

Madras General Sales Tax Act, 1939

09 of 1939

[13 June 1939]

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PREAMBLE

An Act to provide for the levy of a general tax on the sale of goods in the Province of Madras.

Whereas it is expedient to provide for the levy of a general tax on the sale of goods in the State of Madras; It is hereby enacted as follows:--

1. For Statement of Objects and Reasons, see Fort St. George Gazette, dated 28th February 1936--Part IV, pages 63-64.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Madras Merged States (Laws) Act, 1949 (Madras Act XXXV of 1949).

This Act was extended to the Kanyakumari district and the Shencottah taluk of the Tirunelveli district by section 12 of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

1. Short title, extent and commencement :-

(1) This Act may be called the Madras General Sales Tax Act, 1939.

(2) It extends to the whole of the ¹[State] of Madras.

(3) This section shall come into force at once, and the rest of this Act shall come into force on such ²date as the ³[State] Government may, by notification in the Fort St. George Gazette, appoint.

1. This word was substituted for the word "Province" by the Adaptation Order of 1950.

2. Came into force on the 1st October 1939.

3. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

2. Definitions :-

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

¹[(a) "agricultural or horticultural produce" shall not be deemed to include tea;]

²[(a-1) "Appellate Tribunal" means the Tribunal appointed under section 2-A];

²[(a-2) "assessing authority" means any person authorized by the ³[State] Government to make any assessment under this Act];

⁴[(a-3) Commercial Tax Officer means any person appointed to be a Commercial Tax Officer under section 2-B];

⁵[(b) dealer means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment or for other valuable consideration.

Explanation.--A Hindu joint family or any association, co-operative society, or club or any firm, which, or a commission agent, broker, del credere agent, auctioneer or any other mercantile agent, by whatever name called, who carries on such business, is a dealer within the meaning of this clause;]

⁶[(b-1) "Deputy Commissioner" means any person appointed to be a Deputy Commissioner of Commercial Taxes under section 2-B];

(c) "goods" means all kinds of movable property other than

⁷[newspapers] actionable claims, stocks and shares and securities and includes all materials, commodities, and articles ⁸[including those to be used in the construction, fitting out, improvement or repair of immovable property or in the fitting out, improvement or repair of movable property; and also includes all growing crops, grass and things attached to or forming part of the land which are agreed to be saved before sale or under the contract of sale;]

(d) "licence" means a licence granted or renewed under this Act;

(e) "notification" means a notification published in the Fort St. George Gazette;

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

(g) "³[State]" means the ³[State] of Madras;

⁹[(g-1) "registered dealer" means a dealer registered under this Act;]

(h) "sale" with all its grammatical variations and cognate expressions means every transfer of the property in goods by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, ¹⁰[and includes also transfer of property in goods involved in the execution of a works contract,] ¹¹[and in the supply or distribution of goods by a co-operative society, club, firm or any association to its members for cash or for deferred payment or other valuable consideration] but does not include a mortgage, hypothecation, charge or pledge; Explanation ¹²[(1)].--A transfer of goods on the hire-purchase or other instalment system of payment shall notwithstanding the fact that the seller retains the title in the goods as security for payment of the price, be deemed to be a sale. ¹²[Explanation (2)].-- ¹³[] The sale or purchase of any goods shall be deemed, for the purposes of this Act, to have taken place in this ³[State], wherever the contract of sale or purchase might have been made--

(a) if the goods were actually in this ³[State] at the time when the contract of sale or purchase in respect thereof was made, or

(b) in case the contract was for the sale or purchase of future goods by description, then, if the goods are actually produced in this ³[State] at any time after the contract of sale or purchase in respect thereof was made.]

¹⁴[Explanation (3)].--Notwithstanding anything to the contrary contained in this Act, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place--

(a) when the goods are transferred from a principal to his Selling agent and from the selling agent to the purchaser, or

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found--

(i) to have sold the goods at one rate and to have passed on the sale-proceeds to his principal at another rate, or

(ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate or,

(iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal, or

(iv) to have acted for a fictitious or non-existent principal;]

¹⁵(i) "turnover" means the aggregate amount ¹⁶[for which goods are bought or sold, or supplied or distributed, by a dealer, either

directly or through another, on his own account or on account of others] whether for cash or for deferred payment or other valuable consideration provided that the proceeds of the sale by a person of agricultural or horticultural produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise shall be excluded from his turnover.

Explanation **17**[1].--Subject to such conditions and restrictions, if any, as may be prescribed in this behalf--

17[(i)] the amount for which goods are sold shall, in relation to a works contract, be deemed to be the amount payable to the dealer for carrying out such contract, less such portion as may be prescribed of such amount, representing the usual proportion of the cost of labour to the cost of materials used in carrying out such contract;]

18[(ii)] the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of or before the delivery thereof;

18[(iii)] any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover; and

18[(iv)] where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former; **19**[. .]

20[(ii) "works contract" means any agreement for carrying out for cash or for deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property or the fitting out, improvement or repair of any movable property;]

(j) "Year" means the financial year.

1. Clause (a) was relettered as clause (a-1) and new clause (a) was inserted by section 2(i) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1-1-1948.

2. Clause (a-1) which was relettered for the original clause (a) by *ibid* was again relettered as clause (a-2) and new clause (a-1) was inserted by sub-section (i) of section 2 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15-5-1951.

3. This word was substituted for the word "Province" by the Adaptation Order of 1950.
4. Clause (a-3) was inserted by sub-section (ii) of section 2 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act II of 1951), which came into force on 15th May, 1951.
5. This clause was substituted for the original clause (b) by section 2(i) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).
6. Clause (b-1) was inserted by sub-section (iii) of section 2 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951).
7. This word was inserted by section 2(ii) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).
8. These words were added by section 2(iii) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on 1-1-1948.
9. This clause was inserted by section 2(iv) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1-1-1948.
10. These words were inserted by clause (a) of sub-section (v) of section 2, *ibid*.
11. These words were inserted by section 2(iii)(a) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).
12. The Explanation to clause (h) was numbered as Explanation (1) and Explanation (2) was added by clause (b) of sub-section (v) of section 2 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on 1-1-1948.
13. The words and figures "Notwithstanding anything to the contrary in the Sale of Goods Act, 1930" were Omitted by section 3(iii) (b) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).
14. This Explanation was added by section 2(iii)(c) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).
15. See the Madras General Sales Tax (Definition of Turnover and Validation of Assessments) Act, 1954 (Madras Act XVII of 1954), under section 2 of which, in the case of sales made by a dealer before the 1st April 1954 amounts collected by him by way of tax under Madras Act IX of 1939 shall be deemed to have formed part

of his turnover.

16. These words were substituted for the words "for which goods are either bought by or sold by a dealer" by section 2(iv) of the Madras General Sales Tax (Third Amendment) Act, 1951 (Madras Act XV of 1956).

17. Explanation to clause (i) was numbered as Explanation (1) and old items (i), (ii) and (iii) of that Explanation were renumbered as (ii), (iii) and (iv) respectively and item (i) was inserted by clause (a) of sub-section (vi) of section 2 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1-1-1948.

18. Explanation to clause (i) was numbered as Explanation (1) and old items (i), (ii) and (iii) of that Explanation were renumbered as (ii), (iii) and (iv) respectively and item (i) was inserted by clause (a) of subsection (vi) of section 2 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1-1-1948.

19. The word "and" was omitted by clause (b) of sub-section (vi) of section 2 *ibid*.

20. This clause was added by sub-section (vii) of section 2, *ibid*.

2A. Appellate Tribunal :-

¹[²(1) The State Government shall appoint an Appellate Tribunal consisting of three members to exercise the functions conferred on the Appellate Tribunal by or under this Act. Of the three members, one shall be a judicial officer not below the rank of District Judge. He shall be the Chairman of the Tribunal. The other two members shall possess such qualifications as may be prescribed];

(2) Any vacancy in the membership of the Appellate Tribunal shall be filled up by the State Government.

³[(3) (a) The functions of the Appellate Tribunal may be exercised by a Bench consisting of all the members of the Tribunal or by a Bench consisting of two members constituted by the Chairman or, in the event of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other member:

Provided that, if any case which comes up before a Bench (of which the Chairman is not a member) involves a question of law, the Bench may, in its discretion, reserve such case for decision by a Bench to be constituted under this clause of which the Chairman

shall be member.

(b) Where an appeal or application is heard by all the three members of the Tribunal, and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal or application is heard by a Bench consisting of two members, and the members are divided in their opinion on any point, the point shall be found against the appellant or applicant and the members shall, after delivering their separate opinions, pronounce a joint judgment announcing the result of the findings, if any, on which they are agreed and of the findings recorded against the appellant or applicant on points on which they are divided.]

⁴[(4)] The Appellate Tribunal shall, with the previous sanction of the State Government, make regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

⁵[(5)] The regulations made under ⁶[sub-section (4)] shall be published in the Fort St. George Gazette.]

1. Sections 2-A and 2-B were inserted by section 3 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15-5-1951.

2. This sub-section was substituted for section 2-A (1) by section 2(i) of the Madras General Sales Tax (Amendment) Act, 1954 (Madras Act I of 1954).

3. This sub-section was inserted by section 2(ii), *ibid*.

4. Sub-section (3) was renumbered as sub-section (4) by section 2(ii) of the Madras General Sales Tax (Amendment) Act, 1954 (Madras Act I of 1954).

5. Sub-section (4) was renumbered as sub-section (5) by section 2(ii), *ibid*.

6. The word, brackets and figure "sub-section (4)" were substituted for the word, brackets and figure "sub-section (3)" by section 4 of, and the Third Schedule to, the Madras Repealing and Amending Act, 1957 (Madras Act XXV of 1957).

2B. Appointment of Deputy Commissioners of Commercial Taxes and Commercial Tax Officers :-

¹[The State Government may appoint as many Deputy Commissioners of Commercial Taxes and Commercial Tax Officers

as they think fit, for the purpose of performing the functions respectively conferred on them by or under this Act. Such officers shall perform the said functions within such local limits as the State Government or any authority or officer empowered by them in this behalf may assign to them.]

1. Sections 2-A and 2-B were inserted by section 3 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951) which came into force on the 15th May 1951.

3. Levy of taxes on sales of goods :-

¹[²(1) Subject to the provisions of this Act, every dealer shall pay for each year a tax on his total turnover for that year calculated at ³[two per cent] of such turnover:

Provided that if and to the extent to which such turnover relates to articles of food or drink or both sold in a hotel, boarding house, restaurant, stall or any other place, the tax shall be calculated at two and a half per cent of the turnover relating to those articles if that turnover is not less than twenty-five thousand rupees.]

⁴[(1-A) The tax for each year may be assessed, levied and collected in advance during the year in monthly or quarterly instalments, and for that purpose a dealer may be required to furnish either an advance estimate of his turnover for the year, or periodical returns of the actual turnover as may be prescribed. The assessing authority may determine the amount of tax payable in respect of any period and on such assessment the dealer shall pay the sum demanded within such time as may be fixed by such authority;]

(2) ⁵[On the first sale of any of the goods mentioned below by a ⁶(dealer) who is not exempt from taxation under the next succeeding sub-section, the ⁶(dealer) shall pay a tax at the rate specified as applicable thereto; and the tax shall be paid by the ⁶(dealer) on his turnover in each year relating to such goods and shall be in addition to the tax to which he is liable under sub-section (1) on his total turnover for the year:

Provided that, in the case of goods imported into the State of Madras either from outside the territory of India or from any other State in India, the tax shall be levied on the first sale effected in the State of Madras ⁷[by a ⁶(dealer) who is residing in the State of Madras and] who is not exempt from taxation under the next succeeding sub-section, after the import of the said goods into the

State of Madras:

Provided further that in the case of an assessment made under this sub-Section, the burden of proving that the sale was not the first sale made in the State of Madras ⁸[by a dealer] not exempt from taxation under the next-succeeding sub-section or was not the first sale effected by ⁹[a dealer residing in the State of Madras and not exempt from taxation under the next succeeding sub-section] after the import of the said goods into the State of Madras, as the case may be, shall lie on the ¹⁰(dealer assessed)];

	Description of the goods. (1)	[Rate of tax on the turnover.] (2)
[(i)	Cloth (other than cloth woven on handlooms whether of silk, artificial silk, wool, flax, or any other material) which is not made wholly of cotton.	[Eight per cent.]
(i-a)	All hosiery goods other than those made wholly of cotton.	[Eight per cent.]
(ii)	Cotton cloth (other than cloth woven on handlooms) which is either fine or superfine.	[Eight per cent.]

Explanation I.--In this item, fine or superfine cotton cloth shall mean such cloth as may, by notification under the cotton Textiles (Control) Order, 1948, be classified as fine or superfine, or in case there is no such classification or that Order does not apply, such cloth as the State Government may, by general or special order, declare to be fine or superfine for the purpose of levy of tax under this item and such declaration may be made to take effect from such date as may be specified therein which shall not be earlier than the 23rd August 1954.

Explanation II.--In the case of cloth which hasnot been marked as fine or superfine in pursuance of a notification under the Cotton Textiles (Control) Order, 1948, the burden of proving that the cloth is not liable to levy of tax under this item shall be on the seller.

	Description of the goods. (1)	[Rate of tax on the turnover] (2)
(ii-a)	Sugar * *	[Six per cent.]
(iii)	Precious stones, namely diamonds, emeralds, rubies, real pearls and sapphires, whether they are sold loose or as forming part of anything in which they are set.]	[Three per cent.]
[]		
[(vi)]	(a) Wireless reception instruments and apparatus and component parts there-of, including all electrical valves, accumulators, amplifiers and loudspeakers which are not specially designed for purposes other than wireless reception. (b) Radio gramophones [component parts of radio gramophones.] . .	[Two per cent]

...	
[(vii)] (a) Cinematographic, photographic and other cameras, projectors and enlargers; lenses and other parts of and accessories to such cameras, projectors and enlargers; and films, plates, paper and cloth required for use therewith (b) Binoculars and opera glasses	[Two per cent]
[(viii)] All electrical goods, instruments, apparatus and appliances, including fans and lighting bulbs, electrical earthenware and porcelain, and all other accessories.	[Two percent]
[(ix)] Any pen, pencil or pen and pencil set, sold for twenty rupees or more.	[Two per cent]
[(x)] All clocks, time-pieces and watches and parts thereof.	[Two per cent]

(3) A dealer whose total turnover in any year is less than ten thousand rupees shall not be liable to pay any tax for that year under sub-section (1) or sub-section (2).

25[Explanation.--For the purpose of exemption from taxation under this sub-section, the total turnover shall be deemed to include--.

(1) the turnover exempted under section 6 of this Act, and

(2) the aggregate of the sale prices received and receivable by the dealer in respect of sales of any goods in the course of inter-State trade or commerce as determined in accordance with the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) as also in respect of sales in the course of export.]

26[]

(5) The taxes under **27**[sub-sections (1), (1-A) and (2)] shall be assessed, levied and collected in such manner and in such instalments, if any, as may be prescribed:

28[Provided that in respect of the same transaction of sale, the buyer or the seller, but not both, as determined by such rules as may be prescribed, shall be taxed.]

(6) Subject to such rules as may be prescribed, the assessing authority may assess a dealer for any year, as if his transactions in such year had been the same as in the previous year.]

1. Section 3 was substituted for the original section by section 3 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1st January 1948.

2. This sub-section was substituted by section 2(a) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957) for the Original sub-section (1) as amended by Madras Acts XV of 1949 and XV of 1956.

3. These words were substituted for the words "one and nine-sixteenth per cent" by section 2 of the Madras General Sales Tax and Sales of Motor Spirit Taxation (Amendment) Act, 1957 (Madras Act III of 1957), which came into force on the 1st day of August 1957.

4. This sub-section was inserted by section 2 of the Madras General Sales Tax (Amendment) Act, 1955 (Madras Act VIII of 1955). (This amendment shall be read and construed as if it had formed part of the principal Act from its commencement).

5. Substituted for the opening portion beginning with the words "Subject as aforesaid" and ending with the words "total turnover for the year" by section 2(a) of the Madras General Sales Tax (Second Amendment) Act, 1954 (Madras Act XX of 1954).

6. The word "dealer" was substituted for the word "seller" by section 2(a) of the Madras General Sales Tax (Second Amendment) Act, 1956 (Madras Act VII of 1956).

7. These words were substituted for the words "by a dealer" by section 2(i) of the Madras General Sales Tax and the Madras Medium Cotton Mill Cloth (Sales Tax) (Amendment) Act, 1957 (Madras Act XXIII of 1957).

8. These words were substituted for the words "by a person" by section 2(ii), of the Madras General Sales Tax and the Madras Medium Cotton Mill Cloth (Sales Tax) (Amendment) Act, 1957 (Madras Act XXIII of 1957).

9. These words were substituted for the words "such person" by *ibid*.

10. These words were substituted for the words "person assessed" by *ibid*.

11. These words were substituted for the words "Rate of tax for every rupee in the turnover relating to such goods" by section 2(b) (i) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

12. Those items were substituted by section 2 of the Madras General Sales Tax (Amendment) Act, 1956 (Madras Act III of 1956) with effect from the 23rd August 1954 for items (i) and (ii) inserted by section 2(b) of the Madras General Sales Tax (Second Amendment) Act, 1954 (Madras Act XX of 1954) and as subsequently amended by Madras Act XL of 1954.

13. These words were substituted for the words "One anna three pies" by section 2(b)(ii) of Madras Act I of 1957, *ibid*.

14. These words were substituted for the words "Rate of tax for every rupee in the turnover relating to such goods" by section 2(b) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

15. This item was inserted by section 2(b) of the Madras General Sales Tax (Second Amendment) Act, 1956 (Madras Act VII of 1956).

16. These words were substituted for the words "One anna" by section 2(b)(ii) of Madras Act I of 1957, *ibid*.

17. Items (i), (i-a), (ii) and (iii) were substituted by section 2 of the Madras General Sales Tax (Amendment) Act, 1956 (Madras Act III of 1956) with effect from 23-8-1954 for items (i) to (iii) inserted by section 2(b) of Madras Act XX of 1954.

18. These words were substituted for the words "Six pies" by section 2(b)(ii) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

19. Items (iv) and (v) and the entries relating thereto were omitted by section 2(b) (iii), *ibid*.

20. Items (i) to (viii) were renumbered as items (iv) to (x) and new items (i) to (iii) were inserted by section 2(b) of the Madras General Sales Tax (Second Amendment) Act, 1954 (Madras Act XX of 1954) with effect from 23rd August 1954.

21. These words were substituted for the words "Three pies" by section 2(b)(ii) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

22. These words were added by section 4(ii) of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15-5-1951.

23. Items (i) to (vii) were renumbered as items (iv) to (x) and new items (i) to (iii) were inserted by section 2(b) of the Madras General Sales Tax (Second Amendment) Act, 1954 (Madras Act XX of 1954) with effect from 23rd August 1954.

24. These words were substituted for the words "Three pies" by section 3(b)(ii) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

25. This Explanation was added by section 2(c), *ibid*.

26. Sub-section (4) was omitted by section 2(d), *ibid*.

27. Substituted by section 2(ii) of the Madras General Sales Tax (Amendment) Act, 1955 (Madras Act VIII of 1955). (This amendment shall be read and construed as if it had formed part of the principal Act from its commencement).

28. This proviso was substituted for the Original proviso by section 2(e) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras

Act I of 1957)

4. Application of the Act :-

The provisions ¹() of this Act shall not apply to the sale of electrical energy, motor spirit as defined in the Madras Sales of Motor Spirit Taxation Act, 1939 (Madras Act VI of 1939), ²[taxed tobacco as defined in section 2, clause (13), of the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (Madras Act IV of 1953)] and any goods on which duty is or may be levied under the Madras Abkari Act, 1886 (Madras Act I of 1886) ³(the Madras Prohibition Act, 1937 (Madras Act X of 1937 and Central Act I of 1878)), or the Opium Act, 1878.]

1. The words and figure "of section 3" were omitted by section 5(i) of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act IV of 1951), which came into force on 15th May 1951.

2. This expression was substituted for the expression "manufactured tobacco as defined in the Madras Tobacco (Taxation of Sales and Licensing) Act, 1939" by section 2(i) of the Madras General Sales Tax and the Madras Tobacco Taxation of Sales and Registration (Amendment) Act, 1955 (Madras Act XIII of 1955), with effect from the 1st April 1955.

3. These words and figures were inserted by section 5(ii) of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on the 15th May 1951.

5. Exemptions and reductions of tax in certain cases :-

¹[(1) Subject to such restrictions and conditions as may be prescribed, including conditions as to licences and licence fees--

(i) the sale of handspun yarn and of any cloth woven on handlooms wholly with handspun yarn and sold by persons dealing exclusively in such cloth, shall be exempt from taxation under section 3, sub-section (1);

(ii) the sale of bullion and specie shall be liable to tax under Section 3, sub-section (1), only at Such single point in the series of sales by successive dealers as may be prescribed but at the rate of one-half of one per cent on the turnover at that point;

(iii) the sale of cigars and cheroots at less than twelve naye paise per cigar, cheroot, and bidis, snuff, chewing tobacco or any other product manufactured from tobacco, shall be liable to tax under

section 3, sub-section (1), only at the point of the first sale effected in the State of Madras by a dealer who is not exempt from taxation under section 3, sub-section (3), but at the rate of three per cent on his turnover;

(iv) raw tobacco, whether cured or uncured, shall be liable to tax under section 3, sub-section (1), only at the point of the first purchase effected in the State of Madras by a dealer who is not exempt from taxation under section 3, sub-section (3), but at the rate of three per cent on his turnover:

Provided that where a dealer who has paid tax in respect of his turnover relating to goods included in clause (iii) has also paid the tax on the purchase of raw tobacco used in the manufacture of such goods under clause (iv) he shall be entitled to a rebate to the extent of tax paid in respect of the raw tobacco so used;

(v) the sale of the following goods shall be liable to tax under section 3, sub-section (1), only at the point of the first sale effected in the State of Madras by a dealer who is not exempt from taxation under section 3, sub-section (3), but at the rate specified against them:--

Serial number. (i)	Description of goods. (ii)	Rate of tax on the turnover (iii) PER CENT.
(1)	Cotton yarn other than handspun cotton yarn	1/2
(2)	Chemical fertilizers	3
(3)	Cane jaggery	5
(4)	Coffee	5
(5)	Cement	5
(6)	Kerosene	5
(7)	Tea	5
(8)	Motor vehicles including motor cars, motor taxi-cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries. Chassis of motor vehicles. Component parts of motor vehicles. Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, not being such articles as are ordinarily also used for purposes other than as parts or accessories of motor vehicles.	6
(9)	Refrigerators, air-conditioning plants, component parts of	6

(2)	Refrigerators, air-conditioning plants, component parts of refrigerators or air-conditioning plants.	0
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(2) The licence fee may be computed on the total turnover of the dealer in respect of each place of his business and such fee shall be and shall always be deemed to have been validly levied as if it were a tax or addition thereto.]

1. This section was substituted by section 3 of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957) for section 5 which along with sections 6 and 6-A was substituted for the original sections 5 and 6 by section 4 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947).

5A. Tax on sales or purchases of certain goods :-

¹[(1) The sale of the following goods shall be liable to tax under section 3, sub-section (1), only at the point of the first sale effected in the State of Madras by a dealer who is not exempt from taxation under section 3, sub-section (3), but at the rate specified against them:--

Serial number.	Description of goods		Rate of tax on the turnover.
(i)	(ii)		(iii) PER CENT.
(1)	Coal, including coke in all its forms		2
(2)	Iron and steel, that is to say--		
	(a) pig iron and iron scrap;		2
	(b) iron plates sold in the same form in which they are directly produced by the rolling mill;		2
	(c) steel scrap, steel ingots, steel billets, steel bars and rods;		2
	(d) (i) Steel plates, (ii) Steel sheets, (iii) Sheet bars and tin bars, (iv) Rolled steel sections, ... (v) Tool alloy steel;...	Sold in the same form in which they are directly produced by the rolling mill.	2
(3)	Jute, that is to say, the fibre extracted from plants		2

	belonging to the species corchorus capsularis and corchorus clitorious and the fibre known as mesta or bimli extracted from plants of the species hibiscus cannabinus and hibiscus sabdetriffavar altissima, whether baled or otherwise.	
(4)	Oil-seeds other than groundnut, that is to say, seeds yielding non-volatile oils used for human consumption, or in industry, or in the manufacture of varnishes, soaps, and the like, or in lubrication, and volatile oils used chiefly in medicines, perfumes, cosmetics and the like.	2

(2) Groundnut shall be liable to tax under section 3, sub-section (1), only at the point of the first purchase effected in the State of Madras by a dealer who is not exempt from taxation under section 3, sub-section (3), but at the rate of two per cent on his turnover.

(3) The sale of cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste, shall be liable to tax under section 3, sub-section (1), only at such single point in the series of sales by successive dealers as may be prescribed but at the rate of one per cent on the turnover at that point.

(4) The sale of hides and skins, whether in a raw or dressed state, shall be liable to tax only at such single point in the series of sales by successive dealers as may be prescribed but at the rate of two per cent on the turnover at that point.]

1. Sections 5-A, 5-B and 5-C were inserted by section 4 of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957)

5B. Burden of proof as to non-liability to tax in certain cases :-

¹[The burden of proving that any dealer or any of his transactions is not liable to tax under section 5 or section 5-A shall lie on such dealer.

1. Sections 5-A, 5-B and 5-C were inserted by section 4 of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras, Act I of 1957).

5C. Liability to taxation under this Act of transactions taxable under other laws :-

¹[(1) The tax under this Act shall be levied on any transaction of sale or purchase deemed to take place inside the State under this Act or any other law for the time being in force.

(2) The provisions of this Act relating to taxation of successive sales inside the State only at a single point or only at one or more stages apply only to the sales inside the State other than the sales in the

course of inter-State trade or commerce and the tax under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall be levied at the appropriate rate notwithstanding that a sale or purchase of the same goods has been taxed under this Act.]

1. Sections 5-A, 5-B and 5-C were inserted by section 4 of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras, Act I of 1957).

6. Power of Government to notify exemptions and reductions of tax :-

¹[(1) The ²(State) Government may, by notification in the Fort St.- George Gazette make an exemption, or reduction in rate, in respect of any tax payable under this Act--

(i) on the sale of ³[any specified goods or class of goods,] at all points or at a specified point or points in the series of sales by successive dealers; or

(ii) by any specified class of persons, in regard to the whole or any part of their turnover.

(2) Any exemption from tax, or reduction in the rate of tax, notified under sub-section (1)--

(a) may extend to the whole ²(State) or to any specified area or areas therein;

(b) may be subject to such restrictions and conditions as may be specified in the notification, including conditions as to licences and licence fees.]

1. Sections 5, 6 and 6-A were substituted for original sections 5 and 6 by section 4 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on the 1st January 1948.

2. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

3. These words were substituted and shall be deemed always to have been substituted for the words "any specified class of goods" by section 5 Of Madras Act I of 1957, *ibid*.

6A. liability to tax of persons not observing conditions of licence, etc :-

¹[If any restrictions or conditions prescribed under section 5 or

notified under section 6 are contravened or are not observed by a dealer, or in case a condition so prescribed or notified requires that a licence shall be taken out or renewed, if a licence is not taken out or renewed by the dealer or if any of the conditions of a licence taken out or renewed by him are contravened or are not observed, the sales of the dealer, with effect from the commencement of the year in which such contravention or non-observance took place, may be assessed to tax or taxes under section 3, as if the provisions of section 5 or of the notification under section 6 as the case may be, did not apply to such sales and notwithstanding that a licence, if any, taken out or renewed by the dealer continued or continues to be in force during the year.]

1. Sections 5, 6 and 6-A were substituted for original sections 5 and 6 by section 4 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on the 1st January 1948.

7. [Omitted] :-

1[* * *]

1. Section 7 was omitted by section 5 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956) with effect from the 1st April 1951.

8. Licensing and exemption of agents :-

The **1**[State] Government may, on application and on payment of such fee as may be prescribed in that behalf, licence any person under this section who for an agreed commission or brokerage buys or sells on behalf of known principals specified in his accounts in respect of each transaction and may **2**[exempt from the tax or taxes payable under section **3**] such of his transactions as are carried out in accordance with the terms and conditions of his licence:

Provided always that, save where the transaction consists of a sale by a grower of produce grown by him or on his land, no such exemption shall be given unless the amounts for which the goods concerned in such transactions are sold, are included in the turnover of the principals or of the dealers from whom purchases were made, or would have been so included but for an exemption provided under this Act:

³[Provided further that the commission or brokerage agreed upon and specified in the accounts represents the entire remuneration payable to the agent, apart from ⁴() incidental charges ⁵() in respect of insurance, transport, loading and unloading, godown rent, interest, correspondence, telegrams, the use of the telephone, and the like, ⁶[which, are specified in the accounts and which the assessing authority considers legitimate:]

⁷[Provided further that an agent licensed under this section, who is found to have purchased goods at one rate and passed them on to his principals at another rate, or to have sold goods at one rate and passed on the sale-proceeds to his principals at another rate, or to have not accounted to his principals for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principals, or to have acted for fictitious or non-existent principals, shall be ineligible for exemption of his commission transactions from tax under section 3:

⁷[Provided also that the agent of a person or a firm carrying on business outside the State shall not be eligible for a licence under this section in respect of his transactions made on behalf of such person or firm:]

⁸[provided also that the burden of proving that a transaction is exempt by virtue of this section, from the tax or taxes payable under section 3, shall be on the licensee.]

1. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

2. This expression was substituted for the words and figure "exempt from the tax under section 3" by sub-section (i) of section 5 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on the 1st January 1948.

3. This proviso was added by sub-section (ii) of section 5, *ibid*.

4. The word legitimate was omitted by section 6 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951) deemed to have come into force on 1st April 1949.

5. The words actually incurred by him and specified in the accounts were omitted by *ibid*.

6. These words were added by section 6 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951) deemed to have come into force on 1-4-1949.

7. These provisos were inserted by section 6 of the Madras General

Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

8. This proviso was added by section 5 (ii) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1946), which came into force on 1st January 1948.

8A. Registration of dealers :-

¹[(1) Every dealer whose turnover in any year is not less than seven thousand five hundred rupees shall, and, any other dealer may, get himself registered under this Act, and for that purpose, shall submit an application for registration, to such person, in such manner, within such period, and accompanied by such fee not exceeding six rupees, as may be prescribed.

(2) A dealer who has got himself registered in pursuance of sub-section (1) is entitled to have his registration cancelled, if he is able to establish to the satisfaction of the prescribed authority that his turnover in each of two consecutive years was less than seven thousand five hundred rupees.

(3) A dealer shall, until his registration is cancelled, be liable to pay the fee prescribed as aforesaid, for every year subsequent to that in which he applied for registration.]

1. Sections 8-A and 8-B were inserted by section 6, *ibid*.

8B. Collection of tax by dealer :-

¹[(1) No person who is not a registered dealer shall collect any amount by way of tax under this Act; nor shall a registered dealer make any such, collection except in accordance with, such conditions and restrictions, if any, as may be prescribed:

Provided that the ²[State] Government may exempt persons who are not registered dealers from the provisions of this sub-section until such date., not being later than the 1st day of April 1948, as the ²[State] Government may direct.

(2) Every person who has collected or collects ³[any amount purporting to be by way of tax under this Act, on or after the 1st day of April 1947 (whether or not any tax is due from him under this Act in respect of the transaction in which he has collected or collects such amount)] shall pay over to the ²[State] Government within such time and in such manner as may be prescribed, all amounts so collected by him if they are in excess of the tax, if any,

paid by him for the period during which the collections were made;
⁴()]

1. Sections 8-A and 8-B were inserted by section 6, *ibid*.
2. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.
3. These words, figures and brackets were substituted for the words and figures "any amount by way of tax under this Act, on or after the 1st day of April 1947" by section 6 of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).
4. The words "and in default of such payment, the amounts may be recovered as if they were arrears of land revenue" were omitted by section 7 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

8C. State Government entitled to collect tax as registered dealers :-

¹[Notwithstanding anything contained in this Act, the State Government shall, in respect of any sale of goods effected by them, be entitled to collect by way of tax any amount which a registered dealer effecting such sale would have been entitled to collect by way of tax under this Act.]

1. Section 8-C was inserted by section 7 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951) which came into force on 15-5-1951.

9. Procedure to be followed by assessing authority :-

(1) Every dealer whose turnover is ten thousand rupees or more in a year shall submit such ⁵[return or returns relating to his turnover] in such manner, and within such periods as may be ¹[prescribed].

(2) (a) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, he shall assess the dealer on the basis thereof.

(b) If no return is submitted by the dealer under sub-section (1) before the date prescribed or specified in that behalf or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority ²[shall assess the

dealer to the best of his judgment]:

Provided that before taking action under this clause, the dealer shall be given a reasonable opportunity of proving the correctness and completeness of any return submitted by him.

1. These words were substituted for the words "return or returns of his turnover" and the word "prescribed" was substituted for the words and figures "specified in the rules made under sub-section (2) of section 3" by section 7(i) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV Of 1947) which came into force on 1-1-1948.

2. These words were substituted for the words, brackets and figures "shall proceed to determine the turnover in accordance with the rules made under sub-section (2) of section 3 " by section 7 (ii) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on 1st January 1948.

10. Payment and recovery of tax :-

¹[(1) The tax assessed under this Act shall be paid in such manner and in such instalments, if any, and within such time, as may be specified in the notice of assessment, not being less than fifteen days from the date of service of notice. If default is made in paying according to the notice of assessment, the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax under this Act.

(2) Any tax assessed on, or any other amount due under this Act from a dealer and any fee due from him under this Act, may without prejudice to any other mode of collection, be recovered--

(a) as if it were an arrear of land revenue, or

(b) on application to any Magistrate, by such Magistrate as if it were a fine imposed by him:

Provided that no proceeding for such recovery shall be taken or continued as long as he has, in regard to the payment of such tax, other amount or fee, as the case may be, complied with an order by any of the authorities to whom the dealer has appealed or applied for revision, under section 11, 12, 12-A, 12-B or 12-C.]

1. Section 10 was substituted for the original section by section 8 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

10A. Further mode of recovery :-

¹[(1) The assessing authority may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority) require any person from whom money is due or may become due to the dealer or any person who holds or may subsequently hold money for or on account of the dealer to pay to the assessing authority, either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax or fee or the whole of the money when it is equal to or less than that amount.

(2) The assessing authority may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the liability discharged or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the dealer, or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.

(6) Any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.

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

and as may be lawfully subsisting.]

1. Sections 10-A and 10-B were inserted by section 9, *ibid.*

10B. Assessment of legal representatives :-

¹[Where a dealer dies, his executor, administrator, or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer, provided that, in respect of any tax or fee assessed as payable by any such dealer or any tax or fee which would have been payable by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.]

1. Sections 10-A and 10-B were inserted by section 9 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

11. Appeals :-

¹Any assessee objecting to an assessment made on him ¹[under section 9, sub-section (2)] may within thirty days from the date on which he was served with notice of the assessment, appeal to such authority as may be prescribed:

²[Provided that the appellate authority may admit an appeal preferred after the period of thirty days aforesaid, if the authority is satisfied that the assessee had sufficient cause for not preferring the appeal within that period:

Provided ³[further] that no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such instalments thereof as might have become payable, as the case may be.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The appellate authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as such authority may think fit.

(4) Every order passed in appeal under this section shall ⁴[subject to the provisions of sections 12 to 12-C], be final.

⁵[(5) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case:

Provided that the appellate authority may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed,]

1. These words, figures and brackets were inserted by section 8(i) (a) of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951) which came into force on 15th May 1951.

2. This proviso was inserted by section 8(i)(c), *ibid*.

3. This word was inserted by section 8(i)(b) of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15th May 1951.

4. These words and figures were substituted for the words and figures "subject to the powers of revision conferred by section 12" by section 8 (ii), *ibid*.

5. This sub-section was added by section 10 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

12. Authorities competent to pass orders in revision :-

¹[(1) The Commercial Tax Officer may--

(i) *suo motu*, or

(ii) in cases in which an appeal does not lie to him under section 11, on application,

call for and examine the record of any order passed or proceeding recorded under the provisions of this Act by any officer subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such order, or as to the regularity of such proceeding, and may pass such order with respect thereto as he thinks fit.

(2) The Deputy Commissioner may--

(i) *suo motu*, or

(ii) in respect of any order passed or proceeding recorded by the Commercial Tax Officer under sub-section (1) or any other provision of this Act and against which no appeal has been preferred to the Appellate Tribunal under section 12-A, on application,

call for and examine the record of any order passed or proceeding recorded under the provisions of this Act, by any officer subordinate

to him, for the purpose of satisfying himself as to the legality or propriety of such order, or as to the regularity of such proceeding, and may pass such order with respect thereto as he thinks fit.

(3) The Board of Revenue may-- (i) suo motu, or (ii) in respect of any order passed or proceeding recorded by the Deputy Commissioner under sub-section (2) or any other provision of this Act and against which no appeal has been preferred to the Appellate Tribunal under section 12-A, on application, call for and examine the record of any order passed or proceeding recorded under the provisions of this Act by any officer subordinate to it, for the purpose of satisfying itself as to the legality or propriety of such order, or as to regularity of such proceeding, and may pass such order with respect thereto as it thinks fit.

(4) In relation to an order of assessment passed under this Act--

(a) the power of the Commercial Tax Officer under clause (i) of sub-section (1) shall be exercisable only within a period of three years from the date on which the order was communicated to the assessee;

(b) the power of the Deputy Commissioner under clause (i) of sub-section (2) and that of the Board of Revenue under clause (i) of sub-section (3) shall be exercisable only within a period of four years from the date on which the order was communicated to the assessee.

(5) Every application under sub-section (1) (ii), (2) (ii) or (3) (ii) shall be preferred within sixty days from the date on which, the order or proceeding to which the application relates was communicated to the applicant :

provided that the authority concerned may admit an application preferred after the period of sixty days aforesaid, if the authority is satisfied that the applicant had sufficient cause for not preferring the application within that period.

²[(6) Notwithstanding that an application has been preferred under sub-Section (1) (ii), (2) (ii) or (3) (ii), the tax, fee or other amount shall be paid in accordance with the order or proceeding against which the application has been preferred :

Provided that the authority concerned may, in its discretion, give such directions as it thinks fit, in regard to the payment of such tax, fee or other amount if the applicant furnishes sufficient security to its satisfaction in such form and in such manner as may be proscribed.]

³[(7)] No order shall be passed under sub-section (1), (2) or (3) enhancing any assessment, unless an opportunity has been given

to the assessee to show cause against the proposed enhancement.]

1. Sections 12, 12-A, 12-B, 12-C and 12-D were substituted for section 12 by section 9 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15th May 1951, as substituted for original section 12 by section 8 of the Madras-General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947).

2. This sub-section was inserted by section ii of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

3. This sub-section was renumbered as sub-section (7) by section 11, *ibid*.

12A. Appeal to the Appellate Tribunal :-

¹[(1) Any assessee objecting to an order relating to the assessment passed--

(i) by the Commercial Tax Officer whether on appeal under section 11, or suo motu under section 12, sub-section (1), or

(ii) by the Deputy Commissioner suo motu under section 12, sub-section (2), may, if the assessee has not preferred an application for revision of the order under section 12, sub-section (2), or under sub-section (3) of that section, as the case maybe, appeal to the Appellate Tribunal within sixty days from the date on which the order was communicated to the assessee.

(2) The Appellate Tribunal may admit an appeal preferred after the period of sixty days referred to in subsection (1) if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(3) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(4) The Appellate Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit :

²[Provided that, if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it till such revision petition in the High Court or the appeal in the Supreme Court is disposed of.]

(5) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case :

³[Provided that the Appellate Tribunal may, in its discretion, give such directions as it thinks fit, in regard to the payment of the tax, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed :]

Provided further that if as a result of the appeal any change becomes necessary in such assessment, the Appellate Tribunal may authorize the assessing authority to amend the assessment, and on such amendment being made, the amount overpaid by the assessee shall be refunded to him without interest, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(6) (a) The Appellate Tribunal may, on the application either of the assessee or of the Deputy Commissioner, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order :

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which the order to which the application relates was communicated to the applicant; and where the application is preferred by the assessee, it shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(7) Except as provided, in the rules made under this Act, the Appellate Tribunal shall not have power to award costs to either of the parties to the appeal or review.

(8) Every order passed by the Appellate Tribunal under sub-section (4) or (6) shall be communicated by it to the assessee, the authority from whose order the appeal was preferred, the Deputy Commissioner, if he is not such authority, and the Board of Revenue.

(9) Every order passed by the Appellate Tribunal under sub-section (4) shall, subject to the provisions of subsection (6) and section 12-B, be final; and every order passed by it under sub-section (6) shall, subject to the provisions of section 12-B, be final.]

1. Sections 12, 12-A, 12-B, 12-C and 12-D were substituted for section 12 by section 9 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15th May 1951, as substituted for original section 12 by

section 8 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947).

2. This proviso was added by section 12 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

3. This proviso was substituted for the Original proviso by section 12(b), *ibid*.

12B. Revision by High Court :-

¹[(1) Within sixty days from the date on which an order under section 12-A, sub-section (4) or (6), was communicated to him, the assessee or the Deputy Commissioner may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal has either decided erroneously, or failed to decide, any question of law :

Provided that the High Court may admit a petition preferred after the period of sixty days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within that period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, where it is preferred by the assessee, be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter to the Appellate Tribunal under clause (a) with its opinion on the question or questions of law raised the latter shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4) the High Court may, if it considers it necessary so to do, remit the petition to the

Appellate Tribunal and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case:

Provided that the High Court may, in its discretion, permit the petitioner to pay the tax in such number of instalments, or give such other direction in regard to the payment of the tax, as it thinks fit:

Provided further that if as a result of the petition any change becomes necessary in such assessment, the High Court may authorize the assessing authority to amend the assessment, and on such amendment being made, the amount overpaid by the assessee shall be refunded to him without interest or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(7) (a) The High Court may, on the application either of the assessee or of the Deputy Commissioner, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(b) The application for review shall be preferred within such time, and in such manner as may be prescribed, and shall, where it is preferred by the assessee, be accompanied by a fee of one hundred rupees.

(8) In respect of every petition or application preferred under sub-section (1) or (7), the costs shall be in the discretion of the High Court.]

1. Sections 12, 12-A, 12-B, 12 C and 12-D were substituted for section 12 by section 9 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act IV of 1951), which came into force on 14th May 1951 as substituted for original section 12 by section 8 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947).

12C. Appeal to High Court :-

¹[(1) Any assessee objecting to an order relating to assessment passed by the Board of Revenue suo motu under section 12, Sub-section (3), may appeal to the High Court within sixty days from the date on which the order was communicated to him :

Provided that the High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee

had sufficient cause for not preferring the appeal within that period.

(2) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by a fee of one hundred rupees.

(3) The High Court shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

(4) The provisions of section 12-B, sub-sections (6) to (8), shall apply in relation to appeals preferred under sub-section (1) as they apply in relation to petitions preferred under section 12-B, Sub-section (1).]

1. Sections 12, 12-A, 12-B, 12-C and 12-D were substituted for section 12 by section 9 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15th May 1951, as substituted for original section 12 by section 8 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947).

12D. Petitions, applications and appeals to High Court to be heard by a Bench of not less than two Judges :-

¹[Every petition, application or appeal preferred to the High Court under sections 12-B and 12-C shall be heard by a Bench of not less than two Judges, and in respect of such petition, application or appeal, the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act V of 1908), shall, so far as may be, apply.]

1. Sections 12, 12-A, 12-B, 12-C and 12-D were substituted for section 12 by section 9 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15th May 1951, as substituted for original section 12 by section 8 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947.)

13. Accounts to be maintained by dealers :-

¹[Every registered dealer, ²[every dealer who is under an obligation to get himself registered under section 8-A, sub-section (1)], and every person licensed under this Act] shall keep and maintain a ³[true and correct account in one of the languages of the ⁴[State], namely, Tamil, Telugu, Malayalam, Kannada or Hindustani or in English, showing the goods sold and bought by

him and the value thereof, goods of each of the kinds specified in section 3, sub-section (2), being shown separately]; and in case the accounts maintained in the ordinary course, do not show the same in an intelligible form, he shall maintain a true and correct account in such form as may be prescribed in this behalf.

5[* * * *]

1. These words were substituted for the words and figure "Every dealer and every person licensed under section 8" by section 9(i) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1st January 1948.

2. These words, figures, letter and brackets were inserted by section 13 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

3. These words were substituted for the words "true and correct account showing the value of the goods sold and bought by him" by section 9(i) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on 1st January 1948..

4. This word was substituted for the word "Province" by the Adaptation Order of 1950.

5. The Proviso to section 13 was omitted by section 9 (ii) of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on 1st January 1948.

14. Powers to order production of accounts and powers of entry and inspection :-

(1) Any officer empowered by the ¹[State] Government in this behalf may, for the purposes of this Act, require any dealer carrying on business in any kind of goods to produce before him the accounts and other documents, and to furnish any other information relating to such business.

(2) All accounts and registers maintained by dealers in the ordinary course of their business, the goods in their possession and their offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officers as may be authorized in this behalf.

(3) Any such officer shall have power to enter, for the purpose referred to in sub-section (2), any office, shop, godown, vessel, vehicle or any other place in which business is done.

1. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

14A. Act to apply to non-resident dealers with certain modifications and additions :-

²[In the case of any person carrying on the business of buying or selling goods in the ¹[State] but residing outside it (hereinafter in this section referred to as a "non-resident"), the provisions of this Act shall apply, subject to the following modifications and additions, namely :--

(i) In respect of the business of the non-resident, his agent residing in the ³[State] shall be deemed to be the dealer.

(ii) The agent of a non-resident shall be assessed to tax or taxes under this Act at the rate or rates leviable thereunder in respect of the business of such non-resident in which the agent is concerned, irrespective of the amount of the turnover of such business being less than the minimum specified in section 3, sub-section (3).

(iii) Without prejudice to his other rights, any agent of a non-resident who is assessed under this Act in respect of the business of such non-resident may retain out of any moneys payable to the non-resident by the agent, a sum equal to the amount of the tax or taxes assessed on or paid by the agent.

(iv) Where no tax would have been payable by the non-resident in respect of his business in the ³[State] by reason of the turnover thereof being less than the minimum specified in section 3, Sub-Section (3), he shall be entitled to have the amount of the tax or taxes paid by his agent, refunded to him on application made to the assessing authority concerned, or where more than one Such authority, is concerned, to such one of the authorities as may be authorized in this behalf by the ¹[State] Government by general or special order.

(v) Such application shall be made within twelve months from the end of the year in which payment was made by or on behalf of the non-resident of the tax or taxes or any part thereof.

1. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

2. This section was inserted by section 10 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1-1-48.

3. This word was substituted for the word "Province" by the Adaptation Order of 1950.

15. Offences and penalties :-

¹[(1) Any person who--

(a) being an assessee under this Act, fails to submit a return as required by the provisions of this Act, or the rules made thereunder, or

(b) fails to submit an application for registration as required by section 8-A, sub-section (1), or

(c) collects any amount by way of tax under this Act in contravention of the provisions of section 8-B, subsection (1), shall, on conviction by a Magistrate, not below the rank of second-class Magistrate, be liable to a fine which may extend to two hundred rupees.

(2) Any person who--.

(a) wilfully submits an untrue return, or, not being already an assessee under this Act, fails to submit a return as required by the provisions of this Act or the rules made thereunder, or

(b) in contravention of the terms of section 14, prevents or obstructs inspection or entry by an officer authorized under that section, or

(c) fraudulently evades the payment of any tax assessed on him or any fee or other amount due from him under this Act, or

(d) wilfully acts in contravention of any of the provisions of this Act, shall, on conviction by a Presidency Magistrate or a Magistrate of the first class, be liable to a fine which may extend to one thousand rupees.]

1. This section was substituted for the original section 15 by section 14 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

16. Composition of offences :-

The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence--

(a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or

double the amount of the tax recoverable, whichever is greater, and

(b) in other cases, a sum of money not exceeding one thousand rupees.

16A. Assessments, etc., not to be questioned in prosecutions :-

¹[The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any Criminal Court in any prosecution or other proceeding, whether under this Act or otherwise.]

1. Section 16-A was inserted by section 12 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947), which came into force on 1st January 1948.

17. Bar of Certain proceedings :-

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

(2) No officer or servant of the ¹[State] Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of the functions imposed by or under this Act.

1. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

18. Limitation for certain suits and Prosecutions :-

No suit shall be instituted against the ²[Government] and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the ¹[State] Government in respect of any act done or purporting to be done under this Act, unless the Suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

1. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

2. This word was substituted for the word "Crown" by *ibid*.

18A. Courts not to set aside or modify assessments except as Provided in this Act :-

¹[No suit or other proceeding shall, except as expressly provided in this Act, be instituted in any Court to set aside or modify any assessment made under this Act.]

1. Section 18-A was inserted by section 10 of the Madras General Sales Tax (Amendment) Act, 1951 (Madras Act VI of 1951), which came into force on 15th May 1951.

18B. Appearance before any authority in proceedings :-

¹[Any person who is entitled to appear before any authority other than the High Court in connexion with any proceedings under this Act, may be represented before such authority--

(a) by his relative or a person regularly employed by him, if such relative or person is duly authorized by him in writing in this behalf; or

(b) by a legal practitioner; or

(c) subject to such conditions as may be prescribed, by an accountant or Sales Tax Practitioner possessing the prescribed qualifications and duly authorized by Mm in writing in this behalf.]

1. Section 18-B was inserted by section 15 of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

19. Power to make rules :-

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

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for--

(a) all matters expressly required or allowed by this Act to be prescribed;

²[(aa) determining the turnover of a dealer for the purposes of this Act;]

(b) the licensing of persons engaged in the sale of goods and the imposing of conditions in respect of the same for the purpose of enforcing the provisions of this Act and fees for licences;

(c) the assessment to tax under this Act of businesses which are

discontinued or the ownership of which has changed;

(d) the assessment to tax under this Act of businesses owned by minors and other incapacitated persons or by persons residing outside the ³[State] of Madras.

(e) the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator-General, the Official Trustee, or any receiver or manager appointed by or under any order of a Court;

(f) the assessment to tax under this Act of any turnover which has escaped assessment, and the period within which such assessment may be made, ⁴[not exceeding five years];

(g) the rectification of mistakes apparent from the record of any assessment, appeal or revision and the period within which such rectification may be made;

(h) compelling the submission of returns and the production of documents and enforcing the attendance of persons and examining them on oath or affirmation;

(i) securing that returns furnished or accounts or documents produced or evidence of any kind given under this Act before any assessing authority or on appeal or revision from any decision of such authority are kept confidential;

(j) the duties and powers of officers appointed for the purposes of enforcing the provision of this Act;

⁵[(j-1) the term of office, and the conditions of service, of the members of the Appellate Tribunal;

⁵(j-2) the circumstances in which, and the extent to which fees paid in pursuance of section 12-A may be refunded;]

(k) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act; and

(l) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the ¹[State] Government, necessary for giving effect to the purposes of this Act.

⁶[(3) In making a rule under sub-section (1) or subsection (2), the State Government may provide that a person guilty of a breach thereof shall be punishable with fine which may extend to one thousand rupees and, where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

No Court inferior to that of a Presidency Magistrate or a Magistrate

of the second class shall inquire into or try any offence consisting of a breach of a rule;]

⁷[(4)]

(5) All rules made under this section shall be published in the Fort St. George Gazette, and upon such publication shall have effect as if enacted in this Act.

⁸[(6) All rules made and all notifications issued under this Act shall, as soon as possible after they are made, be placed on the table of both the Houses of the Legislature and shall be subject to such modifications by way of amendments or repeal as the Legislative Assembly may make within fourteen days on which the House actually sits either in the same session or in more than one session.]

1. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

2. This clause was inserted by section 7(a) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

3. This word was substituted for the word "Province" by the Adaptation Order of 1950.

4. These words were substituted for the words "not exceeding three years" by section 16(a) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

5. These sub-clauses were inserted by section 11 of the Madras General Sales Tax (Amendment) Act, 1951 (.Madras Act VI of 1951), which came into force on 15th May 1951.

6. This sub-section was substituted for the original sub-section by section 16(b) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

7. This sub-section was omitted by section 7(b) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957).

8. This sub-section was added by section 16(c) of the Madras General Sales Tax (Third Amendment) Act, 1956 (Madras Act XV of 1956).

20. [Omitted] :-

¹[* * * *].

1. This section was omitted by section 13 of the Madras General Sales Tax (Amendment) Act, 1947 (Madras Act XXV of 1947) which came into force on 1st January 1948 as having become spent.

21. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the ¹[State] Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

1. This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

22. Sale or purchase deemed to have taken place inside the State in certain cases :-

¹[(1) Any sale or purchase which took place on or before the 6th day of September 1955 shall be deemed to have taken place inside the State if the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in the State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State and be subject to tax under this Act accordingly.

(2) The provisions of this section shall not affect the liability to tax of any sale or purchase under any other provision of this Act.]

1. This section was substituted by section 8(2) of the Madras General Sales Tax, Sales of Motor Spirit Taxation and Entertainments Tax (Amendment) Act, 1957 (Madras Act I of 1957 for section 22 inserted by the Adaptation of Laws (Fourth Amendment) Order, 1952, and shall be deemed to have come into effect on the 26th January 1950.