



The Arunachal Pradesh Sales Tax Act, 1999

Act 5 of 1999

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THE ARUNACHAL PRADESH SALES TAX ACT, 1999
(ACT NO. 5 OF 1999)

AN
ACT

to provide for the levy of tax on sale of goods in the State of Arunachal Pradesh.

WHEREAS the Governor of Assam under the provisions of section 92 of the Government of India Act, 1935 extended the application of the Assam Sales Tax Act, 1947 (Act 17 of 1947) by notification No. Ex. Misc/5/48-AD dated 2nd February, 1948 to the EXCLUDED AREAS later came to be known as North-East Frontier Agency (NEFA) now called as Arunachal Pradesh and the law as it stood on the date of extension in 1948 continued to be in force till date to Arunachal Pradesh and no changes in the form of amendments to suit the local requirements were made. The Assam Act also stood repealed in 1993.

WHEREAS with a view to provide for orderly management of the sale tax system and regulating the sales of goods within the State of Arunachal Pradesh and also keeping in view the definition of tax on sale or purchases of goods in terms of C1(29A) of 366 of the Constitution of India, it is expedient to provide a comprehensive law to meet the local requirements and to take more effective measures for levying of a tax on the sale of goods within the State of Arunachal Pradesh ;

Be it enacted in the fiftieth year of the Republic of India as follows :

Short title
extent and
commence-
ment.

1. (1) This Act may be called the Arunachal Pradesh Sales Tax Act, 1999.

(2) It extends to the whole of Arunachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

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

Definitions.

(1) "Appellate authority" means the Authority authorised by the State Government under sub-section (5) of section 3 to hear and decide appeals under section 33.

(2) "Assessing officer" means any persons appointed to assist the Commissioner under sub-section (1) of section 3 to whom all or any of the powers of the Commissioner for the levy and collection of tax conferred by or under this Act or rules framed thereunder has been delegated by the Commissioner under sub-section (3) of that section.

(3) "Assessment" means an assessment or reassessment of tax payable under this Act.

(4) "Business" includes —

- (i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with the motive to make gain or profit and whether or not any gain or profit accrues therefrom ;
- (ii) the execution of any works contract or transfer of the right to use any goods for any purpose under a lease ; and
- (iii) any transaction in connection with or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern, works contract or lease or to the setting up of any such business ;

(6) "Contract" means any agreement for carrying out for cash or deferred payment or other valuable consideration

(a) the preparation, construction, fitting out, improvement or repair of any movable property or of any building, road, bridge or other immovable property ; or

(b) the installation or repair of any machinery affixed to a building or other immovable property ;

For the purpose of this clause contract taken by a person executing a works contract and who includes a sub-contractor

(7) "Dealer" means any person who carries on the business of selling or purchasing goods in the State and includes Government and local authority, any society, club or association which sells or supplies goods to its members ;

Explanation : The manager or agent of a dealer who resides outside the State and carries on the business of selling or supplying goods in the State shall in respect of such business be deemed to be a dealer and includes a person making any sale within the meaning of cl 16.

(8) "Goods" means all kinds of movable properties other than newspapers, actionable claims, stocks, shares or securities ;

(9) "Gross turnover" in respect of any period means the aggregate of the sale prices received or receivable or purchase of goods effected by him during such period.

(10) "Higher purchase" means an agreement under which goods are let on hire and hirer has the option to purchase the goods in accordance with the terms of the agreement and under which

- (i) possession of goods is delivered by the owner thereof to a person on condition that such person pays the agreed amount in periodical instalments ;
- (ii) the property in the goods is to pass to such person on the payment of the last of such instalments ; and
- (iii) such persons has the right to terminate the agreement at any time before the property so passes ;

(11) "Manufacture" with all its grammatical variation and cognate expressions, means producing, making, extracting, altering, ornamenting, blending, finishing or otherwise processing, treating or adopting any goods ; but does not include a works contract or such manufactures or manufacturing process as may be prescribed ;

(12) "Person" means any individual, or association or body of individuals, and includes a department of the Government, a firm and a company whether incorporated or not or a public sector undertaking ;

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

(14) "Purchase price" means the amount paid or payable by a dealer as valuable consideration for the purchase of goods determined in the prescribed manner ;

(15) "Registered dealer" means a dealer registered under the provisions of this Act ;

(16) "Sale" with all the grammatical variations and cognate expressions means any transfer of property in goods by any person for cash, deferred payment or other valuable consideration, and includes

- (i) any transfer otherwise than in pursuance of a contract of property in any goods or cash, deferred payment or other valuable consideration ;
- (ii) any transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract ;
- (iii) any delivery of goods in hire purchase or any system of payment by instalments or under a financial lease;
- (iv) any transfer of the use of any goods under an operating lease ;
- (v) any supply of goods by an unincorporated association or a body of persons to a member thereof for cash, deferred payment or other valuable consideration ;

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

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

(17) "sale price" means the amount payable to a dealer as valuable consideration for —

- (a) the sale or supply of any goods, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer with or in respect of the goods at the time of, or before delivery thereof, other than the cost of freight or delivery or the cost of installation where such cost is separately charged ; or
- (b) the carrying out of any contract, less such fraction of such amount as represents the prescribed proportion of the cost of labour used in carrying out such contract :

Provided that for the purpose of cl (16) the sale or purchase shall be deemed to have taken place in the State and for the purpose cl (17) the sale price in respect of sale shall be in the manner expressed under rules ;

(18) "Tax" means the tax payable under this Act on the sale or purchase of goods and includes any tax payable on the transfer of property in goods (whether as goods or in any other form) involved in works contract or on the transfer of the right to use any goods for any purpose.:

(19) "Works contract" means and includes any agreement for carrying out —

- (i) the construction, fitting out, improvement or repair of any building, road, bridge, dam or other immovable property ; or
- (ii) the installation, fabrication, assembling, commissioning or repair of any plant or machinery, whether or not affixed to any building or other immovable property ; or
- (iii) the overhauling or repairing or dismantling of . . .
- (a) any motor vehicle,
- (b) any equipment or necessary part of such vehicles ; or
- (iv) the fitting out of fabrication, assembling, altering, or reassembling, blending, furnishing, improving, processing or otherwise treating or adapting any goods ; and
- (v) the supply of goods and provision of knowhow, designs, labour supervision, inspection, training or other services in connection with any of the operation mentioned in sub-clauses (i) to (iv) above.

(20) "year" means the official financial year of the Government.

3. (1) For carrying out the purpose of this Act, the State Government may by notification appoint a person to be Commissioner of Taxes together with such other persons to assist him as it thinks fit and may specify the area or areas over which they shall exercise jurisdiction.

Tax authority.

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

(3) 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 to any person appointed to assist him under sub-section (1).

(4) Notwithstanding anything contained in sub-section (1) the Commissioner may transfer any case or matter from any person under sub-section (1) to assist him to any other person so appointed whether such other person has jurisdiction over the area to which the case or matter relates or not, provided he is otherwise competent to deal with such case or matter in exercise or performance of the powers or duties referred to in sub-section (2).

(5) The State government may authorise such officer of such rank as may be determined under the rules to exercise the powers and perform the functions of the appellate authority under this Act.

(6) Where any case transferred to an assessing or appellate authority under sub-section (4) such authority may deal with the case either *denovo* or from the stage at which it was transferred.

Jurisdiction
or taxing
authority not
to be called
in question.

4. No person shall be entitled to call in question the jurisdiction of any authority under Section 3 after the expiry of ninety days from the date of receipt by him of any notice under this Act from such authority.

Liability to
tax.

5. (1) Subject to the provisions of this Act, every dealer whose gross turnover from sales and purchases which have taken place either wholly in Arunachal Pradesh or both in and outside Arunachal Pradesh during the twelve months immediately preceding the date of commencement of this Act exceed Rs. 20,000 (hereinafter referred to as "the taxable quantum") shall be liable to pay tax under this Act on sale which have taken place in Arunachal Pradesh on and from the date of such commencement.

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay tax under this Act with effect from the first of April of the year during which his gross turnover from sales which have taken place either wholly in Arunachal Pradesh or both in and outside Arunachal Pradesh first amounts to exceeds the taxable quantum :

Provided that such dealer shall not be liable to pay the tax under this Act during such year in respect of this gross turnover upto the taxable quantum specified in sub-section (1).

(3) A dealer registered under Central Sales Tax Act, 1956 who is not liable to pay tax under sub-sections (1) and (2) above, shall nevertheless be liable to pay tax on his sale of any goods in respect of the purchases of which he has furnished a declaration under sub-section (4) of section 8 of the Central Sales Tax Act, 1956 or in the sale of any goods in the manufacture of which such goods have been used and every such dealer who is liable to pay tax shall be deemed to be a registered dealer.

(4) Nothing in sub-section (1), (2) and (3) above, shall be deemed to render any dealer liable to tax on the sale of goods where such sales takes place—

- (i) Outside the State of Arunachal Pradesh ;
- (ii) in the course of import of the goods into, or export of the goods out of the territory of India ; or
- (iii) in the course of inter-State trade or commerce

(5) 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 from sales which have taken place either wholly in Arunachal Pradesh or both in and outside Arunachal Pradesh has failed to amount to or exceed the taxable quantum and on the expiry of this period his liability to pay tax under this Act shall cease.

(6) Every dealer whose liability to pay tax under this Act has ceased under the provisions of sub-section (5) shall again be liable to pay tax with effect from the first of April of the year during which his gross turnover from sales which have taken place either wholly in Arunachal Pradesh or both in and out side Arunachal Pradesh again amount to or exceeds the taxable quantum.

- Rate of tax. 6. (1) The tax payable by a dealer under this Act shall be at the rates as may be notified and specified from time to time under schedule I annexed to this Act :
- Provided that the State Government may grant a rebate not exceeding one per cent of tax subject to such condition as may be prescribed.
- (2) The State Government, by notification in the official Gazette giving not less than three months notice of its intention so to do, may, by like notification, reduce the rates of tax specified in the Schedule and thereupon the Schedule shall be deemed to be amended accordingly.
- Charge of tax. 7. The tax shall be charged at the specified rate for each category of goods on the total net turnover of a dealer :
- Provided that the formula in respect of gross turnover and net turnover shall be in such manner as prescribed under rules.
- Limit of application of Act. 8. The provisions of this Act shall not apply to the sale of goods specially exempted under the provisions of this Act.
- Exemptions. 9. (1) Subject to the conditions and exceptions, if any, set out in Schedule II annexed to this Act, the sales of goods specified therein shall be exempted from taxation under this Act.
- (2) The State Government, after giving in the official Gazette such previous notice as may be considered reasonable of its intention so to do may, by like notification, add to, amend or otherwise modify, the said Schedule and thereupon the said schedule shall deemed to be amended accordingly.
- Compulsory registration. 10. (1) No dealer shall, while being liable to pay tax under the provisions of this Act, carry on business as a dealer unless he has been registered and possesses a certificate of registration.
- (2) Every dealer required by sub-section (1) to be registered shall apply for registration to the Assessing Officer in the prescribed manner and obtain a certificate of registration.

(3) On receipt of an application under sub-section (2), the Assessing Officer shall, if he is satisfied after such enquiry as may be deemed necessary that the application is in order, register the applicant.

11. (1) The Assessing Officer may, in addition to taking any other action under the provisions of this Act, require any dealer who, in his opinion, is liable to registration but has not made an application in this behalf, to apply for registration and register him. The Assessing Officer shall register a dealer who fails to apply for registration within a specific time :

Registration
by the
Assessing
Officer.

Provided that no action under this sub-section shall be taken unless the Assessing Officer has given notice to the dealer of his intention to do so and has allowed him a reasonable opportunity of being heard.

(2) The State Government may by rules provide that such a class of dealers carrying on business in such rules or such classes of goods as may be specified therein shall also seek registration notwithstanding that they may not be liable to pay tax under this Act if their gross turnover exceeds such limits as may be prescribed :

12. (1) A dealer registered under Section 10 or Section 11 shall be granted a certificate of registration in such form as may be prescribed which shall specify the class of or classes of goods in which at the time of the grant of the certificate the dealer carries on business, or the nature of his business as a contractor or a lessor as the case may be, and such other particulars as may be prescribed.

Certificate
of
registration.

(2) The Assessing Officer shall cancel the certificate of registration when—

- (i) the business in respect of which the certificate was issued has been discontinued or transferred, or
- (ii) the liability to pay tax in respect of such business has ceased under the Act.

13. (1) Any dealer whose total gross turnover during a year amounts to or exceeds the taxable quantum may, notwithstanding that he may not be liable to pay tax under Section 5 shall apply in the manner referred to in section 10 under this Act.

Voluntary
registration.

(2) So-long as such registration remains in force, such dealer shall be liable to pay tax for a period of not less than three complete years and remain force thereafter unless cancelled under this Act.

(3) A dealer registered under this section may, subject to the provisions of sub-section (3), apply not less than six months before the end of a year to the authority which granted him, his certificate of registration for 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-(3), cancel the registration accordingly.

Payment of security by dealer.

14. (1) Where it appears necessary to the authority competent to register a dealer under Section 10, 11 or 13 so to do for the proper realisation of tax payable under this Act, he may, at any time before or after registering the dealer, by order, in writing and for reasons to be recorded therein, require the dealer to furnish within such time and in such form as may be specified in the order, reasonable security for the aforesaid purpose, and on being so required the dealer shall accordingly furnish the security.

(2) No dealer shall be required to furnish any security under sub-section (1) unless he has given a reasonable opportunity of being heard.

(3) The amount of security which a dealer may be required to furnish under sub-section (1) shall not exceed the amount of tax that may be payable under this Act, in accordance with the estimate of the authority mentioned in sub-section (1), on the turnover of the dealer for a year.

(4) the authority mentioned in sub-section (1) may for good and sufficient cause forfeit the whole or any part of the security furnished by a dealer against any dues payable by the dealer under this Act.

Payment of tax and returns.

15. (1) Tax payable under this Act shall be paid in such manner and at such intervals as may be prescribed :

Provided that different intervals may be prescribed for different categories of dealers.

(2) Any payment of tax made under sub-section (1) shall be accompanied by a statement in type prescribed form of the turnover of the sales or purchases in respect of which the tax is paid.

(3) Every registered dealer and every dealer who may be required so to do by the Assessing Officer by notice issued in the prescribed manner shall furnish in addition to the statement or statements, if any furnished under sub-section (2) an annual return in the prescribed form accompanied by such statement as may be prescribed :

Provided that the State Government may by rules framed in this behalf required any dealer or class or classes of dealers to file apart from the annual return, a quarterly return in such form, in such manner and within such time limit as may be prescribed.

(4) If any dealer has not furnished a return within the time allowed under sub-section (3) or, having furnished a return under the sub-section, discovers any omission or other error, he may without prejudice to the charge of any interest of penalty furnish a return or a revised return, at any time before the assessment is made and such return shall be accompanied by receipt showing payment of tax due, if any, on the basis of such return.

(5) Every return under this section can be signed and verified in the prescribed manner.

16. (1) The amount of tax as payable by a dealer under this Act shall ordinarily be assessed separately for each year :

Assessment.

Provided that the Assessing Officer, if he considers it necessary so to do, subject to rules, if any, made in this behalf make an assessment of the cash due from any dealer for a part of the year or a provisional or advance assessment on the basis of the estimated turnover before the expiry of any year.

(2) Where a return has been furnished under-section 15 the Assessing Officer in the case of such classes of registered dealers as may be prescribed and subject to such condition as may be prescribed, make an assessment of the tax payable by the dealer on the basis of the return furnished by him and the documents accompanying such return, without requiring the presence of the dealer or the production by him of any evidence in support of the return.

(3) The Assessing Officer may—

(a) in a case where an assessment has been made under sub-section (2) subject to such condition as may be prescribed, and

(b) in a case not falling under sub-section (2) where a return has been furnished, serve on the dealer a notice in the prescribed form requiring him on the date and at the place specified therein, to appear before him and to produce or to cause to be produced any evidence on which he may rely in support of his return, or produce or cause to be produced such accounts or documents as the Assessing Officer may specify in such notice.

(4) On the dates specified in the notice issued under sub-section (3) or as soon as afterwards as may be, after considering such evidence as the assessee may produce and such other evidence on specified points as the Assessing Officer may in the course of hearing require and after taking into account all relevant material which he has gathered make an assessment or, in a case where an assessment has been made under sub-section (2), a fresh assessment of tax payable by the dealer.

(5) If a dealer fails to furnish a return as required under Section (15) or having furnished the return fails to comply with all the terms of the notice issued under sub-section (3), the Assessing Officer may to the best of his judgement assess the dealer and determine the tax payable by him on the basis of such assessment :

Provided that before making assessment the Assessing Officer may allow the dealer such further as he thinks fit to furnish the return or to comply with the terms of the notice issued under sub-section (3).

(6) If upon information which has come into his possession the Assessing Officer is satisfied that any dealer who is liable to pay taxes under this Act for any period has failed to get himself registered in the manner provided in this Act or otherwise has remained unregistered he may serve a notice on the dealer and after giving the dealer a reasonable opportunity of being heard, proceed to assess to the best of his judgement the amount of tax due from such dealer for such period.

(7) A notice issued under sub-section (6) may contain or any of the requirement which may be included in a notice under sub-section (3) of section 15 and the provisions of this Act shall so far as may be applied accordingly as the notice were a notice issued under that sub-section.

17. If upon information which has come into his possession, the Commissioner is satisfied that any dealer has been liable to pay tax under this Act in respect of any period, and has nevertheless failed to apply for registration and to make the return required of him, the Commissioner may, at any time within eight years of the end of the aforesaid period, serve on the dealer a notice containing all or any of the requirements which may be included in a notice under the provisions (2) of section 15 and may proceed to assess the dealer in respect of such period and all subsequent periods, and the provisions of the Act, so far as may be, shall apply accordingly as if the notice were notice issued under the aforesaid section :

Assessment
in case of
evasion.

Provided that the tax shall be charged at the rate at which it would have been ordinarily chargeable.

18. (1) Where after a dealer has been assessed under Section 16 for any year or part thereof, the Assessing Officer has reason to believe that the whole or any part of turnover of the dealer in respect of any period has escaped assessment to tax or has been under-assessed or has been assessed at a rate lower than the rate at which he is assessable, or any exemption or deduction or relief has been wrongly allowed in excess, the Assessing Officer may—

Turnover
escaping
Assessment.

(a) In a case where the dealer has concealed, omitted or failed to disclose fully and truly the particulars of such turnover or furnished incorrect or incomplete particulars of his turnover or the rate of tax applicable to any part thereof or made incorrect claim for any exemption, deduction or relief, within eight years from the date of the relevant year for which or part of which the assessment or reassessment is required to be made ; and

(b) In any other case, within four years from the end of the relevant year for which or part of which an assessment or reassessment is required to be made ;

Serve a notice on the dealer and after giving the dealer an opportunity of being heard and making such enquiry as he considers necessary, proceed to determine to the best of his judgement, the amount of tax due from the dealer in respect of such turnover :

Provided that no such notice shall be issued in a case falling under clause (a) after the expiry of four years from the end of the year in which an assessment under Section 16 for the relevant period was first made in his case unless the Commissioner is satisfied on the reason recorded that it is a fit case for issue of such notice :

Provided that notwithstanding anything contained in sub-section (4) of section 3, the powers of the Commissioner to accord sanction for the issue of notice, as aforesaid shall not be delegated by him to any person appointed to assist him under sub-section (1) of Section 3 :

Provided also that a notice under the foregoing provisions may be issued at any time for the purpose of giving effect to any finding or direction contained in an order passed in any proceedings under this Act by way of appeal, revision or reference.

Explanations : (1) For the purpose of this section, production before the Assessing Officer of accounts books or other evidence from which material evidence could with due diligence have been discovered by the Assessing Officer will not necessarily amount to disclosure within the meaning of this Sections.

(2) A notice issued under sub-section (1) may contain all or any of the requirement which may be included in a notice under sub-section (3) of Section 16 and the provisions of this Act shall, so far as may be applied accordingly as if the notice were a notice issued under that sub-section.

Completion of assessment and re-assessment.

19. (1) No assessment shall be made under section 16 after the expiry of three years from the end of the year in respect of which or part of which the assessment is made or in a case where the dealer has furnished a return or a revised return under section 15 after the expiry of two years in which such return or revised returns is received by the Assessing Officer, whichever is later :

Provided that in a case falling under sub-section (6) of section 16, the assessment is made at any time before expiry of eight years from the end of the year in respect of which or part of which the assessment is made under that sub-section.

(2) No re-assessment under section 18 shall be made—

(a) in a case falling under clause (a) of that section, after the expiry of three years ; and

(b) in a case falling under clause (b) of that section after the expiry of one year from the end of the year in which the notice under that section is served on the dealer.

(3) notwithstanding anything contained in sub-section (1) or sub-section (2) an assessment, re-assessment or re-computation to give effect to any order or direction in appeal, revision or reference may be made at any time before the expiry of two years from the end of the year in which the order in appeal, revision or reference is communicated to the Assessing Officer.

Explanation —

In computing the period of limitation for the purpose of sub-section (1) or sub-section (2) the period during which the assessment proceedings is stayed by an order or injunction of any court or other authority, shall be excluded and such proceedings may be completed within one year from the end of the year in which the stay was vacated as if the limitation period has not expired.

20. The commissioner may, in such cases or classes of cases and such conditions and restrictions as may be prescribed permit any dealer or class of dealers to pay in lieu of the amount of tax payable by him under any of the foregoing provisions a lump sum amount determined in the prescribed manner, by way of composition and any order made by the Assessing Officer in pursuance of such determination shall be deemed to be an assessment duly made under this Act.

Composition
of tax
payable.

Assessment
in certain
cases.

21. Where a return has been furnished by a dealer for any period and no assessment has been made under any of the foregoing provisions within the limits specified in section 19 then, notwithstanding anything contained in that section the assessment shall be made within four years from the date of expiry of the limitation period with prior sanction from the commissioner :

Provided that the powers of the Commissioner to accord sanction for assessment as aforesaid shall not be delegated by him to any person appointed to assist him under sub-section (1) of section 3.

Penalties.

22. (1) If a person or dealer :

(a) being liable to pay tax under this Act, fails to get himself registered ; or

(b) not being a registered dealer, represents when purchasing goods, that he is registered dealer ; or

(c) being a registered dealer, represents when purchasing goods or class of goods not covered by his certificate of registration that such goods are covered by his certificate ; or

(d) contravenes the terms of any declaration made by him under sub-section (2) of section 10 or violates any condition or furnishes inaccurate particulars in any documents furnished by him under that section ; or

(e) fails to furnish without reasonable cause any return or statement as required under section 15 in the prescribed manner and within the prescribed time ; or

(f) fails to pay without reasonable cause the tax payable by him under sub-section (1) of section 15 or under any notice of demand issued under section 23 within the time allowed for such payment ; or

(g) conceals any part of his gross turnover or any particulars thereof or furnishes incorrect particulars of such turnover in any return or statement furnished under section 15 or make any incorrect claim for exemption, reduction in the payable or other relief under any provisions of this Act ; or

(h) transports any goods in contravention of the provision of section 37 ; or

(i) being liable to deduct tax at source and pay the same to the credit of the State Government under section 27, omits to do so ;

The Assessing Officer may after giving such person or dealer, a reasonable opportunity of being heard, by an order in writing setting forth such particulars as may be specified, directly that he shall, in addition to any tax or interest payable by him, pay by way of penalty a sum :

- (i) in a case falling under clause (a), not exceeding the amount of the assessed tax ;
- (ii) in a case falling under clause (b) or clause (c) or clause (d) or clause (g) not exceeding one and half times the amount of tax sought to be thereby evaded.
- (iii) in a case falling under clause (e), not exceeding one half of the amount of the assessed tax ;
- (iv) in a case falling under clause (f) not exceeding the amount of tax remaining unpaid on the expiry of the time allowed its payment ;
- (v) in a case falling under clause (h), an amount not exceeding twenty five per centum of the value of the goods.
- (vi) in a case falling under clause (i), an amount not exceeding the amount omitted to be deducted and paid.

Explanations—

(1) For the purpose of this section 'assessed tax' means the amount of tax determined as payable on the basis of an assessment or re-assessment made under this Act.

(2) No proceeding for the levy of penalty for any default under this section shall be commenced after the expiry of two years from the end of the year during which the proceeding in the course of which the Assessing Officer is satisfied that such default has been committed, was completed and the penalty proceeding shall be completed within two years from the end of the year in which such proceeding became final.

Notice of demand.

23. When any tax or penalty or other dues is or are payable in consequence of any order passed under or in pursuance of this Act, the Assessing Officer shall serve upon the person liable to pay such tax or penalty or other dues a notice of demands in the prescribed form specifying the sum so payable.

Tax when payable.

24. (1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Before any registered dealer furnishes the returns required by sub-section (1) of Section 15, he shall, in the prescribed manner, pay into a government treasury the full amount of tax due from him under this Act on the basis of such returns, and shall furnish alongwith the returns a receipt from such treasury in token of payment of such tax.

(3) Where a revised return is submitted by registered dealer under sub-section (3) of Section 15 and if the revised return shows a greater amount of tax to be due than was payable on the basis of the original return, the dealer shall pay the excess amount of tax in the manner provided in sub-section (2), and shall furnish alongwith the revised return a receipt in token of payment of such excess tax.

(4) The amount of tax due under the provision of this Act -

(a) in excess of payments already made under sub-section (2) and (3) or

(b) where no payment has been made.

Shall be paid by the dealer by such date as may be specified in the notice of demand and, where no such date is specified it shall be paid within thirty days from the date of service of the notice.

(5) Notwithstanding anything contained in sub-section (2) and (3), the state government may provide by notification that the tax payable under this Act in respect of any sale or class of sales and subject to such conditions as may be specified in the notification need not be paid in the manner provided in sub-sections (2) and (3) by the dealer making the sale but shall be deposited by the person, body or authority to whom the sale has been made in such manner as may be laid down in the notification.

25. (1) If any dealer does not pay into a Government Treasury full amount of tax payable by him under this Act by the due date simple interest at the rate of twelve per centum per annum from the first day of the month next following the said date shall be payable by him on the amount by which the tax paid, if any, the due date, falls short of the tax payable. No interest under this sub-section shall be payable if the amount of tax paid by the due date is not less than ninety per centum of the tax payable.

Interest payable by dealer.

(2) If such tax is not paid within a period of sixty days from the due date, than in addition to interest payable under sub-section (1), the dealer shall be liable to pay simple interest at the rate of twenty four centum per annum from the day commencing after the said period of sixty days on the amount by which the tax paid, if any, before the expiry of the said period, falls short of the amount of tax payable.

(3) Where any interest becomes payable under this section, the officer competent to assess the dealer under section 15 shall record an order to that effect specifying the amount of interest payable and the amount on which and the period for which the interest is payable. Notwithstanding anything contained in this Act, an order under this sub-section can be passed at any time when interest under this section is found to be due.

(4) Where an order is passed under sub-section (3) of section 51 in respect of any dues, any interest relating to the same dues and accrued under this section up to the date of such order and any further interest accruing after such date shall be recorded in the course of proceedings initiated in accordance with the said sub-section (3) in respect of the said dues and for that purposes no order under sub-section (3) of this section or notice under section 23 shall be necessary in respect of such interest.

(5) The provisions of this section shall not apply to tax payable in respect of sales covered by a notification under sub-section (5) of section 24.

Explanation—1 For the purposes of this section 'tax payable' means the amount of tax as finally assessed under this Act.

Explanation—II For the purposes of this section 'tax payable' shall be deemed to be due for payment as follows :

Special
mode of
recovery.

26. (1) Notwithstanding anything contained in any law or contract to the contrary, the Assessing Officer 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 known address require any person including the Government or a local authority.

(a) from whom any amount of money is due or may become due, to a dealer or person liable on whom notice has been served under sub-section (1) of Section 23 ; or

(b) who holds or may subsequently hold money for or on account of such dealer or person liable to pay to the Assessing Officer either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the dealer or person liable in respect of any amount payable under this Act, or the whole of the money where it is equal or less than that amount.

Explanation —

(1) For the purpose of this sub-section the amount of money due to a dealer or a person from, or money held for or on account of a dealer or a person by, any person shall be calculated by the Assessing Officer after deducting there from such claim, if any, lawfully subsisting, as may have fallen due for payment by such dealer or person liable to such person.

(2) The Assessing Officer may 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 or person liable and the receipt thereof by the Assessing Officer shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the dealer or any liable after receipt of the notice referred to in this section, shall be personally liable to the Assessing Officer to the extent of the liability discharge or to the extent of the liability of the dealer or person liable for tax, whichever is less and the provisions of this Act shall, so far as may be, apply as if such person were a dealer in default.

(5) Where any person to whom a notice under this section is sent, proves to the satisfaction of the Assessing Officer that the sum demanded or any part thereof is not due to the dealer or person liable or that he does not hold any money for or on account of the dealer or person liable than nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Assessing Officer.

(6) Any amount of money which the aforesaid person is required to pay the Assessing Officer, or for which he is personally liable to the Assessing Officer under this section, if it remains unpaid, be recoverable as arrear or tax payable under this Act.

(7) The Assessing Officer may apply to the court in whose custody there is money belonging to the dealer or person liable for payment to him of the entire amount of such money or if it is more than the amount of tax, penalty or other sum due, an amount sufficient to discharge such amount :

Provided that any dues or property exempted from attachment in execution of a decree of a Civil Court under section 60 of the Code of Civil Procedure, 1908 (5 of 1908) shall be exempted from any requisition made under this section.

(8) Where a security other than in the form of a surety has been furnished by a dealer under section 15 the Assessing Officer may for good and sufficient reason in writing, realise any amount for tax, interest, penalty or other sum remaining unpaid as aforesaid or part thereof by ordering forfeiture of the whole or any part of such security.

(9) Where the amount of tax, interest, penalty or other sum payable under sub-section (1) of section 23 remains unpaid, it may be recovered as an arrear of land revenue and for this purpose the state government may by notification in the official Gazette empower the Commissioner or any person appointed to assist the Commissioner under sub-section (1) of section (3) to exercise the power under the Assam land Revenue Regulation, 1886 and under the Bengal Public Demand Recovery Act, 1913 (Bengal Act 3 of 1913) for the purpose of recovering the sums referred to in sub-section (1).

Special provisions relating to deduction of tax at source in certain cases.

27. (1) Notwithstanding anything contained in any other provisions of this Act ;

(a) every person excluding an individual a Hindu undivided family, a firm or a company not under the control of the government responsible for making any payment or discharging any liability on account of any amount payable for the transfer of property in goods (whether as goods or in some other form) involved in a works contract as specified in Rules to be made.

(b) every person responsible for paying sale or consideration or any amount purporting to be the full or part payment of sale price or consideration in respect on any sale or supply of goods liable to tax under this Act to the Government or corporation, board, authority, undertaking or any other body by whatever name called, owned, financed or controlled wholly substantially by the Government shall at the time of credit to the account of or payment to the payee of such amount in cash, by cheque, by adjustment or in any other manner, whatsoever, deduct tax therefrom in the prescribed manner at the rate, specified in the schedule to the Act in respect of sale or supply of goods or to transfer of the right to use any goods and at the rate of four per centum of such sum being paid in respect of works contract.

Provided that no deduction shall be made under this sub-section where the amount paid or credited by such person in any financial year does not exceed the prescribed amount.

(2) Any tax deducted under sub-section (1) shall be paid to the account of the state government in such manner and within such time as may be prescribed.

(3) The person making any deduction of tax under sub-section (1) under sub-section (1) and paying it to the account of the state government shall issue a certificate of tax deduction to the payee in such manner in such form and within such time as may be prescribed.

(4) Any tax deducted under sub-section (1) and paid to the account of the state government shall on production of the certificate of tax deduction under sub-section (3) by the payee be deemed to be tax paid by the payee for the relevant period and shall be given credit in his assessment accordingly.

(5) No interest or penalty shall be imposed or no recovery proceedings against the dealer/payee shall be initiated in respect of tax deducted under sub-section (1) :

Provided that the recovery proceedings under sub-section (9) of section 26 against the person concerned who has deducted the tax but not drawn up by the Assessing Officer under whose jurisdiction the office of the person falls with prior approval of the Commissioner of Taxes.

28. Save as otherwise provided, no proceedings for recovery of tax, interest, penalty or other sum payable under this Act shall be commenced after the expiration of one year from the last day of the year in which the dealer or person liable is deemed to be in default.

Period of commencing recovery proceedings.

Explanation 1.

In computing the aforesaid period of one year, any period during which the payment of tax, interest, penalty or other sum is stayed by an order of a court by any authority under this Act shall be excluded.

Explanation 2.

A proceedings for recovery of any tax, interest, penalty or other sum shall be deemed to have been commenced within the meaning of this section if some action is taken to recover the whole or any part of such tax, interest, penalty or other sum within the period herein before referred to.

Recovery of suit or under other law not affected.

29. The modes of recovery specified in this Chapter shall not effect in any way.

(a) any other law for the time being in force relating to the recovery of debts due to the State Government, or

(b) the right of the State Government to institute a suit for the recovery of the arrears due from the assessee ; and it shall be lawful for the Assessing Officer or the State Government, as the case may be, to have recourse to any such law or suit, notwithstanding that the tax, interest, penalty or other sum due is being recovered from the assessee by any mode specified in the Chapter.

Refund.

30. (1) Subject to any rules made in this behalf the Assessing Officer, shall, on the claim being made in that behalf before the expiry of three year from the end of the period to which such payments relates, refund to the dealer the amount of any tax, interest, penalty or other sum paid by such dealer in respect of any period in excess of the amount due from him under this Act for that period either by payment or deduction or adjustment of such excess from the amount of tax, interest, penalty; or other sum due from him in respect of any other period.

(2) Where any tax is levied under this Act on the sale or purchase of any goods referred to in section 14 of the Central Sales Tax Act, 1956 (74 of 1956) and such goods are subsequently sold in the course of inter state trade or commerce, the dealer paying tax on such sale under that Act shall be entitled to get the amount of tax paid under this Act refunded to him on

application by him to the Assessing Officer in the prescribed manner within one year from the date of such sale and the Assessing Officer shall, if the application is in order refund the amount in such manner as may be prescribed.

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to empower the Assessing Officer to amend, vary or rescind any order passed in any other proceedings under this Act or to confer on a dealer any relief in addition to what has been allowed to him in the assessment or other proceedings.

31. Where an order relating to a refund is subject matter of an appeal or further proceedings or, where other proceedings under this Act is pending and the Assessing Officer is of the opinion that the grant of refund is likely to adversely effect the revenue, he may with the previous approval of the Commissioner, withhold the refund till such time as may be deemed necessary by the Commissioner.

Power to withhold refunds in certain cases.

32. (1) If for reasons of a delay, a refund, being other than a refund under sub-section (2) of section 30 due to the dealer under section is not made within ninety days of such refund being due, the dealer shall be entitled to receive simple interest from the state government at the rate of one per centum per month on the amount of refund.

Interest on refund.

(2) Refund under this section shall be deemed to be due —

(a) in case where the tax assessed has been reduced on appeal revision etc. from the date of order of the appellate/revisonal authority comes to knowledge of the Assessing Officer ;

(b) in other cases on the date of an application for refund is made by the party claiming the refund ;

(3) If as a result of any proceedings under this Act, the amount in respect of which interest is payable by the state government under the foregoing provision is varied, the Assessing Officer shall correspondingly enhance or reduce as the case may be, the interest so payable.

Appeal to
Appellate
Authority.

33. (1) A dealer or a person aggrieved by any final order passed by the Assessing Officer in the exercise of powers conferred on him by or under this Act may appeal to the Appellate Authority against such order within thirty days from the date on which the said order was served on him.

Explanation —

In this sub-section and in sub-section (3) and (4) 'final order' means an order, not being the nature of an administrative order or interlocutory order, which determines the issues arising under this Act before the authority passing the order finally in so far as that order is concerned.

(2) An appeal shall lie —

(a) by a dealer or a person aggrieved by any final order passed under this Act by the Commissioner in so far as such order relates to the assessment of turnover or the tax payable or to the imposition of any penalty under this Act and

(b) by a dealer or a person or the Commissioner aggrieved by any final order passed in Appellate Authority in so far as such order relates to the assessment of turnover or the tax payable or to the imposition of penalty under this Act, within sixty days from the date on which such order was served on him.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2) no appeal shall lie against —

(a) an assessment made under sub-section (2) of section 17 ; or

(b) a determination of tax made under section 20 ; or

(c) an order levying interest under section 25 ; or

(d) an order withholding a refund under section 31 ; or

(e) an order pertaining to the seizure of accounts books, registers and other documents under section 36 ; or

(f) an order under section 37 ; or

(g) an order sanctioning prosecution under any provision of this Act or compounding, refusing to compound any offence under section 58 ; or

(h) such other order as may be prescribed.

(4) Every appeal under sub-section (1) or sub-section (2) shall be in the prescribed form and verified in the prescribed manner and shall be accompanied by such documents as may be prescribed.

(5) The Appellate Authority may admit an appeal after expiration of the aforesaid period mentioned in sub-section (1) or, as the case may be, in sub-section (2) if it is satisfied that the appellant has sufficient cause for not presenting the appeal within that period.

(6) No appeal under sub-section (1) or sub-section (2) against an order of assessment of tax with or without penalty or against an order imposing penalty shall lie unless such appeal is accompanied by satisfactory proof of payment of tax including penalty, if any, which is admitted to be due or twenty percent of the amount of tax including penalty, if any, which has been assessed or levied whichever is higher :

Provided that the Appellate Authority, if it thinks fit for reasons to be recorded in writing and subject to furnishing of such security as such authority may deem fit, admit an appeal against such order with part payment or without any payment of the disputed amount of tax including penalty, if any, required under this sub-section with a view to mitigate undue hardship which is likely to be caused to the dealer or person if the payment of such disputed amount insisted on.

(7) The Appellate Authority before whom an appeal is pending may, during the pendency of such appeal and subject to the provision of sub-section (6) stay recovery of the balance amount of tax or penalty which is not admitted by the appellant to be due from him on such terms and on such conditions as may be specified in the order granting such stay.

34. (1) The Commissioner may call for and examine the records of any proceeding under this Act and if he considers that any order passed therein by

Revision of order by the Commissioner.

any person appointed under sub-section (1) of section 3 to assist him is erroneous in so far as it is prejudicial to the interest of the revenue, he may, after giving the dealer or the person to whom the order related an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such orders, as the circumstances of the case justify including an order enhancing or modifying the assessment of tax or penalty or cancelling such order and directing that a fresh order should be made.

Provided that no order under this sub-section shall be made after the expiry of eight years from the end of the financial year in which the order sought to be revised was made.

Explanations —

The provisions of this sub-section shall apply, notwithstanding that the order sought to be revised has been made the subject of any proceeding by way of appeal, in respect of matters not actually considered and decided in such proceedings.

(2) In the case of any order passed by persons appointed to assist the Commissioner under sub-section (1) of section 3, not being an order to which sub-section (1) applies, and not being an order against which an appeal under section 33 has been filed or an order in respect of which the time allowed for appeal under section 33 has not expired, the Commissioner may, either of his own motion or on an application made in the prescribed manner by the dealer or person effected by such order, call for the record of any proceeding under this Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act, pass such order thereon, not being an order prejudicial to the dealer or person to whom the order relates as he thinks fit :

Provided that the Commissioner shall not revise any order under this sub-section after the expiry of two years from the end of the financial year in which order was made :

Provided further that where an application for revision has been made before the expiry of two years as aforesaid the order in revision may be made at any time.

(3) Notwithstanding anything contained in sub-section (4) of section 3, the Commissioner shall not delegate any of the powers or functions under this section to any officer appointed to assist him under sub-section (1) of that section, who is below the rank of the Deputy Commissioner.

35. (1) The authority which made an assessment or order or passed an order in appeal or revision in respect thereof may, at any time within three years from the end of the financial year in which such assessment or order was made and of its own motion, rectify any arithmetical mistake or other mistake of a factual nature apparent from the record of the cause, and shall even beyond such period, rectify any such mistake as is brought to its notice by a dealer or person affected by such order before the expiry of such time limit.

Rectifica-
tion of
assessment
and order.

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice to the dealer or person of its intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where as a result of any order in appeal or revision under this Act any change becomes necessary in the order of assessment or penalty, the Appellate or Revising Authority may direct the appropriate authority to amend the order of assessment or penalty accordingly.

(3) Where a rectification under sub-section (1) or amended under sub-section (2) has the effect of reducing the tax or penalty or other sum payable by the dealer a refund shall be due to the dealer and where any further amount of tax, penalty or other sum becomes payable the same shall be collected in accordance with the provision of this Act.

(4) Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum so payable.

36. (1) Subject to such conditions and restrictions as may be prescribed, Commissioner may, for the purpose of this Act, require any dealer to produce before him any accounts or documents and to furnish any information, relating to the stocks of goods or purchase, sales and deliveries of goods by the dealer.

Power to
order
production
of accounts
and power
of entry,
inspection,
search,
seizure.

(2) All accounts, registers and other documents relating to the stocks of goods of or purchases sales or deliveries of goods by any dealer the goods in his possession and his offices, shops, godowns, vessels and vehicles shall, at all reasonable times, be open to inspection by the Commissioner.

(3) All documents of title of goods for and on behalf of the dealer handled by cleaning, booking or forwarding agent or Dalal shall at all times on demand produce there to the authority for inspection.

(4) Every owner of a warehouse/godown or any other such place who stores goods for hire or reward shall produce to the prescribed authority on demand all the accounts maintained.

(5) If the Commissioner has reason to suspect that any dealer is attempting to evade payment of any tax under this Act, he may, for reasons to be recorded in writing seize such accounts, registers or documents of the dealer as may be necessary and shall grant a receipt for the same and shall retain the same only for so long as may be necessary for the purposes of this Act.

(6) The Commissioner or such other authority as may be appointed may, for the purposes of sub-section (2) (3) or sub-section (4) enter and search any such place as is mentioned in sub-section (2) on the authority of a search warrant issued by a Magistrate.

(7) The provisions of section 102 and section 103 of the Code of Criminal Procedure, 1897 (Act V of 1898), shall so far as may be, apply to searches under sub-section (4).

Restriction
on
movement.

37. No person shall take delivery of transport from any railway station, airport, post-office or any other place whether of similar nature or otherwise, notified in this behalf by the state government, any consignment of goods the sale of which is taxable under this Act, exceeding such quantities and except in accordance with such conditions as may be prescribed. Such conditions shall be made with a view to ensure that there is no evasion of the tax imposed by this Act.

38. The Commissioner may, for the purpose of this Act —

Power to call for information.

(1) require any firm or association or Hindu undivided or joint family to furnish him with a statement of the names and addresses of the members of the firm or association or of the names and addresses of the family, as the case may be.

(2) require any person whom he has reason to believe to be a trustee, guardian, manager or agent to furnish him with a statement of the names of the persons with their addresses for or of whom he is trustee, guardian, manager or agent ;

(3) require any person or post-office, or railway station or any transporter or carrier or clearing or forwarding or transporting agent whom he has reason to believe to have obtained goods from outside the state to furnish him with a statement of the names of persons with their addresses from whom he has obtained the goods and of the names and prices of goods obtained or suspected evasion of any tax under this Act.

(4) require any person whom he has reason to believe to have despatched goods to any place outside the state to furnish him with a statement of the names of persons with their addresses to whom he has despatched the goods and of the names and prices of goods despatched.

(5) The State Government may by Rules require a carrier or clearing, forwarding or transporting agent to obtain a licence in the prescribed manner and to furnish to the Commissioner from time to time such information as may be prescribed.

39. (1) The State Government may, by notification, set up and erect in such manner as may be prescribed, check-posts and barriers at any place in the state with a view to prevent the evasion of tax payable under this Act.

Erection of check post.

(2) Every person transporting goods shall, at any check post or barrier, set up and erect in accordance with sub-section (1) and before crossing such check post or barrier, file before the officer-in-charge of the check post or barrier, if so directed by him, a correct and complete declaration of the goods in such form and in such manner as may be prescribed.

(3) The Officer-in-Charge of the check post or barrier may, for the purpose of satisfying himself that the provisions of sub-section (2) are not being contravened, and subject to such restriction as may be prescribed, intercept, detain and search any vehicle or boat which may be suspected of being used for contravening such provisions.

Power to make evidence on oath, etc.

40. The authorities, for the purposes of this Act have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Act V of 1908) when trying a suit, in respect of the following matters :

(1) enforcing the attendance of any person and examining him on oath or affirmation

(2) compelling the production of documents

(3) issuing commissions for the examination of witnesses

Furnishing information regarding changes in the business.

41. If any dealer liable to pay tax—

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

(b) transfer his business by way of lease ; or

(c) discontinues his business or changes his place of business or the location of his warehouse or opens a new place of business or warehouse ; or

(d) changes the name and nature of his business or effect any change in the class or classes of goods in which he carries on his business and which in the case of a registered dealer is or are specified in his certificate of registration ; or

(e) succeeds to any business by bequest, inheritance or otherwise ; or

(f) being company, society, club, firm or other association or body, effects any change, in its constitution or the constitution of its Board of Directors,

He or it shall, within the prescribed time and in the prescribed manner, inform such authority as may be specified in the rules, in writing accordingly, and if any dealer dies, his legal representative shall in like manner inform, the said authority.

42. (1) If any dealer to whom the provisions of section 15 apply—

Information to be furnished regarding changes of business.

(a) sells or otherwise transfers or dispose of his business or any part or part thereof ; or

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

(c) changes the name or nature of his business :

Liability of guardian and trustees, etc.

he shall, within such period as may be prescribed, inform the prescribed authority accordingly.

(2) Where any dealer as aforesaid dies, his successor or legal representative shall furnish the information in the like manner.

43. (1) Where a dealer dies after assessment but before payment of the tax, his executive, administrator or other legal representative shall be liable to pay, out of the estate of the deceased to the extent to which it is capable of meeting the charge, the tax assessed as payable by such dealer.

Tax of deceased payable representative.

(2) Where a dealer dies without having furnished the return required by section 15 or after having furnished the return but before assessment, the Commissioner may proceed to make an assessment and determine the tax payable by the deceased ; and for this purpose he may require the executor, administrator or other legal representative, as the case may be, of the deceased to perform all or any of the obligations which he might, under the

provisions of this Act, have required the deceased to perform. The tax determined shall be payable by the executor, administrator or other legal representative of the deceased to the extent to which the estate of the deceased is capable of meeting the charge.

Liability to tax on cancellation of certificate or dissolution of a firm or association.

44. (1) When a certificate of registration is cancelled under sub-section (3) of section 12 in any case other than that of a dissolution of a firm or association, the dealer shall be liable to pay tax on his stock of goods remaining unsold at the time of cancellation of the certificate and all the provisions of this Act shall apply accordingly.

(2) In case of dissolution of a firm or association of persons the tax on the stock of goods remaining unsold at the time of such dissolution shall be levied upon and recovered from, jointly and severally, every person who, at the time of such dissolution was a partner of such firm or member of such association ; and all the provisions of this Act, shall apply accordingly.

Liability in case of discontinued firm or association.

45. Where the business carried on by a firm or by a firm or an association of persons, other than a company as defined in Companies Act, 1956 and in respect of which tax is payable under this Act, is discontinued or the association of persons is dissolved the tax shall be levied upon and recovered from jointly and severally, every person who at the time of such discontinuance or dissolution was a partner of such firm or member of such association ; and all the provisions of this Act shall apply accordingly.

Liability of guardian and trustees, etc.

46. Where the business in respect of which tax is payable under this Act is carried on by, or is in charge of, any guardian, trustee or agent of a minor or other incapacitated person on behalf of, and for the benefit of, such minor or other incapacitated person tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be leviable upon and recoverable from any such minor or other incapacitated person, if he were of full age and sound mind and if he were conducting the business himself and all the provisions of this Act shall apply accordingly.

47. Where the estate or any portion thereof of a dealer owning a business in respect of which tax is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any Receiver or Manager (including any person, whatever his designation, who in fact manages the business) appointed by, or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General, Official Trustee, Receiver or manager in like manner and to the same extent as it would be leviable upon and recoverable, from the dealer if he were conducting the business himself and all the provisions if this Act shall apply accordingly.

Liability of Courts of Wards, etc.

48. Whoever—

(a) carries upon business as a dealer without furnishing the security required to be furnished under section 14 ; or

(b) fails to comply with provisions of section 40 or section 41 or any Rules framed in that behalf ; or

(c) refuses to comply with any requisition made under section 32 or 36, or 37 ; or

(d) neglects to furnish any information required to be furnished under section 38 or section 49 shall on conviction be punishable with simple imprisonment for a term which may extend to six month or with fine not exceeding one thousand rupees or with both.

Failure to furnish security maintain or preserve accounts etc.

49. Whoever—

(a) being liable to pay tax under this Act, fails to get himself registered ; or

(b) not being a registered dealer represents when purchasing goods, that he is a registered dealer ; or

Failure to get registered etc.

(c) not being a registered dealer, collects any sum purporting to be by way of tax under this Act or being a registered dealer collects any sum purporting to be by way of tax on the sale of goods in respect of which he is not liable to pay tax or at a rate exceeding the rate at which he is liable to pay tax ; or

(d) being a registered dealer represents when purchasing goods or class of goods not covered by his certificate of registration that such goods are covered by such certificates ; or

(e) contravenes the requirements of sub-section (4) of section 14 or the Rules made thereunder ; or

Failure to furnish return.

50. If a dealer or person wilfully fails to furnish in due time the statement or return which he is required to furnish under sub-section (2) or sub-section (3) of section 15 and pay the tax due thereon, he shall on conviction be punishable—

- (i) in case where the amount of tax which would have been evaded if the failure has not been discovered, exceeds one lakh rupees, with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.
- (ii) in any other case, with imprisonment of either description for a term which may extend to three years or with fine, or with both.

False statement in verification etc.

51. If a person makes a statement in any verification under this Act or under any Rules made thereunder or delivers an account of statement or return which is false and which he either knows or believes to be false, or does not believe to be true, shall on conviction be punishable

- (i) in case where the amount of tax, which would have been evaded if the statement or account or return had been accepted as true, exceeds one lac with imprisonment of either description for a term which shall not be less than six months but which may extend to seven years and with fine ;
- (ii) in any other case with imprisonment of either description for a term which may extend to three years or with a fine or with both.

52. If a person wilfully attempts in any manner whatsoever to evade any tax, penalty or interest chargeable or imposable under this Act, he shall on conviction be punishable.

Wilful attempt to evade tax etc.

- (i) in a case where the amount sought to be evaded exceeds one lac rupees with imprisonment of either description for a term which shall not be less than six months but which may extend to seven years and with fine ;
- (ii) in any other case, with imprisonment of either description for a term which may extend to three years or fine or with both.

53. If a person abets or induces in any manner another person to make and deliver an account or a statement or return or declaration relating to any payable under this Act which is false and which he either knows to be false or does not believe to be true or to commit an offence under Section 61, he shall on conviction be punishable ;

Abetment of false return.

- (i) in a case where the amount of tax, penalty or interest which would have been evaded if the declaration, account or statement had been accepted as true, or which is wilfully attempted to be evaded exceeds one lakh rupees, with imprisonment of either description for a term which shall not be less than six months but which may extend to seven years and with fine ;
- (ii) in any other case, with imprisonment of either description for a term which may extend to three years or with fine or with both.

54. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of and responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivances of, or is attributable to any neglect on the part of any Director, Manager, Secretary or another officer, of the company such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation —

For the purpose of this section —

(a) "company" means a body corporate, and includes

- (i) a firm, and
- (ii) an association of persons or a body of individuals whether incorporated or not ;

(b) 'Director' in relation to —

- (i) a firm, means a partner in the firm ; and
- (ii) 'any association of persons or a body of individuals' means any member controlling the affairs thereof.

Prosecution to be at the instance of Commissioner.

55. No person or dealer shall be proceeded against for an offence under any of the foregoing provisions except at the instance of the Commissioner.

Prohibition of collection of excess tax forfeiture penalty etc.

56. (1) No person shall collect any sum by way of tax in respect of sales of any goods on which no tax is payable under the provisions of this Act.

(2) No person who is not a registered dealer and not liable to pay tax in respect of any sum by way of tax from any other person and no registered dealer shall collect any amount by way of tax in excess of the amount of tax, payable by him under the provisions of this Act.

(3) If any person,

(a) not being a dealer liable to pay tax under this Act, collects any sum by way of tax ; or

(b) being a registered dealer collects any sum by way of tax in excess of tax payable by him ; or

(c) otherwise collects tax in contravention of the provisions of sub-section (1), any sum collected by that person by way of tax in contravention of sub-section (1) shall be forfeited to the State Government and when any order of forfeiture is made the Assessing Officer shall publish or cause to be published a notice thereof for information of the person concerned.

(4) Where the Assessing Officer has reason to believe that any person has wilfully contravened provisions of sub-section (1), he may impose upon such person a penalty of an amount not exceeding two thousand rupees or double the sum collected by such person by way of tax in contravention of the provisions of sub-section (1), whichever is less :

Provided that no such order of forfeiture or penalty shall be passed unless the person or the registered dealer has been given reasonable opportunity of being heard.

(5) The Assessing Officer shall communicate the order passed under sub-section (4) and also issue notice of demand to the person or the registered dealer to whom a penalty was imposed for payment within the time specified by the Assessing Officer.

(6) The Assessing Officer shall refund such amount to the person or the registered dealer on application made in this behalf within ninety days of the date of forfeiture provided such person or persons discharge the onus to the satisfaction of the Assessing Officer that such amount of tax was actually collected from him :

Provided that the provision of section 30 shall apply for refund of such amount.

57. (1) No court to that of a Metropolitan Magistrate of the first class shall try and offence under this Act.

Cognizance
of offences.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act 2 of 1974), all offences punishable under this Act shall be cognizable.

Compounding
of offences.

58. (1) Commissioner may, subject to such conditions as may be prescribed, compound any offence under any of the foregoing provisions either before or after the institution of proceedings by requiring the person proceeded against to pay by way of composition a sum not exceeding such sum as may be prescribed.

(2) On payment of the full composition money under sub-section (1) —

(a) no proceedings under any of the foregoing provisions shall be commenced against such person ; or

(b) if any proceeding has already been commenced it shall not be further proceeded with.

Disclosure
by public
servant.

59. (1) No public servant shall disclose any statement made or documents produced in accordance with the Act except in cases when required by the Criminal Court under IPC and the Prevention of Corruption Act and violation of which he shall be punishable with imprisonment which may extend to six months and shall also be liable to a fine not exceeding one thousand rupees.

(2) No prosecution shall be instituted under this section except with the previous sanction of the State Government.

Service of
notices.

60. (1) A notice or requisition under this Act may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (Act V of 1908).

(2) Any such notice or requisition may, in the case of a firm or Hindu undivided or joint family, be addressed to any member of the firm or to the manager or any adult member of the family and, in the case of any other association of persons be addressed to the principal officer thereof.

Delegation
of Commis-
sioner
powers.

61. The Commissioner may subject to such restrictions and conditions as may be prescribed, delegate, by notification in the official Gazette, any of his powers under this Act to any person appointed under Section 3 to assist him.

62. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything not inconsistent with the purposes of this Act as appear to them to be necessary or expedient for removing the difficulty.

power to remove difficulties.

63. (1) the State Government May, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power such rules may, in particular prescribe—

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

(b) the classes and duties of officers appointed for the purpose of enforcing the provisions of this Act.

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

(d) the intervals at which, and the manner in which, the tax under this Act shall be payable.

(e) the dates by which, and the authority to which, returns shall be furnished ;

(f) the manner in which refunds shall be made ;

(g) the classes of and the authority for determination and settlement of disputes ; and

(h) the fees for registration reference, revision or appeal petitions, supply of certified copies of orders and other matters ancillary or incidental thereto ;

(i) any other matter which is required to be or may be prescribed.

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

64. The State Government shall cause every rule made under section 63 and every notification issued amending any Schedule or making any exemption or reduction in rate under this Act to be laid, as soon as may be, after it is made or issued before the House of State Legislature while it is in session for a total period of fourteen days, which may be comprised in one or more session in which it is so laid or the session

Laying of rules and certain notification before the State Legislative Assembly.

immediately following and if the House agrees in making any modification in the rule or notification or agrees that the rule or notification should not be made, the rule or the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, provided that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

65. The Assam Sales Tax Act, 1947 (Act No. 17 of 1947) shall cease to be operative in Arunachal Pradesh by the commencement of this Act.

SCHEDULE—I
(See Section 6)

Serial No.	Description of Goods	Rate of tax
	The articles and the rates liable to be taxed under the Act shall be in such manner as may be notified from time to time.	

SCHEDULE—II
LIST OF EXEMPTED ITEMS
(See Section 9)

Serial No.	Description of Goods	Condition & exception for exemption.
1.	All varieties of textiles, viz. cotton, woollen or silken, including rayon, silk or nylon whether manufactured by handloom, power loom or otherwise.	
2.	Ayurvedic, Homeopathic and Unani medicines except items sold as patent and in brand names.	
3.	(i) Anti-malaria drugs, viz. Quinine (but not sugar coated), quinine, alkaloids, salt of quinine cinchona and chloroquine of drugs e.g. Niva quine, Reschochin and comoquine whether is solution or in powder or in tablet form, plaudine and daraprin, (ii) Anti-Kala-azar drugs, viz. Urea, Stibamine pentamidine, isethionate	

Serial No.	Description of Goods	Condition & exception for exemption.
	(iii) Vaccine viz. Small-pox vaccine, TAB vaccine and chokera vaccine.	
4.	Books periodicals and News papers.	
5.	Betelnuts (excluding supari and betlenuts for conversation into supari).	
6.	Cereals in all its forms.	
7.	Condom and contraceptives.	
8.	Cotton and cotton waste.	
9.	Endi and Muga cloth.	
10.	Endi and Muga Yarn.	
11.	Electrical energy.	
12.	Fresh fruits.	
13.	Fish.	
14.	Furnace oil.	
15.	Flowers (natural).	
16.	Fresh milk and curds.	
17.	Gur and molasses.	
18.	Grass used as cattle fodder only.	
19.	Green tea leaf.	
20.	Hand-spun cotton yarn.	
21.	Hand-loom cloth woven out of cotton yarn.	
22.	Hand woven silk (pat) cloth.	
23.	Human blood.	
24.	Khadi and or products of village as defined in Khadi and village industries Commission's Act, 1956.	
25.	Meat.	
26.	Mathematical instruments for students.	
27.	Mill made cotton yarn excluding sewing thread.	
28.	National flags.	
29.	Plough, plough points sickles, Khurpi, Axe, Khanta (for digging hole in the soil) and dao.	
30.	Publications issued by Publication Division of the Government of India, Ministry of Information and broadcasting.	

Serial No.	Description of Goods	Condition & exception for exemption.
31. (a)	Rum sold at Defence Service installation.	
(b)	Rum sold to personnel of the Armed Branch Police of the Government of Arunachal Pradesh.	
32.	Sago.	
33.	Salt.	
34.	Spun-silk yarn as distinguished from raw silk and noil yarn.	
35.	Slates and Slate pencils.	
36.	Sugar other than sugar candy confectionery and the like.	
37.	Sugar cane.	
38.	Tobacco and its products.	
39.	Vegetable (including onion, garlic, spices, ginger, condiments and dried vegetable).	
40.	Water but not ice, distilled, acrated, processed or mineral water.	
41.	School uniform.	
42.	Wheel chair used by physically handicapped and invalid persons.	
43.	Artificial limbs, shoes and such other items used by physically handicapped persons.	
44.	Polythene line jute bags.	
45.	Chemical fertilizers and bone meals.	
46.	Fire wood.	
47.	Mustard oil and Rape oil.	
48.	Pulses in all forms excluding cooled pulses.	
49.	Hatchable egg, chicks and poultry.	
50.	Bread in form of loaf.	
51.	Poultry leed and ingredients thereof.	
52.	Biogas plants and equipments.	
53.	Plants and equipments for harnessing and utilizing solar energy including all types of solar thermal devices.	
54.	Bell-metal articles produced and sold by co-operative societies.	
55.	Cattle feed.	
56.	All other items not specifically included in the Schedule I.	

THE ARUNACHAL PRADESH SALES TAX (AMENDMENT)
ACT, 2002

(ACT No. 7 OF 2002)

further to amend the Arunachal Pradesh
Sales Tax Act, 1999 (Act No. 5 of 1999).

Be it enacted by the Legislative Assembly
of Arunachal Pradesh in the Fifty-third year of
Republic of India as follows :-

1. (1) This Act may be called the Arunachal Pradesh Sales Tax (Amendment) Act, 2002. Short title and Commencement.

(2) It shall come into force at once.

2. In Sub-section (1) of Section 5, for the existing figure "Rs. 20,000", the figure "Rs. 1,00,000", shall be substituted. Amendment of Section 5.
