

Punjab General Sales Tax Act, 1948

46 OF 1948

[20 November 1948]

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Punjab General Sales Tax Act, 1948

46 OF 1948

[20 November 1948]

Preamble. An Act to provide for the levy of a general tax on the sale [or purchase] of goods in Punjab and for the repeal of the Punjab General Sales Tax Act, 1941. It is hereby enacted as follows: -

1. Short title extent and commencement :-

- (1) This Act may be called the Punjab General Sales Tax Act, 1948.
- (2) It extends to the whole of the State of Punjab.
- (3) It shall come into force on the 1st May 1949.

2. Definitions :-

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

- a. "Assessing authority" means any person authorised by the State Government to make any assessment under this Act
- b. "Commissioner" means the Excise and Taxation commissioner

appointed under sub-section (1) of section 3;

c. Omitted w.e.f 1-4-60 by Pb. Act 18 of 1960

d. "Dealer" means any person including a Department of Government who in the normal course of trade sells or purchases any goods in the State of Punjab irrespective of the fact that the main place of business of such person is outside the said State and where the main place of business of any such person is not in the said State, dealer includes the local manager or agent of such person in Punjab in respect of such business.

Explanation -

1. A co-operative society or a club or any association which sells or supplies goods to its members or purchases goods specified in Schedule C is a dealer within the meaning of this clause.

2. A factor, a broker, a commission agent, a dealer's agent, an auctioneer or any other mercantile agent by whatever name called, and whether of the same description as herein before mentioned or not, who carries on the business of selling, supplying or purchasing goods and who has in the customary course of business, authority to sell goods belonging to principals or to purchase goods on their behalf is a dealer.

3. for the purpose of this clause, "Government" will include the Central Government or the Government of any other State

(dd) "declared goods" means goods declared under section 14 of the Central Sales Tax Act, 1956, to be of special importance in inter-State trade or commerce.

(e) "Goods" means all kinds of movable property and goods consumed at business premises other than newspapers, actionable claims, stocks, shares, or securities.

(f) "Prescribed" means prescribed by rules made under this Act.

(ff) purchase with all its grammatical or cognate expressions, means the acquisition of goods specified in Schedule C [or of goods on the purchase whereof tax is payable under any provision of this Act] for cash or deferred payment or other valuable consideration otherwise than under a mortgage, hypothecation, charge or pledge]

(g) registered means registered under this Act

(h) "sale" means any transfer of property in goods other than goods specified in Schedule C for cash or deferred payment or other valuable consideration, but does not include a mortgage, hypothecation, charge or pledge ;

Explanation -

(1) A transfer of goods on hire purchase or other installment system of payment shall, notwithstanding that the seller retains a

title to any goods as security for payment of the price, be deemed to be a sale.

[hh] Tribunal means the Tribunal constituted under section 3 -A

(i) turnover includes the aggregate of the amounts of (sales and purchases & parts of Sales and purchase) actually made by any dealer during the given period less any sum allowed as cash discount (and trade discount) according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of or before, delivery thereof. Explanation.

(1) The proceeds of any sale made outside the State of Punjab by dealer who carries on business both inside and outside Punjab shall not be included in the turnover. Explanation.

(2) The turnover of any dealer in respect of transaction of forward contract, in which goods are actually not delivered, shall not be included in the turnover.

(j) Year means the financial year

(k) import means the bringing of goods into Punjab from any place outside its limits [(1)] trade 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 the motive to make profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern ; and

(ii) any transaction in connection with or ancillary or incidental to such trade, commerce, manufacture, adventure or concern.

3. Taxing authorities :-

1. for carrying out the purposes of this Act the State Government may appoint a person to be Excise and Taxation Commissioner, and such other persons to assist him as it thinks fit.

2. Persons appointed under the sub- section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

3. All persons appointed under subsection (1) [and the Presiding Officer of the Tribunal] shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

3A. Constitution of Tribunal :-

1. The State Government shall, by notification in the official

Gazette, constitute one or more Tribunals as the State Government may deem fit, to exercise the functions conferred by this Act.

2. A Tribunal shall consist of one person only to be appointed by the State Government.

3. A person shall not be qualified for appointment as a presiding Officer of a Tribunal, unless

a. he is serving or a retired judge of the High Court or

b. he is serving or a retired member of the Indian Administrative Service who is or has been a Financial Commissioner.

4. No person shall be appointed or continue as a Presiding officer of a Tribunal, if he has attained the age of sixty-five years.

5. Subject to the provisions of sub-section (4), the term of office of the Presiding Officer of a Tribunal shall be three years and he shall not be eligible for reappointment.

6. The Presiding Officer of a Tribunal shall be entitled to such salaries and allowances and shall be governed by such conditions of service as may be prescribed.

7. The Presiding Officer of a Tribunal may be removed from the office by the State Government, if -

a. he is adjudged an insolvent , or

b. he takes up employment outside the duties of his office ; or

c. in the opinion of the State Government,

i. he has become incapable of acting on account of unsoundness of mind or any other reason or

ii. he is guilty of such misconduct as would render him unfit to continue as Presiding Officer , or

iii. he is convicted of an offence involving moral turpitude.

8. The Presiding Officer of a Tribunal may, at any time by writing under his hand addressed to the State Government resign his office, but his resignation shall take effect from the date on which it is accepted.

(8A) Nothing in subsections (5), (6),(7) and (8) will apply to a. serving Judge of the High court or to a serving member of the Indian Administrative Service appointed as presiding Officer of a Tribunal and they shall be governed by such conditions of service as are applicable to them as judge of the High court or member of the Indian Administrative Service, as the case may be :

Provided that the term of office shall not in either case exceed three-year.

9. A vacancy in the office of the Presiding Officer of a Tribunal shall be filled by the State Government as soon as practicable in accordance with the provisions of the Act and the proceedings

before a Tribunal may be continued from the stage at which the vacancy is filled.

10. No order made and no act done or proceedings taken under this Act by or before a Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of the Tribunal.

11. Subject to such conditions and limitations as may be prescribed, a Tribunal shall have power to award costs, and the amount of such costs shall be recoverable from the person ordered to pay the same as arrears of land revenue.

12. Subject to any rules that may be made in this behalf, a Tribunal shall follow such procedure, as it may deem fit.

13. A Tribunal shall,, subject to any direction given by the State Government, sit at such place or places within its jurisdiction as it may deem fit.

14. The State Government may appoint such officers and servants as may be required to enable a Tribunal to carry out its functions under the Act.

15. The administrative expenditure of a Tribunal including all salaries, allowances and pensions, if any, payable to or in respect of the Presiding Officers and servants of a Tribunal shall be charged upon the consolidated fund of the State.

3B. Jurisdiction of Tribunals in case there are more Tribunals than one :-

In the event of the State Government constituting more Tribunals than one, the State Government shall by notification, define the local limits of jurisdiction of each Tribunal and where an appeal, application or revision pending before a Tribunal relates to the local limits of an area which, as result of the issue of such a notification, has fallen within the jurisdiction of another Tribunal, such an appeal application or revision shall stand transferred to and be heard and decided by the other Tribunal.

3C. Dissolution of Tribunal :-

Notwithstanding anything contained in sub-section (5) of section 3-A, where there are more Tribunals than one, the State Government may, at any time by reason of insufficiency of work pending before the Tribunals, dissolve any Tribunal and no Presiding Officer of the Tribunal affected by such dissolution shall have any claim against the State Government.

4. Incidence of taxation :-

(1) Subject to the provisions of sections 5 and 6 every dealer except one dealing exclusively in goods declared tax - free under section 6 whose gross turnover during the year immediately proceeding the commencement of this Act exceeded the taxable quantum shall be liable to pay tax under this Act on all sales effected after the coming, into force of this Act and purchases made after the commencement of the East Punjab General Sales Tax (Amendment) Act, 1958: Provided that the tax shall not be payable on sales involved in the execution of a contract which is shown to the satisfaction of the assessing authority to have been entered into before the commencement of this Act.

(2) Every dealer to whom sub-section (1) does not apply or who does not deal exclusively in goods declared to be tax-free under section 6 shall be liable to pay tax under this Act on the expiry of 30 days after the date on which his gross turnover during any year first exceeds the taxable quantum

Provided that in the case of a dealer who imports any goods for sale or use in manufacturing or processing, or who manufactures or processes any goods for sale, the liability to pay tax shall commence with effect from the date on which his gross turnover during any year first exceeds the taxable quantum.

(2A) Notwithstanding anything contained in sub-sections (1) and (2), no tax on the sale of any goods shall be levied if a tax on their purchase is payable under this Act.

(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this later period his liability to pay tax shall cease.

(4) Every dealer, whose liability to pay tax has ceased under the provisions of subsection (3) shall again be liable to pay tax under this Act with effect from the date on which his gross turnover first exceeds the taxable quantum.

(5) In this Act the expression "taxable quantum" means -

(a) in relation to any dealer who imports for sale or use in manufacturing or processing any goods in Punjab, Nil Provided that the provisions of this clause shall not apply to a dealer who had placed orders for import of goods before the 8th August, 1952, but received such goods on or after that date and his gross import for

sale or use in manufacturing or processing any goods in Punjab did not exceed Rs. 5,000 during the Year and he did not make any other import of goods after the said date

(b) in relation to any dealer, who himself manufactures or produces any goods for sale, [10,000] rupees.

(bb) in relation to any dealer, who runs a tandoor, loh dhaba, hotel, restaurant [halwal shop, bakery] or other similar establishment wherein Indian food preparations, including tea, are served, [40,000] rupees.

(c) in relation to any particular classes of dealers not falling within clauses (a), (b) and [(bb)] such sum as may be prescribed ; or

(d) in relation to any other dealer, [1,00,000] rupees : Provided that the registration of dealers already registered under this clause shall not be cancelled until their turnover in each of three consecutive years does not entitle them to cancellation under clause (b) of sub-section (6) of section 7.

4A. Liability of dealer registered under Parliament Act No.74 of 1956 to pay tax :-

A dealer registered under Central Sales Tax Act, 1956 (Parliament Act No. 74 of 1956) who is not liable to pay tax under section 4 shall nevertheless be liable to pay tax under this Act on any sale [or purchase] made by him inside the State of Punjab: Provided that nothing herein shall apply to a dealer who deals exclusively in goods declared tax-free under section 6

4B. Levy of purchase tax on certain goods :-

Where a dealer who is liable to pay tax under this Act purchases any goods other than those specified in Schedule B from any source and -

- i. uses them within the Union Territory of Chandigarh (hereafter in this section referred to as the Union Territory) in the manufacture of goods specified in Schedule B, or
- ii. uses them within the Union Territory in the manufacture of any goods, other than those specified in Schedule B, and sends the goods so manufactured outside the Union Territory in any manner other than by way of sale in the course of interState trade or commerce or in the course of export out of the territory of India, or
- iii. uses such goods for a purpose other than that of resale within the Union Territory, or sale in the course of inter-State trade or commerce or in the course of export out of the territory of India, or

iv. sends them out side the Union Territory other than by the way of sale in the course of inter-State trade or commerce or in the course of export out of the territory of India, and no tax is payable on the purchase of such goods under any other provision of this Act, there shall be levied a tax on the purchase of such goods at such rate not exceeding the rate specified under sub-section (1) of section 5 as the Central Government may direct".

5. Rate of tax :-

(1) Subject to the provisions of this act there shall be levied on the [taxable turnover of a dealer] a tax at such rates not exceeding [seven** paise] in a rupee as the State Government may by notifications direct

This rate has been enhanced to 8 paise In a rupee vide Chandigarh Administration Notification No. 559-F (I1) (6) -9613161 dated 6.3.96.1

Provided that a tax at such rate, not exceeding [ten * *paise] in rupee, as may be so notified may be levied on the sale of goods as specified in Schedule A appended to this Act from such date as the Government after giving by notification not less than [twenty days] notice of its intention so to do may by like notification add to or delete from this Schedule, and thereupon this Schedule shall be deemed to have been amended accordingly:

[for the 2nd and 3rd Provisio the following Provisio added vide Punjab Act No. 23 of 1975 as extended to Union Territory, Chandigarh on 24.9.77.1

[Provided further that the rate of tax shall not exceed four paise in a rupee in respect of any declared goods [***]

Explanation. - The amount of tax shall be calculated to the nearest rupee by ignoring fifty paise or less and counting more than fifty paise a one rupee.

(1A) The State Government may by notification direct that [in respect of such goods other than declared goods], and with effect from such date as may be specified in the notification the tax under sub-section (1) shall be levied at the first stage of sale thereof and on the issue of such notification the tax on such goods shall be levied accordingly: Provided that no sale of such goods at a subsequent stage shall be exempt from tax under this Act unless the dealer effecting the sale at such subsequent stage furnishes to the assessing authority in the prescribed form and manner a

certificate duly filled in and signed by the registered dealer, from whom the goods were purchased. Explanation. - For the purpose of this sub-section, the first stage of sale in respect of any goods in relation to any class of dealers shall be such as may be specified by the State Government in the notification.]

(1B). On and with effect from the date of extension of the Punjab General Sales Tax (Amendment and Validation), Act, 1978 to the Union Territory of Chandigarh, tax on margarine under sub-section (1) shall be levied at the first stage of sale thereof, which stage shall, -

(a) In the case of a dealer who brings into the Union Territory of Chandigarh margarine from any place outside the union Territory Chandigarh, be the stage of sale when such dealer sells margarine for the first time in the Union Territory of Chandigarh

(b) in the case of dealer who manufacture margarine with in the Union Territory of Chandigarh, be the stage of sale when such dealer sells margarine for the first time in Union Territory of Chandigarh ; and

(c) in the case of any other dealer who has not purchased margarine from a dealer referred to in the proceeding clause, be the stage at which such dealer sells margarine for the first time in the Union Territory of Chandigarh , Provided that no sale of margarine at a subsequent stage shall be exempted from tax under this Act unless the dealer effecting the sale at such subsequent stage furnishes to the assessing authority in the prescribed form and manner a certificate duly filled and signed by the registered dealer from whom the margarine was purchased.

(2) In this Act the expression "taxable turnover" means that part of a dealers gross turnover during any period, which remain after deducting therefrom -

(a) his turnover during that period on -

(i) the sale of goods declared tax-free under section 6

(ii) Sales to a registered dealer of good other than sales of goods liable to tax at the first stage under sub-section (I-A)] declared by him in a prescribed form as being intended for resale in the State of Punjab or Sale in the course of inter-State trade or commerce [or sale in the course of export of goods out of the territory of India], [or of goods specified in his certificate of registration for use by him in the manufacture in Punjab of any goods other than goods declared tax-free under section 6, for sale in Punjab] , [or sale in the course of inter State trade or commerce or sale in the course of export of goods out of the territory of India] and on sales to a

registered dealers of containers or other materials - for the packing of such goods :

Provided that in case of such sales, a declaration duly filled up signed by the registered dealer to whom the goods are sold and containing prescribed particulars on a [prescribed form obtained from the prescribed authority] is furnished by the dealer who sells the goods:

[Proviso omitted vide Punjab Act No. 3 of 19731

(iii) [Deleted by Punjab Act VI of 19521

(iv) sales to any undertaking supply in electrical energy to the public under a licence of sanction granted or deemed to have been granted under the Indian Electricity Act, 1910, of goods for use by it in the generation or distribution of such energy

(v) sales or purchases of goods falling under section 29;

(vi) the purchase of goods which are sold not later than six months after the close of the year to a registered dealer, or in the course of inter-State trade or commerce, or in the course of export out of the territory of India : Provided that in the case of such a sale to a registered dealer, a declaration, in the prescribed form and duly filled and signed by the registered dealer to whom the goods are sold, if furnished by the dealers claiming deduction].,

(vii) such other sales [or purchases] as may be prescribed ;

(b) The amount of sales tax included in the gross turnover.

(3) Notwithstanding anything contained in this Act, -

(a) in respect of declared goods, tax shall be levied at one stage and that stage shall be -

(i) in the case of goods liable to the sales tax, the stage of sale of such goods by the last dealer liable to pay tax under this Act,

(ii) in the case of goods liable to purchase tax, the stage of purchase tax, the stage of purchase of such goods by the last dealer liable to pay tax under this Act ;

(b) the taxable turnover of any dealer for any period shall not include his turnover during the period on any sale or purchase of declared goods at any stage other than the stage referred to in sub-clause (1), or as the case may be, sub-clause (11) of clause (a)].

5A. Levy of additional tax :-

(1) notwithstanding anything contained in this Act there shall be levied and collected on the taxable turnover of a dealer, an additional tax which shall be calculated at the rate of [ten] per

centum of the tax payable by him under this Act:

Provided that the aggregate of the tax and the surcharge payable under this Act, shall not exceed in respect of goods, declared to be of special importance in inter-State trade or commerce by section 14 of the Central Sales Tax -Act, 1956, the rate fixed by section 15 of that Act.

(2) Except as otherwise provided in sub-section (1), the provisions of this Act, shall, so far as may be, apply in relation to the additional tax leviable under sub-section (1) as they apply in relation to the tax leviable under any other provision of this Act.]

6. Tax free goods :-

(1) No tax shall be payable on the sale of goods specified in the first column of Schedule B subject to the conditions and exceptions, if any set out in the corresponding entry in the second column thereof and no dealer shall charge sales tax on the sale of goods which are declared tax free from time to time under this section.

(2) The State Government, after giving by notification not less than [twenty days] notice of its intention so to do, may by the like notification add or delete from Schedule B and thereupon Schedule B shall be deemed to be amended accordingly.]

7. Registration of dealers :-

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

(2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority.

(3) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such rules and on payment of such fees as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which may specify the class or classes of goods for the purposes of sub-clause (ii) of clause (a) of sub-section (2) of section 5.

(4) The Commissioner may from time to time, by order, amend or cancel any certificate of registration on -

(a) information furnished under section 16 or

(b) information received that the dealer has violated any provision of this Act or the rules made thereunder -,or

(c) any other sufficient cause including misuse of the certificate or cessation of liability to payment of tax under this Act : Provided that no order affecting any person adversely shall be made under this subsection without affording a reasonable opportunity of being heard.]

(5) When any dealer (has paid the amount of penalty imposed under section 231 in respect of any contravention of sub-section (1) of this section, the Commissioner shall register such dealer and grant him a certificate of registration, and such registration shall take effect as if it had been made under sub-section (3) of this section on the dealers application.

(6) When -

(a) any business in respect of which a certificate has been granted upon application made under sub-section (2) has been discontinued or transferred; or

(b) the gross turnover of any such business has during each of three consecutive years failed to exceed the taxable quantum ; or

(c) the certificate of registration granted under the Central Sales Tax Act, 1956 to a dealer liable to pay tax by virtue of the provisions of section 4-A but who is not otherwise liable to pay tax under section 4, has been cancelled. the commissioner shall cancel the registration and the cancellation shall come into force after the expiry of such period as may be prescribed.

8. Voluntary Registration :-

(1) Any dealer except one dealing exclusively in goods declared tax-free under section 6 whose gross turnover during a year exceeds 15,000 rupees may notwithstanding that he may not be liable to pay tax under section 4, apply in the prescribed manner to the prescribed authority for registration under this Act.

(2) The provisions of sub-sections (y) and (4) and clause (a) of sub-section (6) of section 7 shall apply in respect of application for registration under this section.

(3) Every dealer who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act whether his gross turnover exceeds the taxable quantum or not.

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

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

9. Security from certain class of dealers :-

(1) The Commissioner or any other person appointed to assist him under sub-section (1) of section 3, if it appears to him to be necessary so to do for the proper realisation of tax levied under this Act, may, for reasons to be recorded in writing, impose as a condition of the issue of a certificate of registration to a dealer, or of the continuance, in effect, of such a certificate, a requirement that the dealer shall give security in the manner prescribed for such amount as may be specified in the order.

(2) No dealer shall be required to furnish security under sub-section (1) unless he has been given an opportunity of being heard and the amount of security that may be required to be furnished by any dealer under the aforesaid sub-section shall not exceed fifty thousand rupees.

(3) Where the security furnished by a dealer under sub-section (1) is in the form of a surety bond and the surety becomes insolvent or is otherwise incapacitated or dies or withdraws, the dealer shall, within fifteen days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within thirty days of such occurrence furnish a fresh surety bond.

(4) The authority granting the certificate of registration may, by an order in writing, for good and sufficient cause, forfeit the whole or any part of the security furnished by a dealer for realising any amount of tax or penalty payable by a dealer Provided that no order shall be passed under this sub-section without giving the dealer a reasonable opportunity of being heard.

(5) Where by reason of an order under sub-section (4) 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.

(6) The authority granting a certificate of registration may, on application by the dealer, order the refund of security furnished by

him or any part thereof, if the same is not required for the purposes of this Act

10. Payment of tax and returns :-

(1) The tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) the Commissioner may, in such circumstances and subject to such Conditions as may be prescribed, accept from any dealer in lieu of the amount of the general tax payable during any period, a lump sum by way of composition determined in the prescribed manner.

(3) Such dealer as may be required so to do by the assessing authority by notice served in the prescribed manner and every registered dealer shall -

(i) furnish such returns by such dates and to such authority as may be prescribed ; and

(ii) file a declaration in respect of the goods which have been purchased from a registered dealer within the State of Punjab in such manner and form and to such authority as may be prescribed.]

(4) [Before any registered dealer furnishes the returns required by sub-section (i)] he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India or at the District Excise and Taxation Office, the full amount of tax due from him under this Act according to such returns and shall furnish along with the returns receipt from such treasury, Bank or District Excise and Taxation [Office] showing the payment of such amount:

Provided that no payment of such amount shall be accepted at the District Excise and Taxation Office save through a bank draft or crossed cheque drawn on a local Scheduled Bank in favour of the assessing authority.

(5) If any dealer discovers any omission or other error in any returns furnished by him, he may at any time before the date prescribed for the furnishing of the next return by him furnish a revised return, and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section [(4)] of the extra amount.

(6) "If a dealer fails without sufficient cause to comply with the requirements of the provisions of sub-section or sub-section (4), the Commissioner or any other person appointed to assist him

under sub-section (1) of Section 3 may, after giving such dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times but not less than ten per centum of such amount of tax assessed as has not already been paid, and where no tax is payable, a sum not exceeding one hundred rupees."

(7). If a dealer has maintained false or incorrect account with a view to suppressing his sales, purchases or stocks of goods, or has concealed any particulars of his sales or purchases, or has furnished to, or produced before, any authority under this Act, or the rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such dealer a reasonable opportunity of being heard direct him to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, a sum not exceeding one and a half times but not less than twenty-five per centum of the amount of tax to which he is assessed or is liable to be assessed excluding the amount to which he has been assessed or is liable to be assessed on the basis of the aforesaid false or incorrect account or concealed particulars or false or incorrect account, return or information.

11. Assessment of tax :-

(1) If the Assessing Authority is satisfied without requiring the presence of [dealer] or the production by him of any evidence that the 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 returns.

(2) If the Assessing Authority is not satisfied without requiring the presence of [dealer] who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns.

(3) On the day specified in the notice or as soon afterwards as may be, the Assessing Authority shall, after hearing such evidence as the [dealer] may produce, and such other evidence as the Assessing Authority may require on specified points, assess the

amount of tax due from the dealer.

(4) If a [dealer] having furnished returns in respect of a period, falls to comply with the terms of notice issued under sub-section (2), the Assessing Authority shall within [five] years after the expiry of such period, proceed to assess to the best of his judgement the amount of the tax due from the dealer.

(5) If a [dealer] does not furnish returns in respect of any period by the prescribed date, the Assessing Authority shall within [five Years] after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess to the best of his judgement the amount of tax, if any, due from the dealer.

(6) If upon information which has come into his possession, the assessing Authority is satisfied that any dealer has been liable to pay tax under this Act in respect of any period but has failed to apply for registration, the Assessing, Authority shall, within [five years] after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgement the amount of tax, if any, due from the dealer in respect of such period and all subsequent periods and in case where such dealer has wilfully failed to apply for registration, the Assessing Authority may direct that the dealer shall pay by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(7) The amount of any tax, penalty or interest payable under this Act shall be paid by the dealer in the manner prescribed by such date as may be specified in the notice issued by the Assessing Authority for the purpose and the date so specified shall not be less than fifteen days and not more than thirty days from the date of service of such notice. Provided that the assessing authority may, with the prior approval of the Assistant Excise and Taxation Commissioner, incharge of the district, extend the date of such payment or allow payment by instalments against an adequate security or Bank guarantee].

(8) If the tax assessed under this Act or any instalment thereof is not paid by any dealer within the time specified therefore in the notice of assessment or in the order permitting payment in instalments, the Commissioner or any other person appointed to assist him under sub-section (1) of section 3 may after giving such dealer an opportunity of being heard, impose on him a penalty not exceeding in amount the sum due from him.]

(9) Any assessment made under this section shall be without

prejudice to any [penalty imposed] under this Act.

11A. Re- assessment of tax :-

(1) If in consequence of definite information which has come into his possession, the Assessing Authority discovers that the turnover of the business of a dealer has been under assessed or escaped assessment in any year, the Assessing Authority may, at any time within [five years] following the close of the year for which the turnover is proposed to be reassessed, and after giving the dealer a reasonable opportunity in the prescribed manner of being heard, proceed to reassess the tax payable on the turnover which has been under assessed or has escaped assessment.

(2) An Assessing Authority or any such authority as may be prescribed, may, at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical mistake apparent from the record.]

11AA. Review of certain assessments etc. of tax on declared goods :-

(1) Notwithstanding anything contained in this Act, the Assessing Authority shall (whether or not an application is made to him in this behalf), review all assessments and re-assessments made before the commencement of the Punjab General Sales Tax (Amendment and Validation) Act, 1967, in respect of declared goods and made such order varying or revising the order previously made as may be necessary for bringing the order previously made into conformity with the provisions of this Act as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967 as extended to Union Territory, Chandigarh:

Provided that no proceeding for review shall be initiated without giving the dealer concerned a notice in writing of not less than thirty days.

(2) Any dealer on whom a notice is served under sub-section (1) may within thirty days from the date of receipt of such notice intimate in writing the assessing authority of his intention to abide by the assessment or reassessment sought to be reviewed and if he does so, the assessing authority shall not review such assessment or re-assessment under this section.

(3) No order shall be made under this section against any dealer without giving such dealer a reasonable opportunity of being heard.

(4) Notwithstanding anything contained in any judgement, decree or order of any court or other authority to the contrary but subject to the provisions of the foregoing subsections any assessment, re-assessment, levy or collection of any tax in respect of declared goods made or purporting to have been made, any action or thing taken or done or purporting to have been taken or done in relation to such assessment, re-assessment, levy or collection, under the provisions of this Act before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967, to the Union Territory, of Chandigarh, shall be as valid and effective as if such assessment, reassessment, levy or collection or action or thing had been made, taken or done under this Act as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1967, as extended to Union Territory, of Chandigarh.

11AAA. Review of certain assessment etc. tax. :-

Notwithstanding anything contained in this Act, the Assessing Authority shall review such assessments or reassessments made before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1972 to the Union Territory, of Chandigarh, as are not in conformity with the provisions of this Act as amended by the aforesaid Act and make such order varying or revising- the order previously made as may be necessary for bringing the order previously made into conformity with the provisions of this Act as amended by the aforesaid Act :

Provided that no order shall be made under this section against any dealer without giving him an opportunity of being heard.

11AAAA. Review of certain assessment of tax on margarine and validation of certain assessments :-

(1) Notwithstanding anything contained in this Act, the Assessing Authority shall review such assessments, re-assessment made before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1978 to the Union Territory of Chandigarh as are not in conformity with the provisions of this Act as amended by the aforesaid Act, and make such order varying or revising, the order previously made as may be necessary for bringing, the order previously made into conformity with the provisions of this Act as amended by the aforesaid Act : Provided that no order shall be made under this section against any dealer without giving, him an opportunity of being, heard,

(2) Notwithstanding anything contained in any judgement, decree or order of any court or other authority to the contrary but subject to the provisions of sub-section (1), any assessment, re-assessment, levy or collection of any tax in respect of margarine made or purporting to have been made, and any action or thing taken or done or purporting to have been taken or done in relation to such assessment, re-assessment levy or collection under the provisions of this Act before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1978 to Union Territory of Chandigarh, shall be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been made, taken or done under this Act as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1978.

(3) For the removal of doubts it is hereby declared that nothing in sub-section (2) shall be construed as preventing any person -

(a) from questioning in accordance with the provisions of the Act and rules and made thereunder, the assessment re-assessment, levy or collection of tax on margarine for any period ; or

(b) from claiming refund of any tax paid by him in excess of the amount due from him under the Act, as amended by the Punjab General Sales Tax (Amendment and Validation) Act, 1978.

11B. Tax and penalty recoverable as arrears of land revenue :-

The amount of any tax and penalty imposed [or interest payable under this Act, which remains unpaid after the due date, shall be recoverable as arrears of land revenue].

11C. No time limit for completion of assessment or re-assessment in certain cases :-

1. Notwithstanding the period of limitation provided for assessment or reassessment in section 11 or section 11-A or any other provisions of this Act, assessment or re-assessment may be made at any time in consequence of, or to give effect to, any order made by any court or other authority, in exercise of the powers vested in it under the law for the time being in force.

2. Where the assessment proceedings relating to any dealer remained stayed under the orders of any court or other authority for any period, such period shall be excluded in computing the period of limitation for assessment or re-assessment provided under this Act.

11D. Payment of interest :-

(1) If any dealer fails to pay the amount of tax due from him as required by sub-section (4) of section 10, he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due from him at the rate of one per centum per month from the date immediately following, the last date for the submission of the return under sub-section (3) of that section, for a period of one month and thereafter at the rate of one and a half per centum per month till the default continues.

(2) If the amount of tax or penalty due from a dealer, is not paid by him within the period specified, in the notice of demand or, if no period is specified, within thirty days from the service of such notice, the dealer shall in addition to the amount of tax or penalty, be liable to pay simple interest on such amount at the rate of one per centum per month from the date immediately following the date on which the period specified in the notice or the period of 30 days, as the case may be expires, for a period of one month and thereafter at the rate of one and half per centum per month till the default continues ; Provided that where the recovery of any tax or penalty is stayed by an order of any court, the amount of tax or penalty shall, after the order of stay, is vacated, be recoverable along with interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date the tax or penalty first became due.

(3) The amount of interest payable under this section

- i. be calculated by considering part of a month as one month and any amount less than one hundred rupees as one hundred rupees ;
- ii. for the purpose of collection and recovery, be deemed to be tax under this Act ;
- iii. be in addition to the penalty, if any, imposed under this Act.

Explanation:- If payment of the amount of tax is made by any dealer through cheque and the same is dishonoured by the Bank concerned it will amount to failure on the part of the dealer to pay the amount of tax.

12. Refund :-

(1) The assessing authority shall in the prescribed manner refund to a registered dealer applying in this behalf any amount of tax, interest or penalty paid by such dealer under this Act, -

- a. if the amount of tax, penalty or interest so paid is in excess of

the amount due from him under this Act or

b. if the amount of tax so paid is in respect of the sale or purchase of any declared goods and such goods are sold in the course of inter-State trade or commerce ;

either by a refund voucher or, at the option of the dealer, by adjustment of the amount so paid with the amount due from him, in respect of any other period Provided that the refund under clause (b) shall be subject to such conditions, as may be prescribed Provided further that no refund under this section shall be allowed unless the claim for refund is made within a period of three years from the date on which such claim accrues. Explanation. For the purpose of this sub-section the, expression "in the course of interState trade or commerce" shall have the meaning assigned to it by section 3 of the Central Sales Tax Act, 1956.

1. Notwithstanding anything contained in sub-section (1), the assessing authority shall first adjust the amount to be refunded towards the recovery of any amount due from the dealer on the date of such adjustment and shall thereafter refund the balance, if any.

2. Where any amount required to be refunded by the assessing authority to any person by virtue of an order issued under this Act is not refunded to him within ninety days of the date of the order, the dealer shall be entitled to get simple interest on such amount at the rate of one per centum per month from the date immediately following the date of expiry of the said period for a period of one month and thereafter at the rate of one and a half per centum per month till the refund is made:

Provided that for the purpose of calculation of the interest, part of month shall be considered as one month and any amount less than one hundred rupees shall be considered as one hundred rupees.

4. If the delay in allowing refund within the aforesaid period of ninety days is for reasons beyond the control of the assessing authority or attributable to the dealer, whether wholly or in part, the period of such delay shall be excluded from the period for which interest is payable.

5. If any question arises whether any period is to be excluded for the purposes of calculation of interest under sub-section (4) the same shall be referred to the Commissioner or such other officer as the Administrator Appointed by the President under Article 239 of the Constitution may, by notification appoint, whose decision shall be final.

6. Where an order allowing refund is the subject matter of an

appeal or further proceedings or where any other proceedings under this Act are pending, and the assessing authority is of the opinion that the refund is likely to adversely affect the recovery, the assessing authority may withhold the refund and refer the case to the commissioner whose orders shall final.

7. The period during which the refund remains withheld under sub-section (6) shall be excluded for the purpose of calculation of interest under this section.

13. Accounts :-

(1) Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (3) of section 10, shall keep a true account of the value of goods bought and sold by him, and if the Assessing Authority considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts including records of sales as he may, subject to anything that may be prescribed in that behalf in writing, direct.

(2) Every registered dealer shall -

- a. in respect of goods, exceeding [twenty-five] rupees in value in any transaction, sold by him or on his behalf, issue to the person to whom they are sold, a cash memorandum or bill serially numbered bearing the name and address of the dealer, the date of sale and the signature of such dealer, or his servant, manager or agent and showing the particulars of goods so sold and the price thereof; and
 - b. Preserve a carbon copy of such cash memorandum or bill for a period of not less than five years from the date of issue thereof
- Provided that the State Government may by notification exempt any class of registered dealers from the provisions of this sub-section.

(3) Where any dealer contravenes the provisions of sub-section (1) or subsection (2), the Commissioner or any person appointed to assist him under subsection (1) of section 3 may after affording such dealer a reasonable opportunity of being heard, impose upon him a penalty which may extend to five hundred rupees.]

14. Production and inspection of books, documents and accounts :-

(1) The commissioner or any person appointed to assist him under sub-section (1) of section 3 not below the rank of an [Excise and

Taxation Officer], may, for the purpose of the Act, require any dealer referred to in section 10 to produce before him any book, document or account relating to his business and may inspect, examine and copy then same and make such enquiry from such dealer relating to his business, as may be necessary.. Provided that books, documents and accounts of a period more than five years prior to the year in which assessment is made shall not be so required.

(2) Every registered dealer shall -

(a) maintain day to day accounts of his business

(b) maintain a list of his account books, display it alongwith his registration certificate and furnish a copy of such list to the Assessing Authority

(c) Produce, if so -required, account books of his business before the Assessing Authority for authentication in the prescribed manner;

(d) retain his account books at the place of his business, unless removed therefrom by an official for inspection, by any official agency, or by auditors or for any other reason which may be considered to be satisfactory by the assessing authority.

(3) If any officer referred to in sub-section (1) has reasonable ground for believing that any dealer is trying to evade liability for tax or other dues under this Act, and that anything necessary for the purpose of an investigation into his liability may be found in any book, account, register or document, he may seize such book, account, register or document, as may be necessary. The officer seizing the book, account, register or document shall forthwith grant a receipt for the same and shall, -

(a) in the case of book, account, register or document which was being used at the time of seizing, within a period of ten days from the date of seizure; and

(b) in any other case, within a period of sixty days from the date of seizure; Return it to the dealer or the person from whose custody it was seized after the examination or after having such copies or extracts taken therefrom as may be considered necessary, provided the dealer or the aforesaid person gives a receipt in writing for the book, account, register or document returned to him. The officer may, before returning the book account register or document affix his signature and his official seal at one or more places thereon, and in such case the dealer or the aforesaid person will be required to mention in the receipt given by him the number of places where the signature and seal of such officers have been affixed on each

book, account, register or document.

(4) For the purpose of sub-section (2) or sub-section (3), an officer referred to in subsection (1) may enter and search any office, shop, godown, vessel, vehicle, or any other place of business of the dealer or any building or place except residential houses where such officer has reason to believe that the dealer keeps or is, for the time being, keeping any book account, register, document or goods, relating to his business.

(5) The power conferred by sub-section (4) shall include the power to open and search any box or receptacle in which any books, accounts, register or other relevant document of the dealer may be contained.

(6) Any officer empowered to act under sub-section (3) or sub-section (4) shall have power to seize any goods which are found in any office shop, godown, vessel, vehicle or any other place of business or any building or place of the dealer, but not accounted for by the dealer in his books, accounts registers, records and other documents.

14A. Assessee permitted to attend through authorised agent etc :-

(1) Any assessee or dealer, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend by a person authorised by him in writing in this behalf, being a relative or a person regular employed by the assess, or a lawyer or accountant or income-tax practitioner and not being disqualified by or under sub-section (3).

(2) In this section an "income tax practitioner" means any person, who before the 10th day May, 1953, attended before any assessing or other sales tax authorities in connection with any proceedings under this Act or under the Punjab General sales Tax Act, 194 1, on behalf of any assessee otherwise than in the capacity of an employee or relative of that assessee or who has passed any accountancy examination recognised in this behalf, by the Central Board of Revenue, or holds a Degree in Commerce, Law, Economics or Banking including auditing conferred by any Indian University, incorporated by any law for the time being in force, Rangoon University, English and Welsh Universities.

"And includes a retired gazetted officer of the Exercise and Taxation Department who has an experience of working as assessing authority, appellate authority or revisional authority

under this Act for a minimum period of five years in one or more of the aforesaid capacities, provided a period of two years has elapsed since the date of his retirement from Government service."

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

(4) If any practitioner or other person who represents an assessee, is found guilty of misconduct in any proceedings before any authority under this Act by the commissioner, the Commissioner may direct that he shall be disqualified to represent a dealer under sub-section (1)

Provided that no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard.

(5) any person against whom any direction is made under this section, may appeal to the Tribunal against such direction under and in accordance with the provisions of section 20.

14B. Establishment of check posts or barriers and inspection of goods in transit :-

1. If with a view to preventing or checking evasion of tax under this Act, the Central Government considers it necessary so to do, it may by notification direct the establishment of a. check post or the erection of a barrier or both at such place or places as may be notified.

2. The owner or person incharge of a goods vehicle or vessel shall carry with him a goods vehicle record, a trip sheet or a log book, as the case may be, and a bill of sale or delivery note containing such particulars as may be prescribed, in respect of such goods meant for the purpose of trade as are being carried in the goods vehicle or vessel, as the case may be, and produce the same before an officer incharge of a check post or barrier or any other officer not below the rank of an [Excise and Taxation Officer] checking the vehicle or vessel at any place.

3. At every check post or barrier or at any other place when so required by any officer referred to in sub-section (2), the driver or any other person incharge of the goods vehicle or vessel shall stop the vehicle or vessel, as the case may be, and keep it stationery as long as may reasonably be necessary, and allow the officer incharge of the check post or barrier or the aforesaid officer to examine the contents in the vehicle or vessel by breaking open the package or packages, if necessary, and inspect all records relating to the goods carried which are in the possession of such driver or other person

incharge, who shall also furnish such other information as may be required by the aforesaid officer, and if considered necessary such officer may also search the goods vehicle or vessel and the driver or other person incharge of the vehicle or vessel or of the goods.

4. the owner or person incharge of a goods vehicle or vessel entering, the limits of the Union Territory of Chandigarh or leaving such limits shall also give in triplicate a declaration containing such particulars as may be prescribed of the goods carried in such vehicle or vessel, as the case may be, before the officer incharge of the check post or barrier and shall produce the copy of the said declaration duly verified and returned to him by the said officer before any other officer referred to in sub-section (2) at the time of checking :

Provided that where a goods vehicle or vessel bound for any place outside the Union Territory of Chandigarh passes through the union Territory, the owner or person incharge of such vehicle or vessel shall furnish, in duplicate, to the officer incharge of the check post or barrier of his entry into the said Union Territory, a declaration in the prescribed form and obtain from him a copy duly verified. The owner or person incharge of the goods vehicle or vessel, as the case may be, shall deliver within seventy-two hours the said copy to the officer incharge of the check post or barrier at the point of its exit from that Union Territory, failing, which he shall be liable to pay a penalty to be imposed by the officer incharge of the cheek post or barrier of the entry not exceeding two thousand rupees or twenty per centum of the value of the goods, which ever is greater: Provided further that no penalty shall be imposed unless the person concerned has been given a reasonable opportunity of being heard.

5. At every station of transport of goods, bus stand or any other station or place of loading or unloading of goods, other than a rail head or a postoffice, when so required by the commissioner, or any person appointed to assist him under subsection (1) of section 3, the driver or the owner of the goods vehicle or the employee of a transport company or goods booking agency shall produce for examination transport receipts and all other documents and account books, concerning the goods carried, transported, loaded, unloaded, consigned or received for transport (maintained by him in the prescribed manner). The Commissioner or the person so appointed shall, for the purpose of examining that such transport receipts or other documents or accounts books are in respect of the goods carried, transported, loaded, unloaded or consigned or received for transport, have the powers to break open any package

or packages of such goods.

6. If the officer incharge of the check post or barrier or other officer as mentioned in sub-section (2) has reasons to suspect that the goods under transport are meant for trade and are not covered by proper and genuine documents as mentioned in subsection (2) or sub-section (4), as the case may be, or that the person transporting the goods is attempting to evade payment of tax due under this Act, he may, for reasons to be recorded in writing and after hearing the said person, order the unloading and detention of the goods for such period as may reasonably be necessary and shall allow the same to be transported only on the owner of goods or his representative or the driver or other person incharge of the goods vehicle or vessel on behalf of the owner of the goods, furnishing to his satisfaction a security or executing a bond with or without sureties for securing the amount of tax, in the prescribed form and manner, for an amount not exceeding one thousand rupees or twenty per centum of the value of the goods, whichever is greater. Provided that where any goods are detained a report shall be Made immediately and in any case within twenty-four hours of the detention of the goods by the Officer detaining the goods to the [Assisstant Excise and Taxation Commissioner, incharge of the district] of seeking the latters permission for the detention of the goods for a period exceeding twenty-four hours as and when so required, and if no intimation to the contrary is received from the latter the former may assume that his proposal has been accepted.

7. The officer detaining the goods shall record the statement, if any, given by the owner of the goods or his representative or the driver or other person incharge of goods vehicle or vessel and shall require him to produce proper and genuine documents as referred to in sub-section (2) or sub-section (4), as the case may be before him in his office on a specified date on which date the officer shall submit the proceedings along with the connected records to such officer as may be authorised in that behalf by the Central Government for conducting necessary enquiry in the matter. The said officer shall, before conducting the enquiry serve a notice on the owner of the goods and give him an opportunity of being heard and if, after the enquiry, such officer finds, that there has been an attempt to evade the tax due under this Act, he shall, by order, impose on the owner of the goods a penalty not exceeding one thousand rupees or twenty per centum of the value of the goods, whichever is greater, and in case he finds otherwise, he shall order the release of the goods.

8. If the owner of the goods or his representative or the driver or other person incharge of the good vehicle or vessel does not furnish security or does not execute the bond as required by sub-section (6) within ten days from the date of detaining the goods vehicle or vessel, the Officer referred to in that sub-section may order further detention of the goods and in the event of the owner of the goods not paying the penalty imposed under subsection (7) within twenty days from the date of the order imposing the penalty, the goods detained shall be made liable to be sold by the Officer, who imposed the penalty, for the realisation of the penalty by public auction in the manner prescribed. If the goods detained are of a perishable nature or subject speedy or natural decay or when the expenses of keeping them in custody are likely to exceed their value the officer incharge of the check post or barrier or any other officer referred to in sub-section (2), as the case may be, shall immediately sell such goods or otherwise dispose them of. The sale proceeds shall be deposited in the Government treasury and the owner of the goods shall be entitled to only the balance amount of sale proceeds after deducting the expenses and other incidental charges incurred in detaining and disposing of the goods.

9. The officer detaining the goods shall issue to the owner of the goods or his representative or the driver or the person incharge of the goods vehicle or vessel receipt specifying the description and quantity of the goods so detained and obtain an acknowledgement from such person or if such; person, refuse to give an acknowledgement, record the fact of refusal in the presence of the two witnesses.

10. If the order of detention of goods under sub-section (6) or of imposition of penalty under sub-section (7) or sub-section (8) is in the meantime set aside or modified in appeal or other proceedings, the officer detaining the goods and imposing the penalty, as the case may be, shall also pass consequential orders for giving effect to the orders in such appeal or other proceeding as the case may be.

11. No dealer or any person, including a carrier of goods or agent of a Transport Company or booking agency acting on behalf of a dealer, shall take delivery of, or transport, from any vessel, station, airport or any, other place whether of similar nature or otherwise, any consignment of goods other than personal luggage or goods for personal consumption, the sale or purchase of which is taxable under this Act, except in accordance with such conditions as may be prescribed with a view to ensuring that there is no evasion of

the tax imposed by or under this Act

Provided that no place which is a rail head or Post Office shall be so notified by the Central Government.

Explanation I. In this section the expression "goods vehicle" has the same meaning as is assigned to it in clause (6) of section 2 of the Motor Vehicles Act, 1939, but does not include road transport plying in collaboration with rail transport.

Explanation II. For purposes of sub-section (7), service of notice on the representative of the owner or the driver or other person incharge of the goods vehicle or vessel shall be deemed to be a valid service on the owner of the goods.

14C. Power to call for information form banking companies etc :-

The Commissioner or any other person appointed to assist him under sub-section (1) of section 3, may, for carrying out the purposes of the Act, require any person, including a banking company, post office or any officer thereof to furnish any information or statement useful for, or relevant to, any proceedings under this Act.

15. Delegation of powers :-

Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing delegate any of his powers under this Act, except those under sub-section (1) of section 21 to any person appointed under section 3 to assist him.

16. Information to be furnished regarding change of business :-

If any dealer to whom the provisions of sub-section (3) of section 10 apply.

- a. Sells or otherwise disposes of his business or any place of business or
- b. Discontinues or transfers his business or changes his place of business or opens a new place of business; or
- c. Changes the name, constitution or nature of his business or
- d. Wants to make any change in the class or classes of goods specified in his certificate of registration for use in the manufacture of any goods for sale.

he shall within the prescribed time inform the prescribed authority

accordingly and if any such dealer dies, his legal representative shall in like manner inform the said authority.

17. Transfer of business :-

Where the ownership of the business of a registered dealer is entirely transferred and the transferee carries on such business either in its old name or in some other name, the transferee shall for all the purposes of this Act (except for liabilities under this Act already discharged by such dealer) be deemed to be and to have always been registered as if the certificate of registration of such dealer had initially been granted to the transferee and the transferee shall on application to the prescribed authority be entitled to have the registration certificate amended accordingly.

17A. Liability to tax on stock in certain cases :-

Should his certificate of registration be cancelled under any provision of this Act, a dealer, save when he has transferred of his business to some one else, and notwithstanding clause (ff) of section 2 but subject to the provisions of section 6, shall be liable to pay tax on goods purchased by him in the State of Punjab after registration, and remaining unsold at the time of cancellation of certificate at a rate leviable for the sale of such goods.

18. Liability to tax of a partitioned Hindu family, dissolved firm etc :-

(1) Where a dealer is an undivided Hindu family, firm or other association of persons, and such family, firm or association is partitioned, dissolved or disrupted, as the case may be, -

(a) The tax payable under this Act by such family, firm or association of persons for the period upto the date of such partition, dissolution or disruption may be assessed as if no such partition, dissolutions or disruption had taken place and all the provisions of this Act shall apply accordingly; and

(b) Every person who was at the time of such partition, dissolution or disruption a member or partner of an undivided Hindu family, firm or association of persons shall, notwithstanding such partition, dissolution or disruption, be liable severally and jointly for the payment of the tax including interest and penalty, if any, payable under this Act by such family, firm or association of persons, whether assessment is made prior to or after such partitions,

dissolution or disruption.

(2) Where the registration certificate of a dealer is cancelled under this Act in any case, other than that of a partition of undivided Hindu family or dissolution or disruption of firm or association of persons, the tax payable under this Act by such dealer for the period upto the date of cancellation of the registration certificate may be assessed on such dealer as if no such cancellation had taken place and all the provisions of this Act shall apply accordingly.]

19. Bar of certain proceedings :-

No assessment made and no order passed under this Act or rules made there under shall be called into question in any Civil Court.

20. Appeal :-

(1) An appeal from every original order passed under this Act or the rules made thereunder shall lie,

a. If the order is made by an Assessing Authority [or by an officer in charge of the checkpoint or barrier or any other officer not below the rank of [Excise and Taxation Officer], to the Deputy Excise and Taxation Commissioner;

b. If the order is made by Deputy Excise and Taxation Commissioner, to the commissioner;

c. If the order is made by the Commissioner or any officer exercising the powers of the commissioner, to a Tribunal.

2. An order passed in appeal by Deputy Excise and Taxation Commissioner or by the Commissioner or any officer on whom the powers of the commissioner are conferred shall be further appealable to a Tribunal.

3. Every order of a Tribunal and subject only to such order, the order of the commissioner or any Officer exercising the powers of the Commissioner, or the order the Deputy Excise and Taxation Commissioner, or of other assessing authority, if it was not challenged in appeal or revision, shall be final.

4. No appeal shall be entertained unless it is filed within 60 days from the date of communication of the order appealed against or such longer period as appellate authority may allow, for reasons to be recorded in writing.

5. No appeal shall be entertained by an appellate authority unless such appeal is accompanied by satisfactory proof of the payment of the tax or of the penalty, if any, imposed or of both as the case

may be

Provided that if such authority is satisfied that the dealer is unable to pay the tax assessed or the penalty, if any, imposed or both he may, for reasons to be recorded in writing, entertain an appeal without the tax or penalty or both having been paid or after part payment of such tax or penalty or both.

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

21. Revision :-

(I) The Commissioner may of his own motion call for the record of any proceedings which are pending before, or have been disposed of by any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

1. The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification.

2. A Tribunal on application made to it against an order of the commissioner under sub-section (1) within ninety days from the date of communication of the order, may call for and examine the record of any such case and pass such order thereon as it, thinks just and proper.

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

21A. Rectification of mistakes :-

1. The Commissioner or the officer on whom powers of the commissioner under sub-section (1) of section 21 have been conferred by the State Government may, at any time within two years from the date of any order passed by him, of his own motion, rectify any mistake apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order: Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund, unless the Commissioner or the officer on whom powers of the commissioner under subsection (1)

of section 21 have been conferred by the State Government has given notice in writing, to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

2. The provision of sub-section (1) shall apply to the rectification of a mistake by a Tribunal as they apply to the rectification of a mistake by the Commissioner.

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

4 . Where any such rectification has the effect of enhancing the amount of tax or penalty or reducing the amount of the refund, the Commissioner shall order the recovery of the amount due from such person in the manner provided for in section 11 and 11 -B.]

21B. Disposal of pending appeals and applications :-

1. Any appeal or application under sub-section (1) of section 22 pending immediately before the extension of the Punjab General Sales Tax (Amendment and Validation), Act, 1967, to the Union Territory of Chandigarh before the Financial Commissioner shall stand transferred to the Tribunal constituted under section 3-A.

1A. Any case under sub-section (3) of section 21, as it existed immediately before 21st of August, 1968 pending with the financial Commissioner immediately before the aforesaid date, shall stand transferred to the Tribunal constituted under section 3 -A and shall be disposed of by it as if it were An appeal made to the Tribunal under and in accordance with the provisions of section 201.

2. Any application for revision pending immediately before the extension of the Punjab General Sales Tax (Amendment and Validation Act, 1967, to the Union Territory of Chandigarh, before the Financial Commissioner, the Commissioner or an Officer on whom the powers of the Commissioner are conferred shall stand transferred to the Tribunal and shall be disposed of by it as if it were an Appeal made to the Tribunal under and in accordance with the provisions of section 20.

3. Subject to the provisions of section 20 and sub-section (1) and (2), if a person is aggrieved by any order passed by any officer or authority before the extension of the Punjab General Sales Tax (Amendment and Validation) Act, 1967, to the Union Territory of Chandigarh, from which an appeal under sub-section (5) of the section 14- A or a revision under section 21 or an application under

sub-section (1) of section 22 was competent but was not filed and if the period of limitation prescribed therefore had not expired immediately before such extension, he may file an appeal or revision, as the case may be, to the Tribunal against such order within the unexpired period or within thirty days next after such extension whichever period expires later].

22. Statement of case to High Court :-

1. Within 60 days from the passing of an order under [section 20 or 21] by the [Tribunal] affecting any liability of any dealer to pay tax under this Act, such dealer or the Commissioner may, by application in writing accompanied by a fee of one hundred rupees in case the application is made by a dealer, require the [Tribunal] to refer to the High Court any question of law arising out of such order,
2. If for reasons to be recorded in writing, the [Tribunal] refuses to make such reference, the applicant may, within 30 days of such refusal either -
 - (a) Withdraw his application and if he does so, the fee paid shall be refunded or
 - (b) Apply to the High Court against such refusal.
3. If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied of the correctness of the [Tribunal's] decision, it may require the [Tribunal] to state the case and refer it, and on the receipt of such requisition, the [Tribunal] shall state and refer the case accordingly.
4. If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the [Tribunal] to make such additions thereto or alterations therein as the Court may direct in that behalf
5. The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its 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.
6. Where a reference is made to the High Court under this section, the cost (including the disposal of the fee) shall be in the discretion of the court.
7. The payment of the amount, if any, of the tax due in accordance

with the order of the [Tribunal] in respect of which an application has been made under sub-section (1), shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference, the excess tax paid shall be refunded in accordance with the provision of section 12.

22A. Power of Tribunal or the Commissioner and his assistants to take evidence on oath, etc. :-

The Tribunal or the Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall, for the purposes of this Act, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit, in respect of the following matters, namely

- a. Enforcing the attendance of any person and examining him on oath or affirmation
- b. Compelling the production of documents and impounding or detaining them;
- c. Issuing commissions for the examination of witnesses
- d. Requiring or accepting proof of facts by affidavits
- e. Such other powers as may be prescribed;

And any proceeding under this Act, before the Tribunal or the Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall be deemed to be a "judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 199 of Indian Penal Code.

23. Penalty :-

(1) Whosoever contravenes, or falls to comply with, any of the provisions of this Act or the rules made thereunder or any order or direction made or given thereunder, shall if no other penalty is provided under this Act for such contravention or failure, be liable to imposition of a penalty, not exceeding two thousand rupees and where such contravention or failure is a continuing one to a daily penalty not exceeding fifty rupees during the period of the continuance of the contravention or failure.

(2) An officer [not below] the rank of [Excise and Taxation Officer] appointed under sub-section (1) of section 3 may, after affording to the [person] a reasonable opportunity of being heard, impose the penalty mentioned in sub section (1). [Sub-sections (3), (4) and (5) omitted by PA 7 of 1967-.]

24. Omitted :-

Omitted by Punjab Act 28 of 1965

25. Indemnity :-

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

26. Returns, etc. to be confidential :-

1. All particulars contained in any statement made, 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 subsection (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any officer of the State Government to produce before it any such statement, returns, account, documents or record or any part thereof, or to give evidence before it in respect thereof

2. If, save as provided in sub-section any officer of the State Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

3. Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1) for the purpose of a prosecution under the Indian Penal code in respect of any such statement, return, accounts, documents or evidence, or for the purpose of a prosecution under the Act, or for departmental use of the officials of the [Government of India or any State Government]

27. Power to make rule :-

1. The State Government may, subject to the condition of previous publication, make rules for carrying out the purpose of this Act.

2. In particular and without prejudice to the generality of the foregoing power, such rules may prescribe -

(a) The salaries, allowances and other conditions of service of the Presiding Officer of a Tribunal -,

(aa) The conditions and limitations subject to which a Tribunal shall

award costs under sub-section (11) of section 3-A;

(b) The further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 4

(c) The taxable quantum for particular classes of dealers under clause (c) of sub section (5) of section 4

(cc) The particulars to be contained in a declaration under sub-section (11) of clause (a) of sub-section (2) of section 5 the form of such declaration, and the manner in which such declaration is to be furnished;

(d) The other sales [or purchases], turnover in respect of which may be deducted from a dealers gross turnover in computing his taxable turnover defined in section 5

(e) The authority to which applications for registration under section 7 or section 8 shall be made;

(f) The procedure for the payment of fees in respect of and other matters incidental to the registration of dealers and granting of certificate of registration, and the form of such certificate under section 7 or section 8, [and the manner in which security shall be furnished under section 9]]

(g) The interval at which, the conditions subject to which a lump sum by way of composition may be accepted by the Commissioner from any dealer, the manner in which such lump sum is to be determined and the manner in which the tax under this Act shall be payable under section 10

(h) The returns to be furnished under sub-section (3) of section 10, and dates by which, and the authority to which such returns shall be furnished

(i) The date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 11

(ii) The manner of payment of tax, penalty or interest;

(j) The manner in which refunds under section 12 shall be made.

(k) The conditions, if any, for issue of direction under section 13

(I) The manner of authentication of account books under clause (c) of subsection (2) of section 14;

(II) The particulars of bills of sales or delivery notes referred to in sub- section (2) of section 14-B, the particulars of declaration to be given under subsection (3) of that section, the form of transit slip (rahdari) referred to in the proviso to that sub-section and the conditions on which delivery of consignment of goods shall be taken under sub-section (7) of that section]

(m) The restrictions and conditions subject to which the commissioner may delegate his powers under section 15

- (n) The authority to which Information shall be furnished under section 16
- (o) The manner in which appeals [xx] may be preferred under section 20;
- (p) The procedure for any other matters (including fees) incidental to the disposal of applications for revisions under sections 20 and 21 ;
- (pp) The authority by which and the manner in which, cases may be transferred from one Assessing Authority to another and from one appellate authority to another;
- (q) Any other matter which is to be or may be prescribed
- (r) The manner in which and the time, within which applications shall be made, information furnished, and notices served, under this Act;
- (s) The procedure for the cancellation and return of certificate of registration
- (3) [Omitted by Punjab Act 7 of 1967.]

27A. Transitional provisions :-

Turnover for the year 1949-50 shall be dealt with as under

1. Separate returns shall be submitted by each dealer one for period from the 1st April 1949 to the 30th April 1949 and the others from the 1st May 1949 to the 31st March 1950 as may be prescribed.
2. Each of these two periods shall be deemed to be a year for the purpose of assessment under this Act.
3. (i) Notwithstanding the repeal of the Punjab General Sales Tax Act, 1941 for dealing with the turnover for the period from the 1st April, 1949 to the 30th April, 1949 the first part of subsection(1) of section 3 of the repealed Act shall be deemed to be in force subject to the following There shall be charged on the turnover every year a tax at the following rates that is to say-
 - (a) If the turnover exceeds one thousand but does not exceed two thousand rupees. Three annas for every one hundred rupees or fraction thereof.
 - (b) If the turnover exceeds two thousand rupees. Four annas for every one hundred rupees or fraction thereof
- (ii) The returns for the period from the 1st May 1949 to the 31st March 1950 shall be dealt with in accordance with the provisions of this Act.

27B. Notwithstanding anything contained in sub-section (3)

of section 4 and in sub-section (4) of section 8 :-

(c) The registration of a dealer mentioned in clause [(d)] of sub-section (5) of section 4, effected before the 30th September, 1949, under section 7 on the ground that his gross turnover during the year 1948-49 exceeded 20,000 rupees shall be cancelled with effect from the 1st April, 1950, if his gross turnover during the year 1948-49 did not exceed 30,000 rupees and he applies for the cancellation of his registration certificate on or before the 31st December, 1949; and

(b) The registration of all dealers effected under section 8 before the 30th September 1949 shall stand cancelled with effect from the 1st April, 1950 and all such dealers shall surrender their registration certificates to the appropriate assessing authority on or before the 31st December, 1949.

28. Repeal :-

The Punjab General Sales Tax Act, 1941 (IV of 1941), is hereby repealed provided that anything done under the said Act which could have been done under this Act if it had then been in force shall be deemed to have been done under the Act.

29. Provision in case of inter-State trade etc :-

(1) notwithstanding anything contained in this Act -

(a) A tax on the sale or purchase of goods shall not be imposed under this Act.

(i) Where such sale or purchase takes place outside the State of Punjab; or

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

(b) A tax on the sale or purchase of any goods shall not, after the 31st day of March, 1951, be imposed where such sale or purchase takes place in the course of inter-State trade or commerce except in so far as the Parliament may by law otherwise provide.

(2) [Omitted by Punjab Act No. 24 of 1959, section 4].

30. Power to exempt :-

(1) The State Government, if satisfied that it is necessary or expedient so to do in the interest of cottage industries, may by notification exempt any class of co-operative societies, or persons

from the payment of tax under this Act on the purchase or sale of any goods subject to such conditions as may be specified in such notification.

(2) Omitted by Punjab Act 8 of 1975, Section 3

(3) Every notification made under sub-section (1) shall, as soon as may be after it is made, be laid before [the Houses of] the State Legislature.

31. Power to amend Schedule C :-

The State Governments, after giving by notification not less than [twenty days] notice of its intention so to do, may by notification add to, or delete from, Schedule C any goods, and thereupon Schedule C shall be deemed to be amended accordingly.]