable to pay tax, who purchases the said goods from a person other than a registered dealer and resells them to a person other than a Licensed dealer or to a Licensed dealer who purchases the said goods otherwise than against a certificate under section 13 ; or

(ii) purchases the concerned goods from a registered dealer where such purchase is not liable to tax by virtue of the provisions of section 87 and resells the goods so purchased by hirrr, and the dealer so purchasing and reselling the said goods is the first dealer liable to pay tax, who purchases the said goods from a registered dealer where such purchase is not liable to payment of tax by virtue of the provisions of section 87 , and resells them to a person

other than a licensed dealer or to a licensed dealer who purchases the said goods otherwise than against a certificate under section 13 ; or

(iii) purchases the concerned goods from a registered dealer where such purchase is not governed by the provisions of section 87 , and resells the goods so purchased by him, and the dealer so purchasing and reselling the said goods is the first licensed dealer who has purchased the said goods against a certificate under section 13 and who resells the said goods to a person other than a licensed dealer or to a licensed dealer who purchases the said goods otherwise than against a certificate under section 13 ; or

(iv) is a manufacturer of the concerned goods who sells the said goods, or

(v) is an importer of the concerned goods who sells the said goods; or

(vi) acquires, receives or comes in possession of the concerned goods in any manner other than by way of purchase and sells such goods;

(vii) in paragraphs (i), (ii) and (iii), references to a licensed dealer shall include references to a Commission Agent, holding a permit, who purchases on behalf of a principal who is a licensed dealer.

(3) For the purposes of clauses (c), (e), and (f) of sub-section (i), the expression "first dealer" shall mean a dealer who purchases the concerned goods from a person other than a registered dealer and does not resell the goods so purchased by him, and the dealer so purchasing the goods is the first such dealer who so purchases the said goods.

(4) For the purposes of clauses (d), (e), (g) and (h) of sub-section (i), the expression "Intermediate dealer" shall mean a dealer who purchases the concerned goods under a certificate as provided in section 13 and contrary to such certificate has used the goods for another purpose or has not resold or despatched the goods in the manner and within the period certified, or, as the case may be, a dealer who sells or purchases the concerned goods in breach of any condition imposed under section 49 ; and the dealer so purchasing or, as the case may be, selling the said goods, is the first such dealer who so purchases, or, as the case may be, sells the said goods.

1. These sections 9 and 9A were substituted for the original 9 by Guj. 9 of. 1972, S. 2. w.e.f. 26-7-72.

9A. Validation of previous levies on declared goods effected at one stage only and pending proceedings relating to such levies, etc. :-

1 Notwithstanding anything contained in this Act or in any judgement, decree, or order or decision of any Court, Tribunal or other authority -

(i) Where a tax on the sale or purchase of any declared goods levied, assessed, reassessed or collected under this Act or under any earlier law after the date of coming into force of Section 15 of the Central Sales Tax Act, 1956 (LXXIV of 1956) and before the date of coming into force of the Gujarat Sales Tax (Amendment) Act, 1972 (Guj. 9 of 1972) (hereinafter in this section refereed to as the specified period) had been actually levied, assessed, reassessed or collected at one stage only and that stage was the stage which is specified in section 9 as substituted by the Gujarat Sales Tax (Amendment) Act, 1972, (Guj. 9 of 1972) (hereinafter in this section referred to as the new section 9), then, the levy, assessment, reassessment or collection of the said tax and all the proceedings held and orders made for making such levy, assessment, reassessment or collection shall be deemed to be, and shall be deemed always to have been, valid as if the new section 9 had formed part of this Act, or as the case may be, the provisions corresponding to the provisions of the new section 9 had formed part of the earlier law, at the time when the said tax was levied, assessed, reassessed or collected or the said proceedings were held or orders were made; and such levy, assessment, reassessment, collection, proceedings and orders shall not be deemed to be, and shall be deemed never to have been, invalid or inconsistent with the provisions of Section 15 of the Central Sales Tax Act, 1956 (LXXIV of 1956) and shall not be called in question merely on the ground that this Act or, as the case may be, the earlier law under which the said tax was levied, assessed, reassessed or collected did not at that time specify the precise one stage at which such tax shall be levied, assessed, reassessed or collected;

(ii) where a tax on the sale or purchase of any declared goods, levied, assessed, reassessed or collected under this Act or under any earlier law during the specified period had not been levied, assessed, reassessed or collected in conformity with the provisions

of the new section 9 , the levy, assessment, reassessment or collection of such tax and all proceedings held and orders made relating there-to shall be reviewed and revised after giving due notice and hearing to the dealers concerned, so as to bring them in conformity with the provisions of the new section 9 , as if the new section 9 had formed part of this Act, or, as the case may be, the provisions corresponding to the new section 9 had formed part of the earlier law during the specified period;

(iii) all proceedings instituted under this Act or under any earlier law, relating to the levy, assessment, reassessment or collection of tax on the sale or purchase of any declared goods for the specified period which may be pending immediately before the date of the commencement of the Gujarat Sales Tax (Amendment) Act, 1972 (Guj. 9 of 1972) before any officer, authority or other person and all other matters connected with or incidental to such proceedings, in so far as such proceedings relate to the stage at which such tax shall be levied or collected, shall, if they have been instituted, held or given effect to in conformity with the provisions contained in the new section 9 , although the new section 9 or as the case may be, the provisions corresponding to the provisions of the new section 9 were not in force at any relevant point of time during course of such proceedings, be deemed to be, and to have always been, validly instituted, held or given effect to, as if the new section 9 or, as the case may be, the provisions corresponding to the provisions of the new section 9 had formed part of this Act, or, as the case may be, of the earlier law and had been in force at every such relevant point of time, and all such proceedings shall be continued accordingly after the aforesaid date under the provisions of this Act; and if any of such proceedings had not been instituted, held or given effect to in any respect before the aforesaid date in conformity with the provisions of the new section 9 , such proceedings shall be reviewed, varied or revised and held and given effect to in conformity with the provisions contained in the new section 9 , after giving due notice to the dealer concerned. The validity of any of such proceedings or other matters connected with or incidental of such proceedings shall not be called in question merely on the ground that the new section 9 , or as the case may be, the provisions corresponding to the provisions of the new section 9 were not in force at any relevant point of time;

(iv) any proceedings relating to the levy, assessment, reassessment or collection of tax on the sale or purchase of any declared goods

for the specified period which may be instituted after the date referred to in clause (iii) shall, in so far as such proceedings relate to the stage at which such tax shall be levied or collected, be held in conformity with the provisions contained in the new section 9 as if the new section 9 formed part of this Act, or as the case may be, the provisions corresponding to the new section 9 formed part of the earlier law as in force during the specified period; and the validity of such proceedings shall not be called in question merely on the ground that the new section 9 or, as the case may be, the provisions corresponding to the provisions of the new section 9 were not in force during the specified period.]

1. Section 9-A was inserted by Guj. 9 of 1972 S. 2 w.e.f. 26-7-72.

10. Section 10 :-

¹ [* * * * *].

1. Section 10 was deleted by Guj. 9 of 1992, S. 5, w.e.f. 1-4-92.

10A. Levy of turnover tax :-

¹ [* * * * *]

1. Section 10A is deleted by Guj. 15 of 1997, S. 3 w.e.f. 1-4-97. The said S. 10A was inserted by Guj. 8 of 1988, S.5, w.e.f. 6-8-88.

11. Exclusion or inclusion of certain purchases for the purposes of deduction under section 7, or 8. :-

For the purpose of deducting under section ¹[7, or 8] resales of goods purchased from a Registered dealer from the turnover of sales, the expression "goods purchased from a Registered dealer" ,

(1) shall be construed so as not to include the following classes of purchases:-

(a) a purchase of goods if the goods at the time of their purchase were the goods specified in Schedule I ;

²[(aa)a purchase of goods in respect of which no tax is payable under the proviso to sub-section (1) of section 4 :]

(b) a purchase of goods from any person whose sale of such goods has been wholly exempted from payment of tax under section 49 or any notification issued thereunder;

(c) a purchase of goods which is not liable to tax by virtue of the provisions of sec. 87, and

(2) shall be construed so as to include the following classes of

purchases:-

(a) a purchase of goods after the appointed day from a Registered dealer, but not being purchases specified in ³[clause] (1);

(b) a purchase of goods before the appointed day from a dealer registered under the Bombay Sales Tax Act, 1959 (Bom. LI of 1959) but not being the following classes of purchases :-

(i) a purchase of any goods if the goods at the time of their purchase were the goods specified in Schedule A of the said Act;

(ii) a purchase of any goods from any person whose sale of such goods had been wholly exempted from payment of tax under section 41 of the said Act;

(iii) a purchase of any good which was not liable to tax by virtue of the provisions of section 75 of the said Act;

(iv) a purchase of any goods described in Part II of Schedule B, or Schedule D or Schedule E of the said Act by a dealer holding a Licence under section 23 of the said Act, on the date of such purchase.

⁴ (c) a purchase from a registered dealer in respect of any goods (except effected on the certificate in prescribed form under section 13 specified in Part B of Schedule II or Schedule III as existed prior to the commencement of the Gujarat Sales Tax (Second Amendment) Act, 1992, (Guj.9 of 1992) and which are specified in Part-A of Schedule II as amended by the Gujarat Sales Tax (Second Amendment) Act, 1992. (Guj. 9 of 1992)]

1. These figures were substituted for "7, 8 or 10A" by Guj. 15 of 1997 S. 4 w.e.f. 1-4-97. Prior to substitution (i) during 1-4-92 to 31-3-97 the figures were "7, 8 or 10A" and (ii) during 6-8-88 to 31-3-92 they were "7, 8, 10 or 10A".

2. This sub-clause (aa) was inserted and was deemed always to have been inserted by Presi Act No. 10 of 1976 S 4(aa) w.e.f. 1-4-76.

3. This word was substituted for the word "sub-section, by Presi Act. No. 10 of 1976, s.4 (a) w.e.f. 1-4-76.

4. Sub-clause (c) was inserted by Guj. 9 of 1992, S.7 (3). w.e.f. 1-4-92.

12. Tax payable at a reduced rate on certain sales. :-

Where any dealer liable to pay tax under this Act, sells any taxable goods,

(1) to a Licensed dealer, who certifies in the prescribed form¹

(a) that the goods will be despatched in the same form in which they were purchased and without doing anything to them which might amount to or result in manufacture thereof within ²[twelve months] from the date of purchase, to his own place of business outside the State for sale or for use in the manufacture of goods for sale outside the State, and

(b) that in respect of the said place of business he or his manager or agent at that place is a registered dealer under the Central Sales Tax Act, 1956 (LXXIV of 1956); ³[x] ⁴[xx]

(2) to a Commission agent holding a Permit who certifies in the prescribed form ⁵-

(a) that he is registered under the Central Sales Tax Act, 1956 (LXXIV of 1956) and

(b) that the goods are purchased by him as Commission agent for his principal who is -

(i) The Central Government and that the goods will be despatched on behalf of such Government outside the State, or

(ii) a dealer whose place of business is outside the State and who is registered under the Central Sales Tax Act, 1956 (LXXIV of 1956) and that the goods will be sold or will be used in the manufacture of goods for sale outside the State by the principal,

(iii) a Registered dealer having a place of business also outside the State and that such principal or his manager or agent is a registered dealer under the Central Sales Tax Act, 1956 (LXXIV of 1956) and that the goods will be sold or will be used in the manufacture of goods for sale outside the State by such principal and

(c) that the goods will be despatched outside the State within ⁶[twelve months] from the date of their purchase by the Commission agent,[x] ⁷⁸[xx]

⁹[or 8] on such sale of goods to the Licensed dealer or, as the case may be, the Commission agent, the dealer shall be liable to pay a sales tax ¹⁰ [at the rate of four paise] in the rupee or where a lesser rate is specified in any Schedule in respect of those goods at that lesser rate or,

1. The Certificate is to be in F.17 for clause(a); and in F.17 A, for clause (aa) Rule 24.
2. These words were substituted for "six months" by Guj. 8 of 1995 S. 2, w.e.f. 1-8-95.
3. This word "or" inserted by Guj. 10 of 1994, w.e.f. 1-4-94, was deleted by Guj. 13 of 1998, S.4(1), w.e.f. 1-8-98.
4. This sub-clause (aa) inserted by Guj. Act 10 of 1994, w.e.f. 1-4-94, was deleted by Guj. 13 of 1998, S.4(1), w.e.f. 1-8-98. Prior to deletion clause (aa) read as under: "(aa) that the goods are purchased by him for resale in the course of inter-state trade or commerce and that such goods will be resold within twelve months from the date of such purchase by himself."
5. The Certificate is to be in F.18A for clause(a); and in F. for clause (aa)
6. These words were substituted for "six months" by Guj. 8 of 1995, S. 2, w.e.f. 1 -8-95.
7. The word "or inserted by Guj. 10 of 1994, w.e.f. 1-4-94" was deleted by Guj. 13 of 1998, S. 4(2) w.e.f. 1-8-98.
8. This sub-clause (aa) inserted by Guj. Act 10 of 1994, w.e.f. 1-4-94, was deleted by Guj. 13 of 1998, S.4(2), w.e.f. 1-8-98. Prior to deletion clause (aa) read as under: (aa) that the goods are purchased on behalf of his principal who is a licensed dealer for resale in the course of inter-State trade or commerce and that such goods will be resold by the principal himself in the course of inter-State trade or commerce within [twelve months] from the date of such purchase by the commission agent.
9. These words were substituted for "8 or 10" by Guj. 10 of 1992, S, 8 and 9 w.e.f. 1-4-92.
10. These words were substituted for the words "at the rate of three paise" by Guj. 1 of 1975, S. 2 w.e.f. 1-8-75.

13. No deduction from turnover except on a certificate. :-

¹There shall not be deducted from the turnover of sales, sales of goods to a licensed dealer, recognised dealer or to a commission agent holding a permit purchasing on behalf of his principal as provided in section 7 or Section 8 unless -

(A) the licensed dealer,

(i) certifies in the prescribed form²that the goods are purchased for resale in the course of export out of the territory of India within ³[twelve months] from the date of such purchase by himself; or

(ii) certifies in the prescribed form⁴that the goods specified in Schedule II - Part B are intended ,

(a) for resale by him within the State of Gujarat otherwise than in the course of inter-State trade or commerce or export out of the

territory of India within ³[twelve months] from the date of such purchase; or

(b) for resale by him in the course of export out of the territory of India within ³[twelve months] from the date of such purchase; or

(B) the recognised dealer certifies in the prescribed form⁷ that the goods other than ⁸[goods which are liable to tax at the rate of two paise in the rupee or less than that rate of two paise or the prohibited goods.] sold to him are goods purchased by him for use by him as raw or processing materials or as consumable stores in the manufacture of taxable goods for sale by him; or

(C) the commission agent certifies in the prescribed form that the goods are purchased on behalf of his principal who -

(i) is a licensed dealer -

(a) and the goods will be resold⁹ by the principal himself in the course of export out of the territory of India within ⁶[twelve months] from the date of such purchase by the commission agent; or

(b) who will resale¹¹ the goods specified in schedule II Part B,

(i) within the State of Gujarat otherwise than in the course of inter-State trade or commerce or export out of the territory of India within ⁶[twelve months] from the date of such purchase; or

(ii) in the course of export out of the territory of India within ⁶[twelve months from the date of such purchase; or '

(ii) is a recognised dealer and the goods purchased¹⁴ being goods other than prohibited goods will be used by the principal as raw or processing materials or as consumable stores in the manufacture of taxable goods for sale,

1. Section 13 was substituted by Guj. Act 10 of 1994, S. 6 w.e.f. 1-4-94. Prior to substitution section 13.

2. Prescribed form is F.17BB. Rule 24.

3. "These words were substituted for "six months by Guj. 8 of 1995, S. 3, w.e.f. 1-8-95.

4. prescribed form is F.17B. for clause (A)(ii)(a) and F.17BB for clause (A)(ii)(b) of S.13. Rule 24.

7. Prescribed form is F. 19. Rule 24.

8. These words were substituted for "prohibited goods" by Guj. 9 of 1999, S.4, w.e.f.1-4-99.

9. Prescribed form is F.18BB. Rule 24.

11. Prescribed form is F.18B. for S. 13 (C) (i) (b) (i) and F. 18BB for S. 13 (C) (i) (a) and 13 (C) (i) (b) (ii) Rule 24.

14. Prescribed form is F.18C. Rule 24.

14. Commission agent to send copy of certificate to principal. :-

Where a Commission agent purchases any goods under a certificate given by him under section 12 or Section 13 he shall simultaneously send a copy of such certificate to his principal.

15. Purchase tax payable on certain purchases of goods. :-

¹ [Where a dealer who is liable to pay tax under this Act purchases any goods specified in Schedule II from a person who is not a Registered dealer, then, unless the goods so purchased are resold by the dealer, there shall be levied, subject to the provisions of section 9 , a purchase tax on the turnover of such purchase at the rate set out against them in that Schedule]

1. This section 15 was substituted by Guj. 9 of 1992, S 10, w.e.f. 1-4-92. Prior to substitution section 15 read as : 15. Purchase tax payable on certain purchases of goods.- Where a dealer who is liable to pay tax under this Act purchases any goods specified in Schedule II or III from a person who is not a Registered dealer, than, unless the goods so purchased are resold by the dealer, there shall be levied, subject to the provisions of section 9,- (i) in the case of goods specified in Schedule II, a purchase tax on the turnover of such purchases at the rate set out against them in that Schedule, and (ii) in the case of goods specified in Schedule III, a purchase tax on the turnover of such purchases at a rate equivalent to the rate of sales tax set out against them in that Schedule.

15A. Purchase tax payable on purchases of goods by certain dealers. :-

¹Where

(1) a recognised dealer purchases any goods specified in ²[Part A or Part B of Schedule II] other than prohibited goods, under a certificate given by him under clause (B) of sub- section (1) of section 13 , or

(2) a commission agent holding permit purchases any goods specified in ²[Part A or Part B Schedule II] other than prohibited goods on behalf of his principal who is recognised under a certificate given by him under clause (C) of sub-section (1) of section 13 ,

⁴ [Two paise in the rupee]

1. Section 15-A was inserted by Guj. 7 of 1983, S 2, w.e.f. 1-4-83.

2. These words were substituted for "Schedule II or III" by Guj. 9 of 1992, S. 11 (1) w.e.f. 1-4-92.

4. These words are substituted for "2.4 paise in the rupee" by Guj. 15 of 1997, S. 5 w.e.f. 1-4-97. Prior to its substitution (i) during 1-4-92 to 31-3-97 the rate of P.T. was 2.4% (2) during 5-8-85 to 31-3-92 it was 2% (3) during 1-4-83 to 4-8-85 it was 1%.

15B. Purchase tax on raw or processing materials or consumable stores used in manufacture of goods. :-

¹Where a dealer who being liable to pay tax under this Act purchases either directly or through a commission agent any taxable goods (not being declared goods) and uses them as raw or processing materials or consumable stores, in the manufacture of taxable goods, then there shall be levied in addition to any tax levied under the other provisions of this Act, a purchase tax at the rate of-

(a) two paise in a rupee on the turnover of such purchases made during the period commencing on the 1st April, 1986 and ending on the 5th August, 1988; and

(b) ²[four paise in the rupee] on the turnover of such purchases made at any time after the 5th August, 1988:

Provided that where the raw materials purchased and used in the manufacture of goods are bullion or specie, the rate of purchase tax on the turnover of purchases of such raw materials shall not exceed the aggregate of the rates of sales tax and general sales tax leviable on bullion or specie under ³ [entry 15 in Part A of Schedule II].

1. Sections 15B and 15C were inserted by Guj. 17 of 1986, S. 2 w.e.f. 1.4.86, and section 15B was substituted and section 15C was deleted by Guj. 16 of 1987, S.3, w.e.f. 1.4.87. Present section 15B was and was deemed to have been substituted by Guj. 6 of 1990 S w.e.f. 1.4.86

2. These words were substituted for "six paise in the rupee" by Guj. 9 of 1999, S. 5 w.e.f. 1-4-99. Author's Note : Rates of P.T. u/s.5B from time to time were under. (i) 6-8-88 to 31-3-92 - 4%, (ii) 1-4-92 to 31-3-97 - 4.8%, (iii) 1-4-97 to 31-7-98 - 6%, (iv) 1-8-98 to 31-3-99 - 4% (Entry 49(99)), (v) 1-4-99 and onwards 4%

3. These words substituted for "entry 1 in Sch. III" by Guj. 9 of 1992, S.12(2), w.e.f. 1-4-92

15C. Liability to purchase tax for contravention of term of

certificate :-

XXX][-DELETED by Guj. Act. No. 16 of 1987, S. 4. w.e.f. 1-4-87; was and was deemed to have been deleted with effect on and from 1-4-86 Guj. 6 of 1990 S. 3.:]

16. Liability to purchase tax for contravention of terms of certificates etc. :-

(1) Where any dealer or Commission agent has purchased any taxable goods under a certificate given by him under section 12 or 13, and

(a) contrary to such certificate, the goods are used for another purpose, or are not resold or despatched in the manner and within the period certified, or

(b) on the resales in the course or Inter-State trade or commerce, of the goods so purchased, no tax under the Central Sales Tax Act, 1956 (LXXIV of 1956) is actually payable by him on account of any deduction admissible under any of the provisions of the said Act,

(2) If, in respect of any transaction by a Commission agent made under a certificate given by him under section 12 or Section 13 , the Commission agent.

(a) purchases the goods at one rate, and passes them on to his principal at an increased rate (such increase not being by reason only of his commission or packing, carriage, freight or insurance of the goods and other reasonable charges incidental to their despatch or charged according to trade practice), or

(b) acts for a non-existent principal, the Commission agent shall be liable to pay purchase tax on the purchase price of the goods so purchased, and accordingly he shall include the purchase price in his turnover of purchases in his declaration or return under section 40 which tie is to furnish next thereafter.

(3) The purchase tax leviable under this section in respect of any goods specified in Schedule II or III shall be the aggregate of all taxes which would have been leviable there-on but for the certificate given under section 12 or Section 13 .

(4) If any question arises whether the purchase price of goods purchased under a certificate given under section 12 or Section 13 is not liable to be included in the turnover of purchases of a dealer of Commission agent under this section, the burden of so proving

shall be upon such dealer, or as the case may be, the Commission agent.

¹[(5) Where a dealer is liable to pay tax under this section, ² [xx] the sales tax levied or leviable under clause (aa) of sub-section(I) or clause (aa) of sub-section (2) of section 12 , or the purchase tax levied or leviable under section 15A shall be set-off against the purchase tax payable under this section.

1. Sub-section (5) was substituted by Guj. 8 of 1995, S. 4, w.e.f. 1-8-95. Prior to substitution sub-section(5), as inserted by Guj. 7 of 1983, S.3 w.e.f. 1-4-83 read us under: "(5) Where a dealer is liable to pay tax under this section, the purchase tax levied or leviable under section 15A shall be set off against the purchase tax payable under this section."

2. These words were deleted, by Guj. 13 of 1998, S.5, w.e.f. 1-8-98, Prior to deletion these words were as under: "the sales tax levied or leviable under clause (aa) of sub-section (1) or clause (aa) of sub-section (2) of section 12, or"

17. Joint and several liability of commission agent and principal In respect of goods purchased on behalf of principal. :-

(1) Where a Commission agent purchases any taxable goods on behalf of his principal, such commission agent and his principal shall both be jointly and severally liable to pay the tax or taxes, if any, payable under ¹[15,15-A, 16,²(*) . ³[x] or 19-B] as the case may be and nothing in sections ⁴[15, 15-A, 16,³(X), ⁶[x] or 19-B] shall affect the liability of the principal under this section.

(2) If the Commission Agent shows to the satisfaction of the Commissioner that the tax payable by him under section ⁵[15, 15-A, 16 ⁸[*]] ⁵ [x] or 19-B as the case may be in respect of any goods, has been paid by the principal on whose behalf the goods were purchased, the Commission agent shall not be liable to pay the tax again in respect of the same transaction.

1. These words, figures and letters were substituted for the words, figures and letters "15, 16, 18, 18-A or 19-B" Guj. 7 of 1983, S.4 (1) (a) w.e.f. 1-4-83.

2. Figure "18" was deleted by Guj. 10 of 1992 S. 5 (1), w.e.f. 7-4-92.

3. In effect "19A" is deleted, by Substitution,' "15A, 16, 19A" by "15A, 16" by Guj. 13 of 1998, S.6, w.e.f. 1-8-98.

4. These words, figures and letters were substituted for the words figures and letters "15, 16, 18, 19-A or 19B" by ibid S.4 (1) (b)

w.e.f. 1.4.83.

6. These words, figures and letters were substituted for the words figures and letters "15, 16, 18, 19-A or 19-B" by Guj. 7 of 1983, S. 4(2) w.e.f. 1.4.83.

8. Figure "18" was deleted by Guj. 10 of 1992, S. 5(2), w.e.f. 7-4-92.

18. Levy of sales tax or purchase tax on sugarcane. :-

XXX] ¹ [18 Levy of sales tax or purchase tax on sugarcane] deleted by Guj. Ord. 8 of 1988 and Guj. Act 11 of 1989, w.e.f. 1.10.87]

1. Sections 18 and 19 were repealed by Guj. Ord. No. 8 of 1988, S. 49 and Guj. 11 of 1989, S. 49 w.e.f. 1.10.87. Prior to deletion, section 18 read as under: 18. Levy of sales tax or purchase tax on sugarcane.-(I) There shall be levied a sales tax or purchases tax on the turnover of sales or as the case may be turnover of purchases of sugercane sold or purchased for such purpose and at such rate exceeding ten paise in the rupee and at such one stage as the State government may by notification in the official Gazette, specify and the seller or purchaser, as the case may be, shall be liable to pay tax on such turnover not with standing anything contained In section 3. (2) Every person who is liable to pay tax under sub-section (1) shall, unless he is already a registered dealer; be deemed to be a registered dealer for the purposes of sections 40, 41, 47, 57 and 58 and a dealer for the purposes of section 43, 44, 45, 45 and 56.

19. Liability to pay tax on sale or purchase in contravention of section. :-

¹ [XXX] 18 - Deleted by Guj. Ord. 8 of 1988 and Guj. 11 of 1989 w.e.f. 1.10.87]

1. Section 18 and 19 were repealed by Guj. Ord. No. 8 of 1988, S. 49 and Guj. 11 Of 1989 S. 49 w.e.f. 1.10.87. Prior to deletion section 19 read as under: "19. Liability to pay tax on sale or purchase in contravention of section 18.- (1) Where sugarcane purchased for a purpose other than a purpose specified in the notification issued under section 18 is used for a purpose specified in such notification, the purchaser shall be liable to pay the tax leviable under section 28 on the purchase price of the sugarcane so purchases and used. (2) If the Commissioner has reason to believe that any person has incurred liability to pay tax under sub-section (1), he shall serve on the purchaser a notice requiring him on a date and at a place specified therein either to attend and produce or cause to be produced all evidence on which the purchaser relies in connection with his liability under this section or to produce such evidence, as is specified in the notice. On the date specified in the notice or as soon as may be thereafter, the Commissioner shall, after considering all the evidence which may be produced, assess to the best of his judgement, the amount of tax due from him."

19A. Section 19A :-

1 [* * * * *] (levy of sales tax or purchase tax on oil cakes
DELETED 1-8-98)

1. Section 19-A deleted by Guj. 13 of 1998, S.7, w.e.f. 1-8-98, Prior to deletion section 19A, inserted by Guj. 3 of S. 3. w.e.f. 22.12.81, as amended, read as under: "19A. Levy of sales tax or purchase tax on oil cakes. (1) There shall be levied a sales tax or purchase tax on the turnover of sales or, as the case may be, turnover of purchases of oil cakes sold or purchased by a dealer liable to pay tax under this Act, at the rate of [five paise in a rupee], but after deducting from such turnover, (i) where such turnover relates to sales of oil cakes, sales or resales of oil cakes to a registered dealer, upon such dealer furnishing such certificate as may be prescribed; (xxx) (ii) where such turnover relates to purchase of oil cakes, purchases of oil cakes resold by him. Explanation : For the purposes of this section, the expression "Oil cakes" shall mean oil cakes other than cotton seed oil cakes."

19B. Levy of sales, tax or purchase tax on Oil seeds including groundnut Arachis hypogaea. :-

1

(1) There shall be levied a sales tax or purchase tax on the turnover of sales or, as the case may be, turnover of purchases of ²[oilseeds including groundnut ³[xx]] (Arachis hypogaea) sold or purchased by a dealer liable to pay tax under this Act, at the rate of four paise in the rupee, but after deducting from such turnover

(i) where such turnover relates to sales of ²[oilseeds including groundnut ³[xx]] sales or resales of ²[oilseeds including groundnut ³[xx]] to a registered dealer, upon such dealer furnishing such certificate as may be prescribed;⁸

(ii) where such turnover relates to purchases of ²[oilseeds including groundnut ³[xx]] purchases of ²[oilseeds including groundnut ¹²[xx]] resold by him.

(2)

(a) the sales tax or the purchase tax referred to in sub-section (1) shall be levied only at one stage and that stage shall be the stage of sale or purchase of ²[oilseeds including groundnut ³[xx]] by the last dealer, liable to pay tax.

(b) The provisions of section 9 shall not apply in relation to the stage of sale or purchase of ²[oilseeds including groundnut ³[xx]]

(3) Where under any provision of this Act, other than this section, any tax has been levied or is leviable on the sale or purchase of the²[oilseeds including groundnut ³[xx]] no further tax shall be levied under this section on such sale or purchase.

Explanation : for the purpose of this section the expression 'last dealer' shall,-

(a) in relation to levy of purchase tax under this section means a dealer who-

(i) purchases ¹⁹[oilseeds including groundnut ²⁰[xx]] from a person who is not a registered dealer but does not resell ⁶[oilseeds including groundnut ⁷[xx]] so purchased by him;

(ii) purchases ⁶[oilseeds including groundnut ⁷[xx]] from a registered dealer but does not resell the ⁶[oilseeds including groundnut ⁷[xx]] so purchased by him; and

(b) in relation to levy of sales tax under this section means a dealer who

(i) purchases ⁶[oilseeds including groundnut ⁷[xx]] from a person who is not a registered dealer and resells [oilseeds including groundnut ⁷[xx]] so purchased to person who is not registered dealer or to a registered dealer otherwise than against a certificate;

(ii) purchases ⁶[oilseeds including groundnut ⁷[xx]] from a registered dealer and resells ⁶[oilseeds including groundnut ⁷[xx]] so purchased to a person who is not a registered dealer or to a registered dealer otherwise than against a certificate;

(iii) imports ⁶[oilseeds including groundnut or peanut] and sells ⁶[oilseeds including groundnut⁷[xx]] so imported to a person who is not a registered dealer or to a registered dealer otherwise than against a certificate;

(iv) acquires, receives or comes in possession of⁶[oilseeds including groundnut ⁷[xx]] in any manner other than by way of purchase and sells such ⁶[Oil seeds including groundnut ⁷ [xx]] to a person who is

1. Section 19-B was inserted by Guj. 6 of 1983, S. 4 w.e.f. 4-2-83.

2. These words were substituted for "groundnut or peanut" by Guj. 6 of 1990, S. 3(3) w.e.f. 1.8.90.

3. These words were substituted for "groundnut or peanut" by Guj. 16 of 1990, S. 3(i) w.e.f. 1.8.90.

8. Form 24B; Rule 24.

12. Section 19-A deleted by Guj. 13 of 1998, S.7, w.e.f. 1-8-98, Prior to deletion section 19A, inserted by Guj. 3 of S. 3. w.e.f. 22.12.81, as amended, read as under: "19A. Levy of sales tax or purchase tax on oil cakes. (1) There shall be levied a sales tax or purchase tax on the turnover of sales or, as the case may be, turnover of purchases of oil cakes sold or purchased by a dealer liable to pay tax under this Act, at the rate of [five paise in a rupee], but after deducting from such turnover, (i) where such turnover relates to sales of oil cakes, sales or resales of oil cakes to a registered dealer, upon such dealer furnishing such certificate as may be prescribed; (xxx) (ii) where such turnover relates to purchase of oil cakes, purchases of oil cakes resold by him. Explanation : For the purposes of this section, the expression "Oil cakes" shall mean oil cakes other than cotton seed oil cakes."

19. These words were substituted for "groundnut or peanut" by Guj. 6 of 1990, S. 3(3) w.e.f. 1.8.90.

20. These words were substituted for "groundnut or peanut" by Guj. 16 of 1990, S. 3(i) w.e.f. 1.8.90. Author's Note. : (1) Oilseeds purchased by an eligible unit covered under Entry 255 or new entry 69 of Noti. u/s. 49(2), from a person who is not a registered dealer and used in its plant as raw material in the manufacture of non-edible oil for sale within the State of Gujarat, exempt from whole of P.T. u/s. 19B, by entry 255 (1A) or new entry 69 (1A) of Noti. u/s. 49(2) w.e.f. 12-12-2000. (2) Oil seeds purchased, against Form 40A, by an eligible unit under new entry 69 of Noti. u/s. 49(2) and used in its plant as raw material in the manufacture of non-edible oil for sale within the State of Gujarat, exempt from whole of P.T. u/s. 19B by new entry 69(2A) of Noti. u/s. 49(2) w.e.f. 12-12-2000. (3) Purchase of Oilseeds including ground nut by a dealer who is an oil miller, conditionally exempt from whole of P.T. u/s. 19B by entry 11(1) of noti. u/s. 49(2) as amended on 4-1-2000. w.e.f. 1 -1 -2000. (i) if the oil miller uses the oilseeds including ground nut so purchased, in the manufacture of edible oil or washed cotton seed oil for sale which shall not take place outside the State of Gujarat and (ii) if the oil miller has furnished to the selling dealer, certificate in Form 24B prescribed in the rules.

19C. Levy of purchase tax on salt. :-

¹ There shall be levied a purchase tax at the rate pf two paise in the rupee on the turnover of purchases of salt purchased by a dealer liable to pay tax under this Act, for the purpose of use by him in the manufacture of taxable goods.]

1. Section 19-C was inserted by Guj. 16 of 1987. S.5. w.e.f. 1.4.87.

20. Liability to purchase tax on certain stocks of goods. :-

(1) Where a dealer, liable to pay tax under this Act.

(a) dies, or

(b) transfers or otherwise disposes of his business, or effects any change in the ownership thereof, or

(c) is a firm, company, society or other association of persons, or a trust, which is dissolved, liquidated, wound up, or revoked, or

(d) is Hindu undivided family, and the family is partitioned, or

(e) discontinues his business. and the stock of goods held by such dealer immediately before the death, transfer, disposal, change, dissolution, liquidation, winding up, revocation, partition or discontinuance, as the case may be, includes

(i) taxable goods purchased by him from a person who is not a Registered dealer, or

(ii) taxable goods purchased by him on a certificate given by him u/s. 12 or 13 or on a certificate given by him u/s. 49.

section 49 , Section 16 or section 50 as the case may be :

Provided that, where the business carried on by such dealer is continued after such death, transfer, disposal, change, dissolution, liquidation, winding up, revocation or partition, as the case may be, and the person carrying on such business shows to the satisfaction of the Commissioner that,

(a) any taxable goods referred to in sub-clause (i) have been resold, or

(b) any taxable goods referred to in sub-clause (ii) have been used

(2) Where the certificate of registration issued to a dealer is cancelled on the ground that in the previous year his turnover of purchases or his turnover of sales did not exceed the relevant limit applicable to him under sub-section (4) of section 3 and the stock of goods held by him immediately before such cancellation includes taxable goods purchased by him on a certificate given under section 12 , Section 13 or section 13 , there shall be levied on the purchases price of such goods, a purchase tax which shall be calculated at the relevant rate of purchase tax applicable thereto under section 49 or under sub-section (3) of section 16 , or as the case may be, under section 50 .

21. Rate of tax on packing materials. :-

Notwithstanding anything contained in section 7 , Section 8 , ¹ (x) Section 15 and Section 16

(1) where goods packed in any materials are sold or purchased, the materials in which the goods are so packed shall be deemed to have been sold or purchased along with the goods and the tax shall be leviable on such sale or purchase of the materials at the rate of tax, if any, as applicable to the sales, or as the case may be, purchases of the goods themselves;

(2) where any packing material is purchased on a certificate under section 13 for resale as packing material but is used in packing any tax-free goods and the goods so packed are sold, then in respect of the materials in which the goods are so packed, the tax shall be leviable on the sale of such packing material at the rate applicable thereto under the relevant Schedule, as if the material were sold separately.

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

22. Commission agent liable to tax for sales on behalf of principal. :-

(1) Where a Commission agent sells any taxable goods on behalf of his principal, such Commission agent and his principal shall both be jointly and severally liable to pay the tax or taxes on the turnover of such sales under section 6 .

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

1. Form 21; Rule 24.

23. Power to reduce rate of tax and to amend schedule. :-

(2) Every notification issued under sub-section (t) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which it is so laid or the session immediately following. Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and

shall there-upon take effect.

24. No deduction under sections 7, Or 8 in certain cases. :-

Where any entry (or part thereof) in any Schedule is transposed to any other Schedule or any entry (or part thereof) is transposed from Part A to Part B of Schedule II or vice-versa, and as a result of such transposition and on account of the deductions permitted under section 7 ,¹ [or 8], no tax on any sale or purchase of the goods specified in that entry (or part thereof) be leviable, then notwithstanding anything contained in those sections, the deductions provided in clause (ii) of section 7 , or clause (ii) of section 8 [xxx] shall not apply to the resale of those goods.

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

25. Liability of firm. :-

Notwithstanding any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of 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 intimate the date of his retirement to the Commissioner by a notice in that behalf in writing and he shall be liable to pay the tax and the penalty (if any) remaining unpaid at the time of his retirement and any tax due upto the date of retirement though unassessed at that date : Provided further that where no such intimation is given within ¹ [forty five days] from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

26. Special provision regarding liability to pay tax in certain cases. :-

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

(4) Where a dealer, liable to pay tax under this Act, transfers his business in whole or in part, by sale, lease, leave or licence, .hire or in any other manner whatsoever the dealer and the person to whom the business is transferred shall jointly and severally be liable to pay the tax (including any penalty) due from the dealer under this Act or under any earlier law upto the time of such transfer, whether such tax (including any penalty) has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

CHAPTER 3

SALES TAX AUTHORITIES AND TRIBUNAL

27. Sales tax authorities :-

(1) For carrying out the purpose of this Act, the State Government shall appoint an officer to be called the Commissioner of Sales Tax.

(6) Assistant Commissioners, Sales Tax Officers and other Officers shall within their jurisdiction exercise such of the power and perform such of the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as the State Government may by general or special order impose, by order in writing delegate to them either generally or as respects any particular matter or class of matters.

28. Tribunal. :-

(1) The State Government shall constitute a Tribunal consisting of as many members as it thinks fit to discharge the functions conferred on the Tribunal by or under this Act.

(2) The State Government shall appoint one of the members of the Tribunal to be President thereof.

(5) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(6) The functions of the Tribunal may be discharged by one or more Benches thereof constituted in accordance with the regulations made under sub-section (9).

(7) If the members of the Tribunal or a Bench thereof are divided, the decision shall be the decision of the majority, if there be a majority; but if the members are equally divided they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point

or points to one or more of the other members of the Tribunal; and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case including those who first heard it.

(8) Subject to such conditions and limitations as may be prescribed the Tribunal shall have power to award cost and the amount of such costs shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(9) Subject to the previous sanction of the State Government the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which the Tribunal or the Benches thereof shall sit) and the disposal of its business, make regulations consistent with the provisions of this Act and the rules.

(10) The regulations made under sub-section (9) shall be published in the Official Gazette.

28A. Section 28A :-

¹ [XXX] Settlement commission [Deleted from Guj. 10 of 1992 S. 8, w.e.f. 7-4-92]

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

CHAPTER 4

REGISTRATIONS, LICENCES RECOGNITIONS AND PERMITS

29. Registration :-

(2) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in the prescribed manner to the prescribed authority.

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

(6) If any person upon an application made by him has been registered as a dealer under this section, and thereafter it is found that he ought not to have been so registered under the provisions of this section, either because he is not a dealer or because he is not liable to pay tax, he shall be liable to pay tax on his sales or purchases made during the period commencing on the date on which his registration certificate took effect and ending with its cancellation, notwithstanding that he may not be liable to pay tax under the provisions of this Act.

30. Voluntary registration of dealers. :-

1

(4) Notwithstanding anything contained in this Act, every dealer who has been registered under sub-section (2) shall, so long as his registration remains in force, be liable to pay the tax under this Act.]

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

30A. Fresh registration of dealers. :-

1

(1) Every registered dealer who holds, on the date of commencement of the Gujarat Sales Tax (Second Amendment) Act, 2001 (hereinafter referred to as "the specified date"), a valid certificate of registration (hereinafter referred to as "the existing certificate of registration") shall obtain a fresh certificate of registration as provided in this section in lieu of the existing certificate of registration.

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

30AA. Cancellation of certificate of registration in certain circumstances :-

1

1. Form 21; Rule 24.

30B. Dealers to furnish security :-

1

(3) No dealer shall be required to furnish any security under sub-section (1) or any security or additional security under sub-section (2) unless he has been given an opportunity of being heard.

(7) Where by reason of an order under sub-section (6) the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

31. Licences :-

31A. Declaration of commodity as susceptible to evasion of tax :-

1

(1) Notwithstanding anything contained in this Act, the State Government may, by notification in the Official Gazette, declare any goods to be susceptible to evasion of tax.

(2) On such declaration under sub-section (1), the licensed dealer shall not be entitled to use the Licence for such goods]

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

32. Recognitions :-

Where during the previous or current year, the value of all taxable goods manufactured for sale by a dealer registered under section 29 or by a dealer registered under section 30 whose turnover of sales or purchases has subsequently, exceeded the limits specified in sub-section (4) of section 3 , exceeds Rs.[5,000] such dealer may apply for Recognition to the Commissioner. Subject to the provisions of section 34 , the Commissioner shall issue to him a Recognition in such form, and on such conditions, as may be prescribed.

Explanation -Where as Registered dealer has, during the year immediately preceding the year within which the appointed day falls or the year commencing on the first day of the year within which the appointed days falls, been a dealer registered under the Bombay Sales Tax Act, 1959 (Bom. LI. of 1959) and the value of all taxable goods manufactured in any such year for sale by him had exceeded Rs. 3,000 such dealer may also apply for a Recognition to the Commissioner and the Commissioner shall issue to him a Recognition in the manner aforesaid.

33. Permits :-

A Registered dealer, who bonafide buys for an agreed commission any goods on behalf of a principal mentioned in his account in respect of each transaction and whose turnover of such purchases during the previous year or current year exceeds thirty thousand rupees, may apply for a Permit to the Commissioner. Subject to the provisions of section 34 , the Commissioner shall issue to him a Permit in such form, and subject to such conditions, as may be prescribed

Explanation - Where a Registered dealer has, during the year immediately preceding the year within which the appointed day falls or the year commencing on the first day of the year within which the appointed day falls, been a dealer registered the Bombay

Sales Tax Act, 1959 (Bom. LI of 1959) and who bonafide bought for an agreed commission any goods on behalf of a principal mentioned in his account in respect of each transaction and whose turnover of such purchases has exceeded thirty thousand rupees in any such year, he may also apply under this section for a Permit to the Commissioner and the Commissioner may issue to him a Permit in the manner aforesaid.

34. Commissioner may refuse licence etc. :-

The Commissioner may refuse to grant a Licence or Recognition or as the case may be, Permit to a dealer under any of the following circumstances, that is to say, -

(b) if the dealer's Licence, or Recognition , or as the case may be, Permit has been suspended and the period of suspension has not expired,

35. Cancellation or suspension of licence etc, :-

36. Substitution of Licence under Bombay Sales Tax Act, 1959 by a fresh Licence. :-

(2) An application for the purpose of obtaining a fresh Licence under sub-section(1) shall be made by a dealer in the prescribed form and within the prescribed period, to the Commissioner and such application shall be accompanied by a copy of the existing Licence. The dealer shall produce the Licence held by him, together with the additional copies there of, if any, which were issued to him, before the Commissioner when he is asked to do so.

(4) Where the dealer fails to make an application required to be made under sub-section (2) the existing Licence shall stand cancelled from the date of the expiry of the period prescribed under sub- section (2) and the dealer shall forthwith present the same to the Commissioner for cancellation.

37. Non-transferability of registration, licence etc. :-

Save as otherwise provided in section 39 , a certificate of registration, Licence, recognition or Permit shall be personal to the dealer to whom it is granted, and shall not be transferable.

38. Information to be furnished regarding changes in business etc. :-

If any dealer liable to pay tax under this Act,-

(a) transfers his business, in whole or in part, by sale, lease, leave

or licence, hire or in any other manner whatsoever, or otherwise disposes of his business or any part thereof, or effects or knows of any other change in the ownership of the business, or

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

(c) changes the name of his business, or

39. Certificate of registration, licence etc. to continue in certain circumstances. :-

Where a Registered dealer

(a) effects a change in the name of his business, or

(b) is a firm, and there is a change in the constitution of the firm without dissolution thereof, or

(c) is a trustee of a trust, and there is change in the trustees thereof, or

(d) is a guardian of a ward, and there is a change in the guardian, or

(e) is Hindu undivided family and business or such family is converted into a partnership business with all or any of the coparceners as partners thereof,

then, merely by reason of any of the circumstances aforesaid, it shall not be necessary for the dealer, or the firm with the changed constitution, or the new trustees, or new guardian or as the case may be, the partners of such partnership business, to apply for a fresh certificate of registration and on information being furnished in the manner required by section 38 , the certificate of registration shall be amended; and any Licence, Recognition or Permit granted to the Registered dealer prior to any such change as is mentioned aforesaid shall, subject to the provisions of section 35 , also continue to be valid, as also any certificates given under section 12 or Section 13 under such Licence, Recognition or Permit.

39A. Continuation of certificate of registration of dissolved firm in certain cases. :-

¹ where,

(a) a Registered dealer is a firm and on the death of any partner of such firm, the firm stands dissolved, and

1. Form 21; Rule 24.

40. Declarations and Returns : :-

(3) If any dealer having furnished declarations or returns under sub-section (1) or (2), discovers any omission or incorrect statement therein, he may furnish a revised declaration or return before the expiry of three months next following the last date prescribed for furnishing the original declaration or return.

41. Assessment of taxes. :-

(2) If the Commissioner is satisfied that the declarations or returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such declarations or returns.

(4) If a dealer fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess, to the best of his judgement, the amount of tax due from him.

(5) If a dealer does not furnish declarations or returns in respect of any period, by prescribed date, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgement, the amount of tax (if any) due from him.

(7) Notwithstanding anything contained in this section, if a dealer liable to pay tax has not employed regularly any method of accounting or if in the opinion of the Commissioner, assessment cannot be made properly on the basis of the accounts maintained by a dealer, the Commissioner shall assess to the best of his judgement, the amount of tax due from such dealer.

(8) Any assessment made under this section shall be without prejudice to any penalty or prosecution for an offence, under this Act.

41A. Special provisions for transitional accounting year. :-

1

(1) If, in order to comply with the requirements of the Income-tax Act, 1961, as amended by the Direct Tax Laws (Amendment) Act, 1987, any dealer has changed the year by reference to which the accounts of that dealer are ordinarily maintained in his books of accounts, and if the dealer has adopted a transitional accounting year of a duration different than his earlier accounting year as an

incident of such change, then notwithstanding anything in this Act or the rules made and notifications issued thereunder, but subject to such conditions as may be prescribed, the provisions of this Act, the rules made and notifications issued thereunder, in respect of the transitional accounting year, apply in the manner hereinafter provided in this section.

(2) The amount of tax due from a dealer liable to pay tax may be assessed or reassessed by a single order of assessment in respect of the transitional accounting year.

(3) Except where the context requires otherwise, the word 'year', wherever it occurs in the Act, shall be deemed to include the transitional accounting year and the provisions of this Act, the rules made and notification issued thereunder shall be construed accordingly.

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

41AA. Special provision for deemed assessment for the period prior to 1st April, 2000. :-

1

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

41B. Provisional Assessment. :-

1

(1) Where the Commissioner has reason to believe that the dealer has evaded the tax, he may, after taking into account all relevant materials gathered by him and after giving the dealer a reasonable opportunity of being heard, provisionally assess to the best of his judgement the amount of tax payable by the dealer.

(2) The provisions of this Act shall mutatis mutandis apply to the provisional assessment as if provisional assessment were an assessment made under this Act.

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

42. Time limit for completion of assessment. :-

1

1. Form 21; Rule 24.

44A. Section 44A :-

1 [XXX] [Re-opening of assessment at the instance of dealer-DELETED by Guj. Act, 15 of 1989, S. 4. w.e.f. 1-4-89]

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

45. Imposition of penalty in certain cases and bar to prosecution. :-

(7) Wherever any person fails without sufficient cause, to furnish any information required by section 38 , the Commissioner may, by an order in writing, impose upon the dealer by way of penalty a sum not exceeding two thousand rupees.

(8) If any dealer contravenes the provisions of Section 57, the Commissioner may direct him to pay by way of penalty a sum not exceeding ten percent of the amount of the bill or cash memorandum in respect of which such contravention has been made.

(10) The Commissioner shall thereupon hold an inquiry and shall make such order as he thinks fit.

46. Imposition of penalty for contravening certain provisions ; :-

(4) The Commissioner shall there-upon hold an inquiry and shall make such order as he thinks fit.

46A. Section 46A :-

¹ [XXX] Dealer to be heard in Certain cases {Deleted from 1.4.86 by Guj.14 of 1986 S. 5}

1. Form 21; Rule 24.

47. Payment of tax and deferred payment of tax etc. :-

1

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

47A. Special powers of sales tax authorities for recovery of tax as arrears of land revenue. :-

(2) Every order passed in exercise of the powers conferred by sub-section (1) shall, for the purpose of section 64, 65, 66,67, 69 and 72 be deemed to be an order passed under this Act]

48. Special mode of recovery :-

48A. Provisional attachment to protect revenue. :-

1

(1) Where during the pendency of any proceedings of provisional assessment or assessment of tax or reassessment of turnover escaping assessment, the commissioner is of the opinion that for the purpose of protecting the interest of the revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the dealer in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1): Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit so however that the total period shall not in any case exceed one year.]

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

49. Exemptions :-

(3) Every notification issued under sub-section (2) shall be laid for not less than thirty days before the State legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modifications as the State legislature may make, during the session in which it is so laid or the session immediately following. Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

50. Liability to pay tax in the event of breach of condition of exemption. :-

51. Drawback, set off, refund etc. :-

The state Government may by rules provide,

(2) for the purpose of the levy of tax under any of the provisions of this Act, the sale price or purchase price shall, in the case of any class of sales or purchases, be reduced to such extent, and in such manner, as may be specified in the rules.

52. Refund of excess payment :-

The Commissioner shall refund¹ to a person the amount of tax and penalty (if any) paid by such person in excess of the amount due from him. The refund may be either by cash payment or, at the option of the person by deduction of such excess from the amount of tax and penalty due in respect of any other period:

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

52A. Power to withhold refund in certain cases. :-

1

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

1. Form 21; Rule 24.

53. Refund of tax on declared goods in the course of inter-state trade or commerce. :-

Where any declared goods are sold by a dealer in the course of inter-State trade or commerce, and such dealer shows to the satisfaction of the Commissioner that a tax under this Act, or any earlier law has been levied in respect of any earlier sale or purchase of such goods made in the State after the date of the coming into force of Section 15 of the Central Sales Tax Act, 1956 , [LXXIV of 1956], then an amount equal to the tax so levied shall be refunded to such dealer in such manner, and subject to such conditions, as may be prescribed¹ .

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

54. Interest on delayed refund. :-

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

55. Remission of tax, penalty or interest :-

55A. Composition of Tax. :-

1

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

55BB. Composition of tax on lottery tickets. :-

The Commissioner may, subject to such conditions as may be prescribed permit any dealer engaged in sale of lottery tickets to pay at his option in lieu of the amount of tax leviable from him on

the sale of lottery tickets under section 7 in respect of a month, a lumpsum by way of composition at the rate of two lakhs fifty thousand rupees per lottery scheme in a month or part thereof.

55C. Power not to recover tax, not levied or short levied in certain circumstances: :-

¹ Notwithstanding anything contained in this Act, or in any judgement, decree or order of any Court or Tribunal, if the State Government is satisfied-

(a) that practice was, or is, generally prevalent regarding levy of tax on any class of sales or purchases at a lower rate than the rate at which the tax is leviable or not to levy any tax on any class of sales or purchases; and

then, the State Government may, by notification in the official Gazette, direct that the whole of the tax payable on such class of sales or purchases or as the case may be, tax in excess of that payable on such class of sales or purchases, but for the said practice, shall not be required to be paid in respect of the class of sales or purchases on which the tax was not, or is not being, levied, or was, or is being short levied, in accordance with the said practice"]

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

56. Prohibition against collection of tax in certain cases. :-

(2) No person selling any goods shall collect from the purchaser any amount by way of tax unless such person is a registered dealer and is liable to pay the tax in respect of such sale.

57. Memorandum of sales or purchases. :-

If,

(a) a Registered dealer sells goods to another Registered dealer, or

he shall issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent, and showing therein such other particulars as may be prescribed. He shall keep a counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than three years [from the date of sale or specified sale].

CHAPTER 5A

DEDUCTION AT SOURCE

57A. Definitions. :-

For the purpose of this Chapter, unless the context otherwise

requires,-

(d) "specified works contract" means a works contract, the specified sale price of which exceed ten lakh rupees.

57B. Deduction at source in certain cases. :-

1

(1) Notwithstanding that the assessment in respect of the specified sales is to be made for a year or part of a year, the tax on such sales shall be payable at source in accordance with the provisions of this section.

(5) Any amount deducted as tax in accordance with the provisions of sub-section (3), shall be deemed to be an amount received by the contractor or the sub-contractor as part of the specified sale price in pursuance of the specified works contract,

(9) Where an amount as tax on specified sales has not been deducted in accordance with the provisions of this section, the tax on specified sales shall be payable by the contractor or, as the case may be, the sub-contractor directly.

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

57C. Person deducting tax to furnish return. :-

¹Every person deducting tax under section 57B shall furnish or cause to be furnished returns in such form and within such period as may be prescribed² to the Sales Tax Officer within whose jurisdiction the person resides or carries on his business.]

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

2. Form 21; Rule 24.

CHAPTER 6

LIABILITY TO PRODUCE ACCOUNTS SUPPLY OF INFORMATION

58. Accounts : :-

59. Production and inspection of accounts and documents and search of premises. :-

(3) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of accounts, or other documents produced before him in any proceeding under this Act.

(5) For the purposes of sub-section (2) or sub-section (4), the Commissioner may enter and search any place of business of any

dealer, or any other place where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business and make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for, or relevant to any proceeding under this Act, or for a prosecution.

59A. Inspection of goods in transit, etc. :-

1

(1) If the State Government considers that with a view to preventing evasion of tax in any place or places in the State, it is necessary to do so, it may, by notification in the Official Gazette, direct that such number of check-posts shall be set up or such number of barriers shall be erected at such places as may be specified in the notification.

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

59AA. Transit pass for transit of goods by road through the State. :-

1

(1) Where a vehicle, boat or animal carrying goods coming from any place outside the State is bound for any other place outside the State, the driver or any other person-in-charge of such vehicle, boat or animal shall obtain in the prescribed manner a transit pass for such vehicle, boat or animal from the officer-in-charge of the first check-post or barrier after his entry into the State and deliver the same to the officer-in-charge of the last check-posts or barrier before his exit from the State.

(2) If the driver or person-in-charge of such vehicle, boat or animal fails to deliver such transit pass, or goods in vehicle, boat or animal are not found in accordance with the transit pass, at the place of exit from State, it shall be presumed that goods carried thereby are sold within the State and he shall be liable to pay tax and penalty not exceeding one and one-half times the amount of tax as may be determined, after giving a reasonable opportunity of being heard, on such sale in accordance with provisions of this Act"]

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

59AAA. Power to declare specified goods. :-

1

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

59B. Special powers for reconstitution of records in certain circumstances. :-

(1) If the Commissioner is satisfied that any records pertaining to a dealer have been destroyed as a result of fire, flood or earthquake or otherwise as a result of any natural or other calamity or event, he may, by notice in writing, require the dealer to attend before him on a date and at place specified in the notice, or to produce before him any accounts or registers or documents or copies thereof or to furnish fresh returns or declarations under this Act or any earlier law for such period, by such dates and to such authority as may be specified in the notice (being returns for a period for which the dealer has not yet been assessed), or to furnish true copies of or extracts from any documents already submitted to the Commissioner, on or before the date specified in the notice, or to furnish any other information relating to the business of the dealer as may be specified in the notice, being information which the Commissioner considers necessary for facilitating the work of assessment (including reassessment) or the collection of the tax from such dealer under this Act or under any earlier law.

(4) Where any person is prosecuted for failure to comply with any requirement made of him under this section, the burden of proving that he had reasonable excuse for such failure shall be on him.

60. Dealer to declare the name of manager of his business :-

Every dealer, who is liable to pay tax, and who is a Hindu undivided family, or an association or club or society or firm or company, or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed¹ send to the authority prescribed a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be the manager or managers of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

60A. Dealer to declare the details of bank accounts :-

¹Every dealer, who is liable to pay tax shall, within the period prescribed², send to the authority prescribed a declaration in the prescribed form stating the particulars of the bank accounts operated by him in connection with his business and shall within the period prescribed intimate the prescribed authority the changes in the particulars in the declaration.

1. Form 21; Rule 24.

2. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

61. Powers to collect statistics. :-

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

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

CHAPTER 7 **PROCEEDINGS**

62. Determination of disputed questions. :-

63. Power of Tribunal and Commissioner :-

(2) In the case of any affidavit to be made for the purposes of this Act, any officer appointed by the Tribunal or the Commissioner, may administer the oath to the deponent.

64. Bar of jurisdiction of Civil Courts. :-

¹ Save as provided by section 69

(a) no Civil Court shall have jurisdiction to deal with or decide any question which the Tribunal, the Commissioner or any officer

appointed to assist him is empowered to deal with or decide by or under this Act and no injunction shall be granted by any Civil Court in respect of any action taken or to be taken in pursuance of any power by or under this Act;

(b) no assessment made and no order passed under this Act or the rules made thereunder by the Tribunal, the Commissioner or any officer appointed to assist him shall be called in question in any Civil Court]

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

65. Appeal. :-

(6) Subject to such rules of procedure as may be "prescribed, an appellate authority may pass such order on appeal as it deems just and proper.

(7) Every order passed in appeal under this section shall, subject to the provisions of section 67, 69 and 72, be final.

66. Non appealable orders. :-

No appeal and no application for revision shall lie against,

(1) a notice issued under this Act calling upon a dealer for assessment or asking a dealer to show cause as to why he should not be prosecuted for an offence under this Act, or

(2) an order pertaining to the seizure or retention of account books, registers and other documents, or

(3) an order sanctioning a prosecution under this Act, or

67. Revision : :-

(3) No order shall be passed under this section which adversely affects any person, unless such person has been given reasonable opportunity of being heard.

68. Court-fee on appeal and application for revision. :-

Notwithstanding anything contained in the Bombay Court-fees Act, 1959, (Bom XXXVI Of 1959) an appeal preferred under section 65 and an application for revision made under section 67 shall bear a Court-fee stamp of such value as may be prescribed.¹

1. Form 21; Rule 24.

69. Statement of case to the High Court. :-

(2) If upon receipt of an application under sub-section (1), the High Court is not satisfied as to the correctness of the decision of the Tribunal, it may require the Tribunal to state the case and refer it; and accordingly, on receipt of any such requisition, the Tribunal shall state the case and refer it to the High Court.

(3) If the High Court is not satisfied that the statements in the case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such addition thereto or alterations therein, as the High Court may direct in that behalf.

(4) The High Court upon the hearing of any such case, shall decide the question of law raised thereby, and shall deliver its judgement thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgement under the seal of the court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(5) Where a reference is made to the High Court under this section, the costs including the disposal of the fee referred to in sub-section (1), shall be in the discretion of the Court

70. Applications of section 4 and 12 of Limitation Act, 1963.

:-

In computing the period laid down under section 65 , section 67 and section 69 , the provisions of section 4 and 12 of Limitations Act, 1963 (63 of 1963) shall, so far as may be, apply.

71. Extension of period of limitation In certain cases. :-

An appellate authority may admit any appeal or permit the filing of a memorandum of cross objections under section 65 and the Tribunal may admit an application under section 67 or under section 69 after the period of limitation laid down in the said sections, if the appellant or the applicant satisfies the appellate authority or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or filing a memorandum of cross objections or making the application, within such period.

72. Rectification of mistakes. :-

(3) Where any such rectification has the effect of reducing the amount of the tax or penalty, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

73. Transfer to defraud revenue void. :-

¹[Where a dealer after any tax has become due from him] creates a charge on or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his property in favour of any other person with the intention of defrauding the Government 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 ² [***]

1. Form 21; Rule 24.

2. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

74. Levy of fee on applications for copies of orders, documents and of fee for making copies. :-

(2) There shall be charged such fee in cash as may be prescribed for making and supplying a duplicate or certified, copy of an order or document under this Act or the rules made thereunder and where any copy is required urgently, there shall be charged such extra fee as may be prescribed.

CHAPTER 8

OFFENCES AND PENALTIES

75. Offences and Penalties. :-

(3) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed by the Commissioner under any provisions of this Act.

75A. Publication of Information respecting dealers in certain cases : :-

1

1. These words were substituted for "'Schedule II or III 'by Guj. 9 of 1992, S. 15 (1) w.e.f. 1-4-92.

76. Disclosure of information by a public servant :-

(1) All particulars contained in any statement made, declaration or return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act, (other than proceedings before a Criminal Court), shall, save as provided in sub section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872, (1 of 1872) no court shall, save as

aforesaid, be entitled to require any servant of the Government to produce before it any statement, declaration, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

77. Disclosure of information required under section 61 and failure to furnish information or return under that section :-
:-

78. Offences by companies :-

79. Cognizance of offences :-

(1) No Court shall take cognizance of any offence punishable under section 75, 76 or 77 or under any rules made under this Act, except with the previous sanction of the Commissioner.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (V of 1898), all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.

80. Investigation of offences. :-

(2) Every officer so authorised shall, in the conduct of such investigation exercise the powers conferred by the code of Criminal Procedure, 1898, (V of 1988) upon an officer in charge of a police station for the investigation of a cognizable offence.

81. Compounding of offences. :-

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

CHAPTER 9
MISCELLANEOUS

82. Power to transfer proceedings. :-

The Commissioner may, after due notice to the parties, by order in writing transfer any preceding or class of proceedings under any provision of this Act from himself to any other officer and he may likewise transfer any such proceedings (including a proceeding already transferred under this section) from one such officer to another or to himself.

83. Appearance before any authority in proceedings. :-

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

(4) Any person against whom any order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the Tribunal to have the order cancelled.

(5) The order of the Commissioner shall not take effect until one month of the Communication thereof or when an appeal is preferred, until the appeal is decided.

(6) The Commissioner may at any time sou-motu or on an application made to him in this behalf, revoke any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified.

84. Persons appointed under section 27 and members of Tribunal to be public servants : :-

The Commissioner and all officers and persons appointed under section 27 to assist the Commissioner and all members of the Tribunal ¹ [XXX] shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 .

1. Figure "10" was deleted by Guj. 9 of 1992, S 14 w.e.f. 1-4-92.

85. Indemnity : :-

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

86. Power to make rules : :-

(1) The State Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

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

(4) the power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication : provided that ft the State Government is satisfied that

circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or session immediately following.

(6) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

87. Certain sales and purchases not to be liable to tax. :-

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

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

(ii) outside the state, or

(iii) In the course of the import of the goods into the territory of India or the export of the goods out of such territory,

and the provisions of this Act and the rules shall be read and construed accordingly, shall be determined in accordance with the principles specified in section 3 , 4 and 5 of the Central Sales Tax Act, 1956 (LXXIV of 1956)

88. Repeal and savings. :-

(1) The Bombay Sales Tax Act, 1959 (Bom. LI of 1959) is hereby repealed.

(3) Without prejudice to the provisions contained in sub-section (2) and subject thereto, section 7 of the Bombay General clauses Act 1904 (Bom. 1 of 1904) shall apply in relation to the repeal of said Act as if the said Act had been enacted within the meaning of the said section-7.

SCHEDULE 1

Goods, the sale or purchase of which is free from all taxes.

SCHEDULE 2

Goods, the sale or purchase of which is subject to sales tax or purchase tax and the rates of tax.

SCHEDULE 3

Goods, the transfer of the right to use, which is subject to sales tax.

SCHEDULE III

(See Section 3 A)

Goods, the transfer of the right to use, which is subject to sales tax.

Sr. . Description of goods.

1. Air conditioning plant.
2. Cinematographic and photographic equipment and appliance including studio equipment, camera, projectors, enlarging lenses.
3. Cinematographic film.
4. Computers.
5. Electric fans :
6. Electric goods.
7. Furniture.
8. Plant and Machinery
9. Refrigerators.
10. Samiyana
11. , Sewing'Machines
12. Surgical Equipments and machinery.
13. Typewriters
14. Television, Video Cassette Recorders, Video Cassette Players.
15. Utensils.
16. X-Ray machines.
- [xxx]
17. Motor Vehicles
- 18 Office equipments.]
19. Heavy equipments such as cranes.
20. Telephones.
21. Patents, trade mark and brands.