

# Himachal Pradesh General Sales Tax Act, 1968

HIMACHAL PRADESH

India

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### Act 24 of 1968

- Published on 13 December 1968
- Commenced on 13 December 1968
- [This is the version of this document from 13 December 1968.]
- [Note: The original publication document is not available and this content could not be verified.]

Himachal Pradesh General Sales Tax Act, 1968[Himachal Pradesh Act No. 24 of 1968]Last Updated 30th January, 2020[Dated 13.12.1968]\* Received the assent of the President of India on the 13th December, 1968, and was published in the R.H.P. Extra., dated the 1st April, 1969 at p. 265-292 read with corrigendum published in R.H.P dated the 6th June, 1970, at page 397.An Act to provide for the levy of a general tax on the sale or purchase of goods in Himachal Pradesh and for the repeal of the corresponding Acts as at present in force.Be it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:-

### 1. Short title, extent and commencement.

(1)This Act may be called the Himachal Pradesh General Sales Tax Act, 1968.(2)It extends to the whole of Himachal Pradesh.(3)It shall come into force at once.

### 2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a)"Assessing Authority" means any person authorised by the State Government to make any assessment under this Act;(aa)[ "business" includes,- [New clause (aa) added by H.P. Act No. 7 of 1977-Sec. 2(a).](i)any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce, or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern; and(ii)any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;](b)"Commissioner" means the Excise and Taxation Commissioner appointed under sub-section (1) of section 3;(c)[ "dealer" means any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly) or indirectly, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration and includes:- [Clause '(C)' substituted vide Act No. 7 of 1977-Sec. 2(b).](i)a local authority, a body

corporate, a company, a co-operative society or other society, club, firm, Hindu Undivided Family or other association of persons which carries on such business:(ii)a factor, broker, commission agent, a dealer,s agent or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing goods belonging to any principal, whether disclosed or not; [XXXX](iii)an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not, and whether the offer of the indenting purchaser is accepted by him or by the principal or a nominee of the principal [;and] [The sign at the end of sub-clause (iii) of clause (c) Subs. by 'and' vide H.P. Act No. 14 of 1994 (Sec. 2).](iv)[ every person engaged in the business of,- [Sub-clause (iv) added vide, H.P. Act No. 14 of 1994, Part (a) of Sub-clause (iv) shall be deemed to be added w.e.f. 2.2.1983 and the remaining provisions deemed to be added w.e.f 13.8.1985.](a)transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;(b)transfer of property in goods (which as goods or in some other form) involved in the execution of a works contract;(c)delivery of goods on hire-purchase or any system of payment by instalments;(d)transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable Consideration;(e)supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration; and(f)supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service, is for cash, deferred payment or other valuable consideration].

Explanations. - (1) Every person who acts as an agent in Himachal Pradesh of a dealer residing outside this State and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer as-(i)a mercantile agent as defined in the Sale of Goods Act, 1930(3 of 1930); or(ii)an agent for handling of goods or documents of title relating to goods; or(iii)an agent for the collection of the payment of the sale price of goods or as a guarantor for such collection or payment;and every local branch or office in Himachal Pradesh of a firm registered outside this State or a company or other body corporate, the principal office or headquarters whereof is outside this State, shall be deemed to be a dealer for the purpose of this Act.(2)[Every department or its subordinate offices, of a Government] [Subs. for the words 'A Government' vide Act No. 14 of 1994 (Sec. 2) w.e.f. 13.8.85.] which whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall, except in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purpose of this Act.(3)For the purpose of this clause "Government" shall include the Central Government or the Government of any other State or Union Territory;](d)"declared goods" shall have the meaning assigned to that expression in clause (c) of section 2 of the Central Sales Tax Act, 1956 (Act No. 74 of 1956);(dd)[ Deputy Excise and Taxation Commissioner, appointed under sub-section (1) of section 3 of this Act, to assist the Commissioner and shall also include the Joint Excise and Taxation Commissioner; [Clause (dd) of section 2 in vide Act No. 15 of 1986, and further renumbered as clause '(ddd)' and new clause (dd) added vide Act No. 15 of 1987 (Sec. 2).](ddd)"Financial Commissioner" means the Financial Commissioner appointed or empowered to exercise the powers of the Financial Commissioner under this Act;](e)[ "goods" means every kind of movable [property other than newspapers, actionable] [Clause '(e)' subs. vide Act No. 7 of 1977 (Sec.

2) and shall always be deemed to have been substituted.] claims, stocks, shares or securities, and, includes growing crops, grass, trees and things attached to or fastened to anything permanently attached to the earth but which under the contract of sale, are agreed to be severed, and includes any class of goods;](f)"notification" means notification published under proper authority in the Rajpatra, Himachal Pradesh;(g)"prescribed" means prescribed by rules made under this Act;(h)[ "purchase" with all its grammatical or cognate expressions, means the acquisition of goods for cash or deferred payment or other valuable consideration otherwise than under a mortgage, hypothecation, charge or pledge and includes- [Clause (h) subs. vide H.P. Act No. 8 of 1985 (Sec. 2).](i)the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;(ii)the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;(iii)the delivery of goods on hire-purchase or any system of payment by instalments;(iv)the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;(v)the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;(vi)the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption, or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the persons making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;](i)"registered" means registered under this Act;(j)[ "sale" means any transfer of property of goods for cash or for deferred payment or for any other valuable consideration other than a mortgage, hypothecation, charge or pledge, and includes- [New clause (j) subs. vide Act No. 8 of 1985 (Sec. 2).](i)the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;(ii)the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;(iii)the delivery of goods on hire-purchase or any system of payment by instalments;(iv)the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;(v)the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;(vi)the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service, is for cash, deferred payment or other valuable consideration; and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made;](k)"Schedule" means a Schedule to this Act;(l)"State Government" or "Government" means the Government of Himachal Pradesh;(ll)[ "timber" includes trees when they have fallen, or have been felled or agreed to be felled and all wood whether cut up or fashioned or hollowed out for any purpose or not;] [Clause (II) added vide Act No. 7 of 1977 (Sec. 2(d) and shall always be deemed to have been added.](m)"turnover" includes, the aggregate of the amounts of sales and purchases and parts of sales and purchases actually made by any dealer during the given period less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof;Explanations. - (1) The proceeds of any sale made

outside the Himachal Pradesh by a dealer, who carries on business both inside and outside Himachal Pradesh, shall not be included in the turnover.(2)The turnover of any dealer in respect of transactions of forward contracts, in which goods are actually not delivered, shall not be included in the turnover.(3)The proceeds of sale of any goods on the purchase of which tax is leviable under this Act, or the purchase value of any goods on the sale of which tax is leviable under this Act; shall not be included in the turnover of a dealer;(4)[ in respect of transactions covered under sub-clause (iii) of clause (h) and sub-clause (iii) of clause (j) of this section the amount to be included in the turnover shall be the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase agreement in order to complete the purchase of, or the acquisitions of property in the goods to which the agreement relates and includes any sum as payable by the hirer under the hire purchase agreement by way of deposit or other initial payment, or credited or to be credited to him under such agreement on account of any such deposit or payment whether that sum is to be or has been paid to owner or to any person or is to be or has been discharged by payment of money or by transfer or delivery of goods or by any other means, but does not include any sum payable as a penalty or as compensation or damages for breach of the agreement.(5)The amount to be included in the turnover in respect of transfer of property in goods (whether as goods or in some other form) involved in the execution of work contract shall be its sale price;] [Explanations (4) and (5) added vide H.P. Act No. 14 of 1994 (Sec. 2), w.e.f. 13.8.1985.](n)"year" means the financial year;(o)"import" means the bringing of goods into Himachal Pradesh from any place outside its limits [;] [Substituted for vide H.P. Act No. 2 of 1974.](p)[ "small scale industries" means all industrial units with [a capital investment as may be prescribed] [Clause (p) added vide H.P. Act No. 5 of 1972 repealed by H.P. Act No. 11 of 1973 and again new clause (p) added vide Act No. 2 of 1974 effective w.e.f. 12.4.1971.] irrespective of the number of persons employed;]Explanation. - In this clause "capital investment" means investment in plant and machinery only [] [Substituted for ',' vide H.P. Act No. 5 of 1991 w.e.f. 1.4.1991.](q)[ x x x] [Clause (q) added vide Act No. 12 of 1979 w.e.f. 1.4.1979, subsequently omitted by Act No. 5 of 1991 w.e.f. 1.4.1991.]

### 3. Taxing authorities.

(1)For carrying out the purposes of this Act, the State Government may appoint a person to be Excise and Taxation Commissioner, and such other persons to assist him as it thinks fit.(2)Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.(3)All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

### 4. Incidence of taxation.

(1)Subject to the provisions of section 6, section 7 and sub-section (2) of section 12, every dealer (except one dealing exclusively in goods declared tax free under section 7) whose gross turnover during the year immediately preceding the commencement of this Act exceeded the taxable quantum shall be liable to pay tax under this Act on all sales effected and purchases made after the coming into force of this Act.(2)Every dealer to whom sub-section (1) does not apply or who does not deal exclusively in goods declared to be tax free under section 7 shall be liable to pay tax under

this Act on the expiry of 30 days after the date on which his gross turnover during any year first exceeds the taxable quantum: Provided that in the case of a dealer who imports any goods for sale or use in manufacturing or processing, or who manufactures or processes any goods for sale, the liability to pay tax shall commence with effect from the date on which his gross turnover during any year first exceeds the taxable quantum. (3) Notwithstanding anything contained in sub-sections (1) and (2) no tax on the sale of any goods shall be levied if a tax on their purchase is payable under this Act. (4) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this later period his liability to pay tax shall cease. (5) Every dealer, whose liability to pay tax has ceased under the provisions of sub-section (4), shall again be liable to pay tax under this Act with effect from the date on which his gross turnover first exceeds the taxable quantum. (6) In this Act, the expression 'taxable quantum' means.-(a) in relation to any dealer who imports for sale or use in manufacturing or processing any goods in Himachal Pradesh, nil; (b) in relation to any dealer, who himself manufactures or produces any goods for sale, [40,000] [Substituted for the figure '10,000' vide Act No. 15 of 1987.] rupees; (c) in relation to any dealer who runs a [XXXXXXXXXX] [The words 'tandoor', 'loh' 'dhaba' 'halwai shop' and 'Indian' deleted from clause (c) of sub-section (4) w.e.f. 2.11.1991 vide Act No. 18 of 1991 (Sec. 3).] hotel, restaurant, [XXXXXXXXXX] [The words 'tandoor' 'loh' 'dhaba' 'halwai shop' and 'Indian' deleted from clause (c) of section (4) w.e.f. 2.11.1991 vide ibid (Sec. 3).] bakery or other similar establishment wherein [XXXXXX] [The word 'Indian' deleted vide vide Act No. 18 of 1991 (Sec. 3).] food preparations including tea, are served, [1,00,000] [Figures of '25,000' Substituted by '40,000' w.e.f. 29.4.1978 vide Act No. 17 of 1978, further Substituted by '1,00,000' vide Act No. 15 of 1986.] rupees; (d) in relation to any particular classes of dealers not falling within clause (a), (b) and/or (c), such sum as may be prescribed; or (e) in relation to any other dealer, [3,00,000] [Figures '40,000' Substituted by '1,00,000' w.e.f. 15.11.1980 vide Act No. 4 of 1981 and further by '3,00,000' vide Act No. 5 of 1991 w.e.f. 1.4.1991.] rupees: Provided that the registration of dealers already registered under this clause shall not be cancelled until their turnover in each of three consecutive years does not entitle them to cancellation under clause (b) of sub-section (6) of section 8.

## **5. Liability of a dealer registered under Parliament Act No. 74 of 1956 to pay tax.**

- A dealer registered under the Central Sales Tax Act, 1956 who is not liable to pay tax under section 4 shall nevertheless be liable to pay tax under this Act on any sale or purchase made by him inside the [State of Himachal Pradesh:] [Substituted for the words 'Union Territory of Himachal Pradesh' vide A.O. 1973.] Provided that nothing herein shall apply to a dealer who deals exclusively in goods declared tax free under section 7.

## **5A. [ Levy of purchase tax on certain goods. [Section 5-A added vide Act No. 15 of 1987-Sec. 4, amended vide Act No. 12 of 1992, w.e.f. 1.8.1992 and subsequently Substituted vide Act No. 14 of 1994- Sec. 3.]**

- Where a dealer who is liable to pay tax under this Act purchases any goods other than those specified in Schedule "B" from any source, and-(i)uses them within the State in the manufacture of goods specified in Schedule "B", or(ii)uses them within the State in the manufacture of goods, other than those specified in Schedule "B", and sends the goods so manufactured outside the state in any manner otherwise than by way of sale in the course of inter-State trade or commerce or in the course of export out of the territory of India, or(iii)uses such goods for a purpose other than that of resale within the State or sale in the course of inter-State trade or commerce or in the course of export out of the territory of India, or(iv)sends them outside the State in any manner otherwise than by way of sale in the course of inter-State trade or commerce or in the course of export out of the territory of India, and no tax is payable on the purchase of such goods under any other provisions of this Act, there shall be levied a tax on the purchase of such goods equal to the rate as notified, under sub-section (1) of section 6, by the State Government.]

## 6. Rate of tax.

(1)subject to the provisions of this Act, there shall be levied on taxable turnover of a dealer a tax at such rates not exceeding [ten] [The word 'seven' Substituted for 'six' w.e.f. 1.6.1974 vide Act No. 14 of 1974 and further word 'ten' Substituted for the word 'seven' vide Act No. 5 of 1991 w.e.f. 1.4.1991.] paise in a rupee as the Government may, by notification, direct:Provided that a tax at such rate not exceeding [15] [The figure '15' Substituted for '10' vide Act No. 15 of 1991 w.e.f. 1.4.1991.] paise in a rupee, as may be so notified, may be levied on the sale of [XXXXXXXXXX] [The word 'luxury' deleted vide Act No. 1 of 1977 w.e.f. 25.9.1976.] goods as specified in Schedule 'A' [except on [items 25, 34 and 36] [The words 'except on item 25 thereof on which a tax at the rate of 20 paise in a rupee shall be levied' inserted vide Act No. 17 of 1978 and further Substituted by the words 'except on items 25 and 34 thereof on which a tax at the rate of 25 paise in a rupee shall be levied, vide Sec. 3(c) of Act No. 12 of 1979' the amendment made in relation to item 34 of Schedule 'A' of the Principal Act deemed to have been made w.e.f. 1st day of February, 1979 vide Sec. 3(2) of H.P. Act No. 12 of 1979.] thereof on which a tax at the rate of [not exceeding 30 paise] [The words and figures 'not exceeding 30 paise' Substituted for '25 paise' w.e.f. 1.4.1991 vide Act No. 5 of 1991-Sec. 4.] in a rupee shall be levied]. The Government, after giving by notification not less than thirty days notice of its intention so to do, may, by like notification, add to or delete from this Schedule, and thereupon this Schedule shall be deemed to have been amended accordingly:Provided further that the rate of tax in respect of all declared goods, shall, unless a lower rate is fixed by the Government, by notification, be the maximum rate specified in clause (a) of section 15 of the Central Sales Tax Act, 1956 [XXXX] [The sign and words, 'and such tax shall be leviable and payable at the stage of sale or purchase' as the case may be' and under the circumstances specified against such goods in Schedule 'D', omitted w.e.f. 13.10.1978 vide Act No. 32 of 1978, Sec. 3.]:Provided further that in the case of goods specified in Schedule 'C', the tax shall be leviable and payable on the purchase thereof.(2)The Government may, by notification, direct that in respect of such goods, other than the goods specified in [Schedule "C"] [Substituted for, Schedule 'C' and 'D', w.e.f. 13.10.1978 by Act No. 32 of 1978 Sec. 3.], and with effect from such date as may be specified in the notification, the tax under sub-section (1) shall be levied at the first stage of the sale thereof and on the issue of such notification, the tax on such goods shall be levied accordingly:Provided that no sale of such goods at a subsequent stage shall be exempt from tax under this Act unless the dealer effecting the sale at such subsequent stage furnishes to the

assessing authority in the prescribed form and manner a certificate duly filled in and signed by the registered dealer from whom the goods were purchased to the effect that the tax on such goods has been paid at the first stage. Explanation. - For the purposes of this sub-section, the first stage of sale in respect of any goods and in relation to any class of dealers shall be such as may be specified by the Government in the notification. (3) In this Act, the expression "taxable turnover" means that part of dealer's gross turnover during any period which remains after deducting therefrom- (a) his turnover during that period on- (i) the sale of goods declared tax free under section 7; (ii) [ sale to a registered dealer of goods, liable to tax at the last stage of sale in Himachal Pradesh, other than (a) the sale of goods specified in schedule 'C' or (b) the sale of goods liable to tax at the first stage of sale under sub-section (2), and the same is declared by him in a prescribed form as being intended for resale in the State of Himachal Pradesh or in the course of inter-State trade or commerce or sale in the course of export of goods out of the territory of India: [Sub-clause (ii) Substituted vide Act No. 14 of 1994 (Sec. 4) w.e.f. 1.1.1991.] Provided that, in the case of such sales, a declaration duly filled and signed by the registered dealer to whom the goods are sold, containing the prescribed particulars and inscribed on the bill or cash memorandum referred to in sub-section (2) of section 19 is furnished to the assessing authority by the dealer who sells the goods: Provided further that no dealer shall be entitled to make any deduction from his turnover in respect of a sale made by him to a registered dealer with whom composition under sub-section (2) of section 12 has been made and is in force;] [x x x] [Third proviso omitted vide Act No. 15 of 1987 w.e.f. 25.5.1987.] (iii) sales to any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910 (Act No. 9 of 1910), of goods for use by it in the generation or distribution of such energy: [Provided that in the case of such sales, a declaration in such form and in such manner as may be prescribed, duly filled and signed by the authorised officer of such undertaking to whom the goods are sold is furnished to the Assessing Authority by the dealer who sells the goods;] [Proviso added at the end of Sub-clause (iii) vide Act No. 14 of 1994.] (iv) sales or purchases of goods falling under section 41; (v) the purchase of goods, - (a) which are specified in Schedule 'C' and are sold during the year to a registered dealer, or in the course of inter-State trade or commerce or in the course of export out of the territory of India; or (b) [ which are referred to under section 14 of the Central Sales Tax Act, 1956, and are sold during the year in the course of inter-State trade or commerce or in the course of export out of the territory of India:] [Paragraph (b) Substituted vide Act No. 32 of 1978 (Sec. 3).] Provided that in the case of a sale referred to in sub-paragraph (a) to a registered dealer, a declaration in the prescribed format duly filled and signed by the registered dealer, to whom the goods are sold is furnished by the dealer claiming deduction: Provided further that the purchase of goods referred to in sub-paragraph (b) remaining unsold within the period specified in that paragraph shall be deemed to be the purchase of the dealer claiming deduction during the year following; and (vi) such other sales or purchases as may be prescribed; [x x x] [The word 'and' at the end of sub-clause (vi) omitted vide Act No. 14 of 1994.] [Explanation. [Explanation added vide Act No. 14 of 1994.] - For the purposes of sub-clause (ii), the last stage of sale in Himachal Pradesh in respect of any goods means a stage of sale other than the first stage of sale, specified by the Government in the notification issued under sub-section (2) of section 6; and] (b) the amount of sales tax included in the gross turnover. (4) [x x x] [Sub-section (4) omitted vide Act No. 15 of 1986.]

**6A. [ Declaration and certificates to be filed alongwith returns. [Section 6-A added vide Act No. 5 of 1972, repealed by Act No. 11 of 1973, again inserted vide Act No. 12 of 1979, amended by Act No. 15 of 1987 and omitted by Act No. 5 of 1991' effective w.e.f. 1.4.1991 (Sec. 5), and subsequently inserted vide Act No. 2 of 1995 (Sec. 2).]**

- Every dealer claiming, -(i) any deduction from his gross turnover, or (ii) any part of his taxable turnover to be a sale to Government, or (iii) any part of the taxable turnover to be liable to tax at concessional rate of tax or to an exemption under section 42-B of this Act, shall furnish, alongwith return to be furnished under sub-section (3) of section 12, to the assessing authority, the declaration or the certificate as required under this Act]

**7. Tax free goods.**

(1) No tax shall be payable on the sale of goods specified in the first column of Schedule 'B', subject to the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof and no dealer shall charge sales tax on the sale of goods which are declared tax free from time to time under this section. (2) The Government, after giving by notification not less than thirty days notice of its intention so to do, may, by like notification, add to or delete from Schedule 'B' and thereupon Schedule 'B' shall be deemed to be amended accordingly.

**8. Registration of dealers.**

(1) No dealer shall, while being liable to pay tax under this Act, carry on business as a dealer unless he has been registered and possesses a registration certificate [:] [The sign Substituted for vide Act No. 5 of 1991 (Sec. 6) w.e.f. 1.4.1991.] [Provided that nothing herein shall apply to a dealer who deals exclusively in such goods on which tax has been proved to have been levied at the first stage of the sale thereof under sub-section (2) of section 6 and that such a dealer is not the first selling dealer in respect of those goods in the State of Himachal Pradesh: Provided further that the dealer referred to in the preceding proviso maintains proper accounts in respect of his business and possesses and furnishes to the Assessing Authority, the certificate referred to in sub-section (2) of section 6, in the prescribed manner, to the effect that the tax on the sales of such goods has been paid at the first stage of sale thereof.] [Proviso added vide Act No. 5 of 1991 (Sec. 6) w.e.f. 1.4.1991.] (2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority. (3) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such rules and on payment of such fees as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which may specify the class or classes of goods for the purposes of sub-clause (ii) of clause (a) of sub-section (3) of section 6. (4) The Commissioner [or the prescribed authority] [The words 'or the prescribed authority' and 'suspend' inserted vide Act No. 2 of 1995 (Sec. 3).] may, from time to time, by order, amend [suspend] [The words 'or the prescribed authority' and 'suspend' inserted vide Act No. 2 of 1995 (Sec. 3).] or cancel any certificate of registration on - (a) information furnished under section 25; or (b) information received that the dealer has violated any provision of this Act or rules



made thereunder; or(c)any other sufficient clause including misuse of the certificate or cessation of liability to payment of tax under this Act:Provided that no order affecting any person adversely shall be made under this sub-section without affording him a reasonable opportunity of being heard.(5)When any dealer has paid the amount of penalty imposed under section 35 in respect of any contravention of sub-section (1) of this section, the Commissioner [or the prescribed authority] [Insertted vide Act No. 2 of 1995 (Sec. 3).] shall register such dealer and grant him a certificate of registration and such registration shall take effect as if it had been made under sub-section (3) of this section on the dealer's application.(6)When-(a)any business in respect of which certificate has been granted upon application made under sub-section (2) has been discontinued or transferred; or(b)the gross turnover of any such business has during each three consecutive years failed to exceed the taxable quantum; or(c)the certificate of registration granted under the Central Sales Tax Act, 1956, to a dealer liable to pay to virtue of the provisions of section 5 but who is not otherwise liable to pay tax under section 4 has been cancelled, the Commissioner [or the prescribed authority] [Insertted vide Act No. 2 of 1995 (Sec. 3).] shall cancel the registration and the cancellation shall come into force after the expiry of such period as may be prescribed.

## **9. Voluntary registration.**

(1)Any dealer except one dealing exclusively in goods declared tax free under section 7 whose gross turnover during a year exceeds 15,000 rupees may, notwithstanding that he may not be liable to pay tax under section 4, apply in the prescribed manner to the prescribed authority for registration under this Act.(2)The provisions of sub-section (3) and (4) and clause (a) of sub-section (6) of section 8 shall apply in respect of applications for registration under this section.(3)Every dealer who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act whether his gross turnover exceeds the taxable quantum or not.(4)The registration of a dealer upon application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.(5)Subject to the provisions of sub-section (4), a dealer registered upon application made under this section may apply in the prescribed manner not less than six months before the end of a year to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made; and the said authority shall, unless the dealer is liable to pay tax under section 4, cancel the registration accordingly.

## **10. Provisional registration.**

(1)Any person intending to establish a business in the [State of Himachal Pradesh] [Substituted for the words 'Union Territory of Himachal Pradesh' by A.O. 1973.] for the purpose of manufacturing goods of a value exceeding ten thousand rupees a year for sale may, notwithstanding that he is not liable to registration under section 8, apply to the assessing authority in the prescribed form for provisional registration under this Act.(2)If the assessing authority, after making such inquiry as it may consider necessary, is satisfied as to the bona fide intention of the person making the application, it may grant a provisional certificate of registration in the prescribed form and under such conditions as may be prescribed.(3)Every person who has been granted a provisional certificate

of registration under this section shall, for so long as such certificate is in force, be liable to pay tax under this Act [:] [The sign '.' at the end of sub-section (3) Substituted by '.' vide H.P. Act No. 15 of 1986 (Sec. 5).][Provided that the assessing authority may, on application made in this behalf accompanied by a fee, not exceeding fifty rupees, as may be prescribed, for reasons to be recorded in writing, extend the period specified in the certificate of registration.] [Proviso added vide H.P. Act No. 15 of 1986 (Sec. 5).](4)A provisional certificate of registration granted under this section shall be in force for such period as may be specified therein or until a certificate under section 8 is granted and the provisions of sub-section (4) of section 8 shall, so far as may be, apply to any such provisional certificate of registration.(5)If a person who has been granted a provisional certificate of registration under this section fails to establish the business within the period specified in the provisional certificate of registration or fails to comply with any of the conditions specified therein, he shall be liable, by order of the assessing authority, to pay a penalty equivalent to one half of the amount of tax which would have been payable by him in respect of all the purchases of goods made by him within the period specified in the certificate as if he had not been registered under this section.

## **11. [ Security from certain class of dealers. [Section 11 Substituted vide Act No. 15 of 1986.]**

(1)The Commissioner or any other person appointed to assist him under sub-section (1) of section 3, if it appears to him to be necessary so to do for the proper realisation of the tax levied under this Act, may, for reasons to be recorded in writing, impose as a condition of the issue of a certificate of registration to a dealer, or of the continuance in effect of such certificate issued to any dealer, a requirement that the dealer shall give security in the manner prescribed for such amount as may be specified in the order.(2)No dealer shall be required to furnish security under sub-section (1), unless he has been given an opportunity of being heard and the security that may be required to be furnished by any dealer under the aforesaid sub-section shall be to the satisfaction of the authority prescribed in sub-section (1).(3)Where the security furnished by a dealer under sub-section (1) is in the form of a surety bond and the surety becomes insolvent or is otherwise incapacitated or dies or withdraws, the dealer shall, within fifteen days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within thirty days of such occurrence furnish a fresh surety bond.(4)The authority granting the certificate of registration may, by an order in writing, for good and sufficient cause, forfeit the whole or any part of the security furnished by a dealer for realising any amount of tax or penalty payable by a dealer:Provided that no order shall be passed under this sub-section without giving the dealer and the surety a reasonable opportunity of being heard.(5)where by reason of an order under sub-section (4), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.(6)The authority granting a certificate of registration may, on application by the dealer, order the refund of security furnished by him or any part thereof, if the same is not required for the purposes of this Act.]

## 12. Payment of tax and returns.

(1) Tax payable under the Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed. (2) The Commissioner may, in the public interest and subject to such conditions as he may deem fit, accept from any class of dealers, in lieu of the amount of the tax payable under this Act for any period, by way of composition, a lump sum to be determined and to be paid at such intervals and in such manner as may be prescribed, and thereupon, during the period such composition remains in force, the provisions of this Act and the rules made thereunder relating to the filing of returns and the maintenance of accounts by such dealers shall not apply to them. (3) Such dealers as may be required so to do by the assessing authority by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed. (4) [ Before a registered dealer furnishes the return required by sub-section (3), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India, or at the office of the [Assistant Excise and Taxation Commissioner or Excise and Taxation Officer- in-charge of the District] [Sub-section (4) Substituted by Act No. 12 of 1979.], the full amount of tax due from him under the Act according to such returns and shall furnish along with the returns a receipt from such treasury, bank or office of the [Assistant Excise and Taxation Commissioner or Excise and Taxation Officer-in-charge of the District] [Substituted for the words 'District Excise and Taxation Officer' vide Act No. 18 of 1991.] showing the payment of such amount. Provided that no payment of such amount shall be accepted at the office of the [Assistant Excise and Taxation Commissioner or Excise and Taxation Officer-in-Charge of the District] [Substituted for the Words 'District Excise and Taxation Officer' vide Act No. 18 of 1991.] save through a [crossed cheque or] [The words 'crossed cheque or' inserted vide Act No. 4 of 1981.] bank draft payable at a [local branch of a Scheduled Bank] [Substituted for the words 'local Scheduled Bank' vide Act No. 18 of 1991 w.e.f. 2.11.1991.] in favour of the assessing authority [:] [The sign Substituted for the sign vide Act No. 4 of 1981 w.e.f. 15.11.1980.][Provided further that where the payment is made through a crossed cheque, such crossed cheque must be delivered in the office of the assessing authority concerned not less than ten clear days before the expiry of the due date prescribed under sub-section (3) for filing the return, and the dealer shall be deemed to have made the payment on the date on which such crossed cheque, after its presentation in the bank, is actually credited into the Government account and necessary receipt is issued by the bank in favour of the dealer:] [Proviso added vide Act No. 18 of 1991.][Provided further that where the payment is made through a crossed cheque and the cheque is dishonoured, the dealer shall be deemed to have not made the payment and shall be liable to any action which may be taken for not making payment under the Act or the rules framed thereunder.] [Proviso added vide Act No. 4 of 1981 w.e.f. 15.11.1980.] Explanation. - For the purposes of this sub-section "Scheduled Bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934). (5) If any dealer discovers any omission or other error in any return furnished by him, he may, at any time, before the date prescribed for the furnishing of the next return by him, furnish a revised return, and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment, in the manner prescribed in sub-section (4), of extra amount. (6) If a dealer fails without sufficient cause to comply with the requirements of the provisions of sub-section (3) or sub-section (4), the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after giving such dealer a reasonable opportunity of

being heard, direct him to pay, by way of penalty, a sum [which shall not be less than ten per centum, but which shall not exceed] [Substituted for the words 'not exceeding' by Act No. 5 of 1991 (Sec. 7).] one and half times of the amount of tax to which he is assessed or is liable to be assessed under section 14 in addition to the amount of tax to which he is assessed or is liable to be assessed, and where no, tax is payable, a sum not exceeding one hundred rupees.(7)If a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stocks of goods, or has cancelled any particulars of his sales or purchases or has furnished to, or produced before, any authority under this Act or the rules made thereunder any account, return or information which is false or incorrect in any material particular, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may, after affording such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the tax to which he is assessed or is liable to be assessed, an amount which shall not be less than [twenty-five per centum] [The word 'twenty-five' Substituted for 'ten' vide Act Na 5 of 1991' effective w.e.f. 1.4.1991.] but which shall not exceed one and a half times of the amount of tax to which he is assessed or is liable to be assessed.

## **12A. [ Tax deduction from the bills/invoices of the works contractors.**

**[Section 12-A. inserted vide Act No. 18 of 1991.]**

(1)Notwithstanding anything to the contrary contained in section 13, every person making any payment or discharge of any liability on account of valuable consideration payable for the transfer of property in goods, whether as goods or in some other form, involved in the execution of works contract shall deduct an amount not exceeding four per centum as may be prescribed, purporting to be a part or full of the tax payable on such sales, from the bills or invoices raised by the works contractor as payable by the persons:Provided that no such payment or discharge of any bill raised by the works contractor shall be made without deduction:Provided further that if the State Government is satisfied that it is necessary to do so in the interest of the State revenue, it may notify the names/posts of such persons who shall be competent persons to make such deduction.(2)The deduction referred to in sub-section (1) shall be made in the manner which may be prescribed.(3)The payment of such deduction into the Government treasury shall be the responsibility of the person making such deduction.(4)The person making such deduction shall issue deduction certificate, in the prescribed manner to the person or dealer from whose bill or in-voice such deduction has been made.(5)If any person contravenes any or all the provisions of sub-sections (1), (3) and (4) the prescribed authority shall, after giving an opportunity of being heard, by an order, in writing, direct that such person shall pay by way of penalty, a sum not exceeding twice the amount of tax deductible under sub-section (1).(6)The provisions of sections 16 and 16-A for recovery of any amount of tax due from a dealer shall mutatis mutandis apply for recovery of any amount of tax, deducted and/or any penalty imposed but not deposited under this section]

## **13. [ Prohibition against collection of tax in certain cases. [Section 13 Substituted and shall always be deemed to have been substituted by Act No. 7 of 1977.]**

(1) No person shall collect any sum by way of tax in respect of sale or purchase of any goods on which no tax is payable under this Act. (2) No person, who is not a registered dealer and liable to pay tax in respect of any sale or purchase, shall collect on the sale or purchase of any goods 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 this Act. (3) If any person, not being a dealer liable to pay tax under this Act, collects any sum by way of tax, or being a registered dealer collects any amount by way of tax in excess of the tax payable by him or otherwise collects tax in contravention of the provisions of sub-sections (1) and (2) he shall be liable to pay, in addition to any tax for which he may be liable, a penalty of an amount not exceeding five hundred rupees or double the amount so collected, whichever is greater. (4) If the Commissioner, or any person appointed to assist him under sub-section (1) of section 3, in the course of any proceedings under this Act or otherwise, has reason to believe that any person has become liable to pay penalty under sub-section (3), he shall serve on such person a notice in the prescribed form requiring him to show cause why a penalty as provided in sub-section (3) should not be imposed on him. (5) The Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall thereupon hold an enquiry and shall make such order as he thinks fit.]

#### **14. Assessment of tax.**

(1) If the Assessing Authority is satisfied without requiring the presence of dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns. (1A) [ If the taxable turnover of a dealer registers an increase of fifteen percent or upwards over the turnover of the preceding year as determined under this section and fulfills such other conditions as the State Government may deem fit to prescribe in this behalf, the assessing authority may dispense with the presence of such dealer and the production of an evidence by him under sub-section (1).] [Substituted for the words 'not exceeding' by Act No. 5 of 1991-effective w.e.f. 1.4.1991.] (2) If the assessing authority is not satisfied without requiring the presence of dealer who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein, either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns. (3) On the day specified in the notice or as soon afterwards as may be, the assessing authority shall, after hearing such evidence as the dealer may produce, and such other evidence as the assessing authority may require on specified points, assess the amount of tax due from the dealer. (4) If a dealer, having furnished returns in respect of a period, fails to comply with the terms of a notice issued under sub-section (2), the assessing authority shall, within five years after the expiry of such period, proceed to assess to the best of his judgement the amount of the tax due from the dealer. (5) If a dealer does not furnish returns in respect of any period by the prescribed date, the assessing authority shall, within five years after the expiry of such period, after giving a dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax, if any, due from he dealer. (6) If upon information which has come into his possession, the assessing authority is satisfied that any dealer has been liable to pay tax under this Act in respect of any period but has failed to apply for registration, the assessing authority shall, within five years after the expiry of such period, after

giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax, if any, due from the dealer in respect of such period and also all subsequent periods and in cases where such dealer has wilfully failed to apply for registration, the assessing authority may direct that the dealer shall pay by way of penalty in addition to the amount so assessed, a sum which shall not be less than fifteen per centum but which shall not exceed one and a half times that amount.(7)[ The amount of any tax, penalty or interest payable under this Act shall be paid by the dealer in the manner prescribed by such date as may be specified in the notice issued by the assessing authority for the purpose and the date so specified shall not be less than fifteen days and not more than thirty days from the date of service of such notice:Provided that the assessing authority may, with the prior approval of the Excise and Taxation Officer-in-charge of the district extend the date of such payment, but not more than 90 days, or allow payment by monthly instalments not exceeding three against an adequate security or a bank guarantee.] [Sub-section (7) Substituted vide Act No. 12 of 1979 w.e.f. 1.4.1979.](8)If the tax assessed under this Act or any instalment thereof is not paid by any dealer within the time specified therefor in the notice of assessment or in the order permitting payment in instalments, the Commissioner or any person appointed to assist him under sub-section (1) of section 3 may after giving such dealer an opportunity of being heard, impose on him a penalty not exceeding in amount the sum due from him.(9)Any assessment made under this section shall be without prejudice to any penalty imposed under this Act.

## **15. Re-assessment of tax.**

- [(1) If in consequence of definite information which has come into his possession, the assessing authority discovers that the turnover of the business of a dealer has been under-assessed or escaped assessment in any year, the assessing authority may, at any time within three years from the date of assessment under section 14, proceed to re-assess the tax payable on the turnover which has been under-assessed or has escaped assessment:Provided that the Assessing Authority may also take action to impose the penalty and interest under this Act:Provided further that no order of re-assessment or imposition of penalty and interest shall be made unless the dealer is afforded a reasonable opportunity of being heard in the prescribed manner.] [Substituted vide Act No. 2 of 1995 (Sec. 4).](2)An Assessing Authority or any such authority as may be prescribed, may at any time, within one year from the date of any order passed by him and subject to such conditions as may-be prescribed, rectify any clerical or arithmetical mistake apparent from the record.

## **16. Tax and penalty recoverable as arrears of land revenue.**

- The amount of any tax and penalty imposed [or interest payable] [Inserted vide Act No. 12 of 1979 (Sec. 7) w.e.f. 1.4.1979.] under this Act, which remains unpaid after the date, shall be recoverable as arrears of land revenue.

## **16A. [ Special mode of recovery. [Section 16-A inserted vide Act No. 18 of 1991 (Sec. 5).]**

(1) Notwithstanding anything contained in section 16 or any law or contract to the contrary, Commissioner or any officer other than an Excise and Taxation Inspector, appointed under section 3 to assist the Commissioner, may, at any time or from time to time, by notice in writing, a copy of which shall be sent to the dealer at his last address known to the officer issuing the notice, require—(a) any person from whom any amount is due or may become due to a dealer who has failed to comply with a notice of demand for any amount due under this Act; (b) any person who holds or may subsequently hold any money for or on account of such dealer; to pay into the Government treasury in the manner specified in the notice issued under this sub-section, either forthwith or upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due from the dealer in respect of the arrears of tax, interest and penalty under this Act, or the whole of the money when it is equal to or less than that amount. Explanation. - For the purposes of this sub-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 claim, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting. (2) The officer issuing a notice under sub-section (1) 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 issued under sub-section (1) shall be deemed to have made the payment under the authority of the dealer and the treasury receipt for such payment 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 after service on him of the notice issued under sub-section (1) shall be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer for tax, interest and penalty, whichever is less. (5) Where a person on whom a notice is served under sub-section (1), proves to the satisfaction of the officer who issued the notice that the sum demanded or any part thereof was not due to the dealer or that he did not hold any money for or on account of the dealer, at the time the notice was served such person to pay into the Government treasury any such money or part thereof, as the case may be. (6) Any amount of money which a person is required to pay under sub-section (1), or for which he is personally liable to the State Government under sub-section (4) shall, if it remains unpaid, be recoverable as an arrear of land revenue. (7) The provisions of this section shall be without prejudice to any action that may be taken for the recovery of the arrears of tax, interest and penalty, if any, due from the dealer.]

## **16B. [ Tax to be first charge on property. [Section 16-B inserted vide Act No. 14 of 1994 (Section 5).]**

- Notwithstanding anything to the contrary contained in any law for the time being in force, any amount of tax and penalty including interest, if any, payable by a dealer or any other person under this Act shall be a first charge on the property of the dealer or such other person:]

## **17. Period of limitation for completion of assessment or re-assessment not to apply to certain cases.**

(1) Notwithstanding the provisions relating to the period of limitation contained in section 14 or section 15 or in any other provision of this Act, assessment or re-assessment may be made at any time in consequence of, or to give effect to, any order made by any court or other authority under this Act. (2) Where the assessment proceedings relating to any dealer remained stayed under the orders of any court or other authority for any period, such period shall be excluded in computing the period of limitation for assessment or re-assessment specified in section 14 or section 15 or in any other provision of this Act.

### **17A. [ Payment of interest. [Section 17-A inserted vide Act No. 12 of 1979 (Sec. 8).]**

- [(1) If any dealer fails to pay the amount of tax due from him under this Act except to the extent mentioned in sub-section (2), he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due and payable by him at the rate of one per centum per month, from the date immediately following the last date on which the dealer should have either filed the return or paid the tax under this Act, for a period of one month and thereafter at the rate of one and a half per centum per month till the default continues.] (2) If the amount of tax or penalty due from a dealer is not paid by him within the period specified in the notice of demand or, if no period is specified within thirty days from the service of such notice, the dealer shall, in addition to the amount of tax or penalty, be liable to pay simple interest on such amount at the rate of one per centum per month from the date immediately following the date on which the period specified in the notice or the period of thirty days, as the case may be, expires, for a period of one month and thereafter at the rate of one and a half per centum per month till the default continues: Provided that where the recovery of any tax or penalty is stayed by an order of any court, the amount of tax or penalty shall, after the order of stay is vacated, be recoverable alongwith interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date the tax or penalty first became due. (3) The amount of interest payable under this section shall-(i) be calculated by considering if part of a month is more than fifteen days as one month and any amount if more than fifty rupees but less than one hundred rupees as one hundred rupees; (ii) for the purposes of collection and recovery, be deemed to be tax under this Act; (iii) be in addition to the penalty, if any, imposed under this Act.]

### **18. [ Refund. [Section 18 Substituted vide Act No. 12 of 1979 (Sec. 8).]**

(1) The assessing authority either suo-moto or on application shall in the prescribed manner refund to a registered dealer any amount of tax, interest or penalty paid by such dealer under this Act, -(a) if the amount of tax, penalty or interest so paid is in excess of the amount due from him under this Act; or (b) if the amount of tax so paid is in respect of the sale or purchase of any declared goods and such goods are sold in the course of inter-State trade or commerce; either by refund voucher or, at the option of the dealer, by adjustment of the amount so paid with the amount due from him, in respect of any other period: Provided that the refund under clause (b) shall be subject to such conditions, as may be prescribed: Provided further that no refund under this section shall be allowed unless the claim for refund is made within a period of three years from the date on which such claim accrues. Explanation. - For the purposes of this sub-section, the expression "in the course of



inter-State trade or commerce", shall have the meaning assigned to it by section 3 of the Central Sales Tax Act, 1956 (Act No. 47 of 1956). (2) Notwithstanding anything contained in sub-section (1), the assessing authority shall first adjust the amount to be refunded towards the recovery of any amount due from the dealer on the date of such adjustment, and shall thereafter refund the balance, if any. (3) Where any amount required to be refunded by the assessing authority to any person by virtue of an order issued under this Act is not refunded to him within ninety days of the date of the order, the dealer shall be entitled to get simple interest on such amount at the rate of one per centum per month from the date immediately following the date of expiry of the said period for a period of one month and thereafter at the rate of one and a half per centum per month till the refund is made: Provided that for the purpose of calculation of the interest, if, part of a month exceeds fifteen days shall be considered as one month and any amount less than one hundred rupees but exceeds fifty rupees shall be considered as one hundred rupees. (4) If the delay in allowing refund within the aforesaid period of ninety days is for reasons beyond the control of the assessing authority or attributable to the dealer, whether wholly or in part, the period of such delay shall be excluded from: v 3 period for which interest is payable. (5) If any question arises whether any period is to be excluded for the purposes of calculation of interest under sub-section (4) the same shall be referred to the Commissioner or such other officer as the State Government may, by notification, appoint whose decision shall be final. (6) Where an order allowing refund is the subject matter of any appeal or further proceeding, or where any other proceedings under this Act are pending, and the assessing authority is of the opinion that the refund is likely to adversely affect the recovery, the assessing authority may withhold the refund and refer the case to the Commissioner whose orders shall be final. (7) The period during which the refund remains withheld under sub-section (6) shall be excluded for the purpose of calculation of interest under this section]

## 19. Accounts.

(1) Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (3) of section 12 shall keep a true account of the value of goods brought and sold by him, and if the assessing authority considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts including records of sales as he may, subject to anything that may be prescribed in that behalf in writing, direct. (2) Every registered dealer shall, - (a) in respect of goods, exceeding [twenty-five rupees] [Substituted for the words 'ten rupees' vide Act No. 12 of 1979 (Sec. 10) w.e.f. 1.4.1979.] in value in any one transaction sold by him or on his behalf, issue to the person to whom they are sold, a cash memorandum or bill serially numbered bearing the name and address of dealer, the date of sale and the signature of such dealer or his servant, manager or agent and showing the particulars of goods so sold and price thereof [and further showing the sales tax, [and the purchase tax] [The words 'and the purchase tax and the surcharge involved' ins. vide Act No. 12 of 1979 (Sec. 10) w.e.f. 1.4.1979.] involved]: Provided that where any registered dealer sells goods to any other registered dealer and claims deduction under sub-clause (ii) of clause (a) of sub-section (3) of section 6, he shall, in respect of such sale, prepare a cash memorandum or bill in qua-duplicate and issue a copy thereof to the other registered dealer; and (b) preserve a carbon copy of such cash memorandum or bill for a period of not less than five years from the date of issue thereof: Provided that the Government may, by notification, exempt any

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

## **20. Production and inspection of books, documents and accounts.**

(1)The Commissioner or any person appointed to assist him under sub-section (1) of section 3 not below the rank of an Assistant Excise and Taxation Officer may, for the purposes of this Act, require any dealer referred to in section 12 to produce before him any book, document or account relating to his business and may inspect, examine and copy the same and make such enquiries from such dealer relating to his business as may be necessary:Provided that books, documents and accounts of a period more than five years prior to the year in which assessment is made shall not be so required.(2)Every registered dealer shall-(a)maintain day to day accounts of his business;(b)maintain a list of his account books, display it along with his registration certificate and furnish a copy of such list to the assessing authority;(c)produce, if so required, account books of his business before the assessing authority for authentication in the prescribed manner;(d)retain his account books at the place of his business unless removed therefrom by an official for inspection by any official agency, or by auditors, or for any other reasons which may be considered to be satisfactory by the assessing authority.(3)If any officer referred to in sub-section (1) has reasonable grounds for believing that any dealer is trying to evade liability for tax or other dues under this Act, and that anything necessary for the purpose of an investigation into his liability may be found in any books, account, register or document, he may seize such book, account register or document as may be necessary. The officer seizing the book, account, register or document shall forthwith grant a receipt for the same and shall,-(a)in the case of book, account, register or document which was being used at the time of seizing, within a period of [twenty-one] [Substituted for the words 'ten' vide Act No. 15 of 1986 (Sec. 7) effective w.e.f. 28.5.1986.] days from the date of seizure; and(b)in any other case, within a period of [ninety] [Substituted for the words 'sixty' vide vide Act No. 15 of 1986 (Sec. 7) effective w.e.f. 28.5.1986.] days from the date of seizure;return it to the dealer or the person from whose custody it was seized after examination or after having such copies or extracts taken therefrom as may be considered necessary, provided the dealer or the aforesaid person gives a receipt in writing for the book, account, register or document returned to him. The officer may, before returning the books, account, register or document, affix, his signatures and his official seal at one or more places thereon, and in such case, the dealer or the aforesaid person will be required to mention in the receipt given by him the number of places where the signatures and seal of such officers have been affixed on cash book, account, register or document [:] [Substituted for the sign'.'] vide vide Act No. 15 of 1986 (Sec. 7) effective w.e.f. 28.5.1986.][Provided that where the dealer fails to comply with the directions of the officers seizing the books or of any other officer under the Act, such officer may further retain such books for such period as he may think fit after obtaining the permission of the Commissioner:Provided further that such officer shall inform the dealer the reasons for which the books are required to be retained beyond the period prescribed under this sub-section.] [Provisos added vide vide Act No. 15 of 1986 (Sec. 7) effective w.e.f. 28.5.1986.](4)For the purposes of sub-section (2) or sub-section (3), an officer referred to in sub-Section (1) may enter and search any office, shop, godown, vessel, vehicle, or any other place of business of the dealer or

any building, dwelling house, or place where such officer has reason to believe that the dealer keeps or is, for the time being, keeping any books, accounts, registers, documents or goods relating to his business: Provided that no entry or search in the dwelling house shall be made-(i) after the sunset or before the sunrise; (ii) by any officer below the rank of an Excise and Taxation Officer; and (iii) without obtaining the sanction of the [District Magistrate] [Substituted for the 'Deputy Commissioner' vide H.P. Act No. 2 of 1995 (Sec. 5).] within whose jurisdiction such house is situated. (5) The powers conferred by sub-section (4) shall include the power to open and search any box or receptacle in which any books, accounts, registers or other relevant documents of the dealer may be contained. (6) Any officer empowered to act under sub-section (3) or sub-section (4) shall have power to seize any goods which are found in any office, shop, godown, vessel, vehicle or any other place of business or any building or place of the dealer but not accounted for by the dealer in his books, accounts, registers, records and other documents.

## **20A. [ Power of survey. [Section 20-A inserted vide H.P. Act No. 2 of 1995 (Sec. 6).]**

(1) Notwithstanding anything contained in any other provision of this Act, any Assistant Excise and Taxation Commissioner or Excise and Taxation Officer appointed to assist the Commissioner under sub-section (1) of section 3 or an Excise and Taxation Inspector, duly authorised by the Commissioner may, for the purpose of survey regarding ascertainment of commencement of liability for registration under section 8 of this Act, enter-(a) any place within the limits of the areas assigned to him, or (b) any place occupied by any dealer in respect of which he exercises jurisdiction at which the dealer carrying on the business, keeps any of his books of accounts or other documents or any part of his cash relating to the sale or purchase of goods or stock of goods relating to his business and require any dealer, employee or any other person who may at that time and place be attending in any manner to, or helping in carrying on of such business-(i) to afford him the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place, (ii) to afford him the necessary facility to check or verify the cash and stock of goods which may be found therein, and (iii) to furnish such information including such statement as he may require as to any matter which may be useful for, or relevant to, any proceedings under this Act. (2) For the purpose of sub-section (1), no entry in the dwelling house shall be made-(i) after sunset or before the sunrise; (ii) by any officer below the rank of an Excise and Taxation Officer; and (iii) without obtaining the sanction of the District Magistrate within whose jurisdiction such house is situated]

## **21. Assessee permitted to attend through authorised agent etc.**

- [(1) Any assessee or dealer, who is entitled or required to attend before any authority in connection with any proceedings under this Act, except when required may attend in person, may attend through a person authorised by him in writing in this behalf, in the prescribed manner, being a relative or a regular and whole time employee of such assessee or dealer or an Advocate or a sales tax practitioner.] [Sub-section (1) of section 21 Substituted vide Act No. 2 of 1995 (Sec. 7).] (2) In this section [a sales practitioner means] [Substituted for the words 'an income tax practitioner, means' vide Act No. 2 of 1995 (Sec. 7).] any person, who before the commencement of this Act attended

before any assessing or other sales tax authorities in connection with any proceedings under the Punjab General Sales Tax Act, 1948, or the East Punjab General Sales Tax Act, 1948 as in force in Himachal Pradesh on behalf of any assessee, otherwise than in the capacity of an employee or relative of that assessee, or [a Chartered Accountant] [Substituted for the words ,who has passed any accountancy examination recognised in this behalf' by the Central Board of Revenue, vide Act No. 2 of 1995 (Sec. 7).] or holds a degree in Commerce. Law, Economics or Banking including auditing conferred by any Indian University, incorporated by any law for the time being in force, Rangoon University, English and Welsh Universities [and includes a retired Gazetted Officer of the Himachal Pradesh Excise and Taxation Department who has an experience of working as assessing authority, appellate authority or revisional authority under this Act for a minimum period of five years, in one or more of the aforesaid capacities; provided a period of one year has elapsed since the date of his retirement from Government service] [Added vide Act No. 32 of 1978 (Sec. 4). w.e.f. 13.10.1978.](3)No person, who has been dismissed from Government service, shall be qualified to represent any dealer under sub-section (1).(4)[ Every sales tax practitioner, other than an Advocate, and every other person who is entitled to appear before any authority under sub-section (1) in any proceedings under this Act, shall get himself enrolled as such with the Commissioner on payment of such fee as may be prescribed.(5)If any sales tax practitioner or any other person who represents any assessee or dealer, is found guilty of misconduct, in any proceedings before any authority under this Act, by the Commissioner, the Commissioner may by order direct that he shall be disqualified to represent any assessee or dealer under sub-section (1):Provided that no such order shall be made in respect of any such sales tax practitioner or other person unless he is given a reasonable opportunity of being heard.] [Sub-sections (4) and (5) Substituted vide Act No. 2 of 1995 (Sec. 7).]

## **22. [ Establishment of check posts or barriers and inspection of goods in transit. [Sec. 22 Substituted vide Act No. 10 of 1976 w.e.f. 24.1.1976.]**

(1)If, with a view to preventing or checking evasion of tax under this Act, the State Government considers it necessary so to do, it may, by notification direct the establishment of a check post or the erection of a barrier or both at such place or places as may be notified.(2)The owner or person in charge of a [goods carriage] or vessel shall carry with him a [goods carriage] [The words 'goods carriage' Substituted for the words 'motor vehicle' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] record, a trip sheet or a log book, as the case may be, and a bill of sale or a delivery note containing such particulars as may be prescribed, in respect of such goods, meant for the purpose of trade as are being carried in the [goods carriage] [The words 'goods carriage' Substituted for the words 'motor vehicle' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel, as the case may be, and produce the same before an officer in charge of a check post or barrier or any other officer not below the rank of an Excise and Taxation Inspector checking the vehicle or vessel at any place.(3)At every check post or barrier or at any other place when so required by any officer referred to in sub-section (2), the driver or any other person-in-charge of the [goods carriage] [The words 'goods carriage' Substituted for the words 'motor vehicle' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel shall stop the vehicle or vessel, as the case may be, and keep it stationary as long as may reasonably be necessary, and allow the officer-in-charge of the check post or barrier or the aforesaid officer to examine the contents in the vehicle or vessel by breaking open the package or packages, if necessary and inspect all records relating to the goods carried which are in the possession of such driver or

other person-in-charge, who shall also furnish such other information as may be required by the afore said officer and if considered necessary such officer may also search the goods vehicle or vessel and the driver or other person-in- charge of the vehicle or vessel or of the goods.(4)The owner or person-in-charge of a [goods carriage] [The words 'goods carriage' Substituted for the words 'motor vehicle' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel entering the limits of State or leaving the State limits shall also give in triplicate a declaration containing such particulars as may be prescribed of the goods carried in such vehicle or vessel, as the case may be, before the officer-in-charge of the check post or barrier and shall produce the copy of the said declaration duly verified and returned to him by the said officer or before any other officer referred to in sub-section (2) at the time of checking under this section:Provided that where [goods carriage] [The words 'goods carriage' Substituted for the words 'motor vehicle' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel bound for any place outside the State passes through the State, the owner or person in-charge of such vehicle or vessel shall furnish, in duplicate, to the officer-in-charge of the check post or barrier of his entry into the State a declaration in the prescribed form and obtain from him a copy duly verified. The owner or person-in-charge of the [goods carriage] [The words 'goods carriage' Substituted for the words 'motor vehicle' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel, as the case may be, shall deliver within seventy two hours the said copy to the officer-in-charge of the check post or barrier at the point of its exit from the State, failing which he shall be liable to pay a penalty to be imposed by the officer-in-charge of the check post or barrier of the entry not exceeding [twenty-five per centum of the value of the goods but which shall not be less than fifteen per centum of the value of the goods:] [Substituted for the words 'two thousand rupees or twenty per centum of the value of the goods' whichever is greater' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.]Provided further that no penalty shall be imposed unless the person concerned has been given a reasonable opportunity of being heard.(5)At every station of transport of goods, bus-stand or any other station or place of loading or unloading of goods, other than a rail head or a Post Office, when so required by the Commissioner, or any person appointed to assist him under sub-section (1) of section 3, the driver or the owner of the [goods carriage] [Substituted for the words 'goods vehicle' vide H.P. Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or the employee of a transport company or goods booking agency shall produce for examination transport receipts and all other documents and account books concerning the goods carried, transported, loaded, unloaded, consigned, or received for transport (maintained by him in the prescribed manner). The Commissioner or the person so appointed shall, for the purpose of examining that such transport receipts or other documents or account books are in respect of the goods carried, transported, loaded, unloaded, or consigned or received for transport, have the powers to break open any package or packages of such goods.(6)If the officer-in-charge of the check-post or barrier or other officer as mentioned in sub-section (2) has reasons to suspect that the goods under transport are meant for trade and are not covered by proper and genuine documents as mentioned in sub-section (2) or sub-section(4), as the case may be, or that the person transporting the goods is attempting to evade payment of tax due under this Act, he may, for reasons to be recorded in writing and after hearing the said person, order the unloading and detention of the goods, for such period as may reasonably be necessary and shall allow the same to be transported only on the owner of goods or his representative or the driver or other person-in-charge of the [goods carriage] [Substituted for the words 'goods vehicle' vide H.P. Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel on behalf of the owner of the goods, furnishing to his satisfaction a security or executing a bond with or without

sureties for securing the amount of tax, in the prescribed form and manner, for an amount not exceeding [twenty-five per centum of the value of the goods but which shall not be less than fifteen per centum of the value of the goods] [Substituted for the words 'one thousand rupees or twenty per centum of the value of the goods' whichever is greater' vide H.P. Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.]: Provided that where any goods are detained a report shall be made immediately and in any case within twenty four hours of the detention of the goods by the officer detaining the goods to the Excise and Taxation Officer of the District [or the Assistant Excise and Taxation Officer-in-charge of the District or barrier] [Inserted vide Act No. 32 of 1978.] seeking the latter's permission for the detention of the goods for a period exceeding twenty-four hours, as and when so required and if no intimation to the contrary is received from the latter the former may assume that his proposal has been accepted. (7) The officer detaining the goods shall record the statement, if any, given by the owner of the goods or his representative or the driver or other person-in-charge of the [goods carriage] [Substituted for the words 'goods vehicle' vide Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel and shall require him to produce proper and genuine documents as referred to in sub-section (2) or sub-section (4), as the case may be, before him in his office on a specified date on which date the officer shall submit the proceedings alongwith the connected records to such officer as may be authorised in that behalf by the State Government for conducting necessary enquiry in the matter. The said officer shall, before conducting the enquiry, serve a notice on the owner of the goods and give him an opportunity of being heard and if, after the enquiry, such officer finds that there has been an attempt to evade the dues under this Act, he shall, by order, impose on the owner of the goods a penalty not exceeding [twenty-five per centum of the value of goods but which shall not be less than fifteen per centum of the value of the goods] [Substituted for the words 'one thousand rupees or twenty per centum of the value of the goods' whichever is greater' vide Act No. 5 of 1991 w.e.f. 1.4.1991.], and in case he finds otherwise he shall order the release of the goods. (8) If the owner of the goods or his representative or the driver or other person-in-charge of the [goods carriage] [Substituted for the words 'goods vehicle' vide vide Act No. 5 of 1991 w.e.f. 1.4.1991.] or vessel does not furnish security or does not execute the bond as required by sub-section (6) within ten days from the date of detaining the goods or [goods carriage] [Substituted for the words 'goods vehicle' vide vide Act No. 5 of 1991 w.e.f. 1.4.1991.] or vessel, the officer referred to in that sub-section may order further detention of the goods and in the event of the owner of the goods, not paying the penalty imposed under sub-section (7) within twenty days from the date of order imposing the penalty, the goods detained shall be made liable to be sold by the officer, who imposed the penalty, for the realisation of the penalty by public auction in the manner prescribed. If the goods detained are of a perishable nature or subject to speedy or natural decay or when the expenses of keeping them in custody are likely to exceed their value, the officer-in-charge of the check post or barrier or any other officer referred to in sub-section (2), as the case may be, shall immediately sell such goods or otherwise dispose them of. The sale proceeds shall be deposited in the Government treasury and the owner of the goods shall be entitled to only the balance amount of sale proceeds after deducting the expenses and other incidental charges incurred in detaining and disposing of the goods. (9) The officer detaining the goods shall issue to the owner of the goods or his representative or the driver or the person-in-charge of the [goods carriage] [Substituted for the words 'goods vehicle' vide vide Act No. 5 of 1991 w.e.f. 1.4.1991.] or vessel receipt specifying the description and quality of the goods so detained and obtain an acknowledgement from such person or if such person refuses to give an acknowledgement, record the fact of refusal in the presence of the two

witnesses.(10)If the order of detention of goods under sub-section (6) or of imposition of penalty under sub-section (7) or sub-section (8) is in the mean time set aside or modified in appeal or other proceedings, the officer detaining the goods and imposing the penalty, as the case may be, shall also pass consequential orders for giving effect to the order in such appeal or other proceedings as the case may be.(11)No dealer or any person, including a carrier of goods or agent of a transport company or booking agency acting on behalf of a dealer, shall take delivery of, or transport, from any vessel, station, airport or any other place, whether of similar nature or otherwise, any consignment of goods other than personal luggage or goods for personal consumption, the sale or purchase of which is taxable under this Act, except in accordance with such conditions as may be prescribed with a view to ensuring that there is no evasion of the tax imposed by or under this Act:Provided that no place which is rail head or post office shall be so notified by the State Government.[Explanation-I. [Explanation-I Substituted vide H.P. Act No. 5 of 1991 w.e.f. 1.4.1991.] - In this section the expression "goods carriage" has the same meaning as is assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (Central Act No. 59 of 1988), but does not include road transport plying in collaboration with rail transport.]Explanation-II. - For purposes of sub-section (7), service of notice on the representative of the owner or the driver or other person-in-charge of the [goods carriage] [Substituted for the words 'goods vehicle' vide H.P. Act No. 5 of 1991 (Sec. 11) w.e.f. 1.4.1991.] or vessel shall be deemed to be valid service on the owner of the goods.]

## **22A. [ Registration and submission of return by a carrier of goods, agent of the transport company or booking agency. [Section 22-A inserted vide H.P. Act No. 5 of 1991 w.e.f. 1.4.1991.]**

(1)For carrying out the purposes of section 22, every carrier of goods, agent of transport company and booking agency having a place of business in the State of Himachal Pradesh and transporting or clearing or forwarding goods on behalf of a dealer, shall be required to obtain a certificate of registration, in the prescribed manner, from the assessing authority of the area in which it has a place of business, on payment of such fee as may be prescribed and on furnishing of a security to the satisfaction of the said authority in the manner as may be prescribed.(2)Every agency, referred to in sub-section (1) shall submit to the assessing authority such returns of the goods transported, cleared or forwarded by it, by such dates and in such manner as may be prescribed.(3)The assessing authority shall have the powers to call for and examine the books of accounts, documents and other record in possession of such agency with a view to verifying the correctness of returns submitted and the compliance to the requirements of provisions of section 22.]

## **23. Power to call for information from banking companies etc.**

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

## **24. Delegation of powers.**

- Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Act, except those under sub-section (1) of section 31 to any person appointed under section 3 to assist him.

## **25. Information to be furnished regarding change of business.**

- If any dealer to whom the provisions of sub-section (3) of section 12 apply, -(a)sells or otherwise disposes of his business or any place of business, or(b)discontinues or transfers his business or changes his place of business or opens a new place of business, or(c)changes the name (constitution) or nature of his business, or(d)wants to make any change in the class or classes of goods specified in his certificate of registration for use in the manufacture of any goods for sale, he shall, within the prescribed time, inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

## **26. Transfer of business.**

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

## **27. Liability to tax on stock in certain cases.**

- Should his certificate of registration be cancelled under any provision of this Act, a dealer saw when he has transferred his business to some one else, and notwithstanding clause (h) of section 2 but subject to the provisions of section 7, shall be liable to pay tax on goods purchased by him in the [State of Himachal Pradesh] [Substituted for the words 'Union Territory of Himachal Pradesh' vide A.O. 1973.] after registration' and remaining unsold at the time of cancellation of certificate at a rate leviable for the sale of such goods.

## **28. Liability of tax of a partitioned Hindu Family, dissolved firm etc.**

(1)Where a dealer is an undivided Hindu family, firm or other association of persons, and such family, firm or association is partitioned, dissolved or disrupted, as the case may be, -(a)the tax payable under this Act by such family, firm or association of persons for the period upto the date of such partition, dissolution or disruption may be assessed as if no such partition, dissolution or disruption had taken place and all the provisions of this Act shall apply accordingly; and(b)every person who was, at the time of such partition, dissolution or disruption, a member or partner of an undivided Hindu family, firm or association of persons shall, notwithstanding such partition,



dissolution or disruption, be liable severally and jointly for the payment of the tax including interest and penalty, if any, payable under this Act by such family firm or association of persons, whether assessment is made prior to or after such partition, dissolution or disruption.(2)Where the registration certificate of a dealer is cancelled under this Act in any case, other than that of a partition of undivided Hindu family or dissolution or disruption of a firm or association of persons, the tax payable under this Act by such dealer for the period upto the date of cancellation of the registration certification may be assessed on such dealer as if no such cancellation had taken place and all the provisions of this Act shall apply accordingly.

**28A. [ Liability of legal heirs to pay tax. [New Section 28-A added vide Act No. 7 of 1977 (Sec. 4) and shall be deemed to have always been added.]**

- Where a dealer is liable to pay tax under this Act, dies, then-(a)if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax (including any penalty) due from the dealer under this Act, whether such tax (including any penalty) has been assessed before his death but has remained un-paid, or is assessed after his death;(2)if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased to the extent the estate is capable of meeting the charge, the tax (including any penalty) due from the dealer under this Act, whether such tax (including any penalty) has been assessed before his death, or is assessed after his death; and the provisions of this Act shall, so far as may be, apply to such legal representative, or other person as if he were the dealer himself.]

**29. Bar of certain proceedings.**

- No assessment made and no order passed under this Act, or the rules made thereunder, by the Commissioner or any person appointed under section 3 to assist him shall be called into question in any civil court, and save as is provided in sub-section (5) of section 21 and sections 30, 31 and 33, no appeal or application for revision shall lie against any such assessment or order.

**30. [ Appeals. [Section 30 Substituted vide Act No. 15 of 1987 (Sec. 7).]**

(1)An appeal from every original order passed under this Act or rules made thereunder shall lie-(a)if the order is made by an assessing authority or by an officer-in-charge of the check post or barrier or any other officer not below the rank of the Excise and Taxation Officer, to the Deputy Excise and Taxation Commissioner;(b)if the order is made by the Deputy Excise and Taxation Commissioner, to the Commissioner;(c)if the order is made by the Commissioner or any officer exercising the powers of the Commissioner, to the Financial Commissioner.(2)An order passed in appeal by a Deputy Excise and Taxation Commissioner or by the Commissioner or any officer on whom the powers of the Commissioner are conferred, shall be further appealable to the Financial Commissioner.(3)Every order of the Financial Commissioner and subject to such order, the order of the Commissioner or any officer exercising the powers of the Commissioner or the order of the Deputy Excise and Taxation Commissioner or the assessing authority, if it was not challenged in

appeal or revision, shall be final.(4)No appeal shall be entertained unless it is filed within sixty days from the communication of the order appealed against, or such longer period as the appellate authority may allow, for reasons to be recorded in writing.(5)No appeal shall be entertained by an appellate authority unless such appeal is accompanied by satisfactory proof of the payment or the [tax (including interest payable)] or of the penalty, if any, imposed or of both as the case may be:Provided that if such authority is satisfied that the dealer is unable to pay the [tax (including interest payable)] [Substituted for the word 'tax' vide Act No. 18 of 1991.] assessed or the penalty, if any, imposed or both, he may, for reasons to be recorded in writing, entertain an appeal without the [tax (including interest payable)] [Substituted for the word 'tax' vide Act No. 18 of 1991.]or penalty or both having been paid in full or after part payment of such [tax (including interest payable)] [Substituted for the word 'tax' vide Act No. 18 of 1991.] or penalty or both.(6)Subject to such rules of procedure as may be prescribed, an appellate authority may pass such order on appeal as it deems just and proper.]

### **31. [ Revision. [Section 31 Substituted vide Act No. 15 of 1987 (Sec. 7).]**

(1)The Commissioner may, of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any authority subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein, and may pass such order in relation thereto as he may think fit.(2)The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification [and such officer shall be deemed to be the Commissioner for the purposes of sub-section (1).](3)The Financial Commissioner, on application made to him against an order to the Commissioner under sub-section (1) within ninety days from the date of communication of the order, may call for and examine the record of any such case and pass such orders thereon as he thinks just and proper.(4)No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.]

### **31A. [ Disposal of pending appeal and application etc. [Section 31A added by H.P. Act No. 15 of 1987.]**

- Notwithstanding anything contained in sections 7, 8 and 9 of this Act, any appeal or application, under sections 30, 31, 33 and 35 of the principal Act, pending immediately before the commencement of the Himachal Pradesh General Sales Tax (Amendment) Act, 1987, shall be disposed of in accordance with the provisions of the principal Act as if the provisions of sections 7, 8 and 9 of this Act had not been enacted.]

### **32. [ Rectification of mistakes. [Section 32 Substituted vide Act No. 2 of 1995 (Sec. 9).]**

(1)The Commissioner or the officer on whom powers of the Commissioner for the purposes of sub-section (1) of section 31 have been conferred by the State Government may, at any time within

one year from the date of any order passed by him on an application made to him or of his own motion, rectify any mistake apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order: Provided that the Commissioner may entertain any application under this sub-section after expiry of the said period of one year, if he is satisfied that the applicant was prevented by sufficient cause from making the application in time: Provided further that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund, unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard. (2) Where any such rectification has the effect of enhancing or reducing the amount of tax or penalty, the Commissioner shall, in the prescribed manner, order the recovery of the amount due from, or as the case may be order the refund of the amount due to, such person.]

### **33. Statement of case to High Court.**

(1) Within 60 days from the passing of an order under section [30 or 31] [Substituted for the figure '31' vide Act No. 15 of 1987 (Sec. 9).] by the Financial Commissioner, affecting any liability of any dealer to pay tax under this Act, such dealer or the Commissioner may, by application in writing accompanied by a fee of one hundred rupees in case the application is made by dealer, require the Financial Commissioner to refer to the High Court any question of law arising out of such order. (2) If, for reasons to be recorded in writing, the Financial Commissioner refuses to make such reference the applicant may, within 30 days of such refusal, either, - (a) withdraw his application (and if he does so, the fee paid shall be refunded); or (b) apply to the High Court against such refusal. (3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied of the correctness of the Financial Commissioner's decision, it may require the Financial Commissioner to state the case and refer it, and on the receipt of such requisition, the Financial Commissioner shall state and refer the case accordingly. (4) If the High Court is not satisfied that the statements in case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Financial Commissioner to make such additions thereto or alterations therein as the court may direct in that behalf. (5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send to the Financial Commissioner a copy of such judgement under the seal of the Court and the signature of the Registrar, and the Financial Commissioner shall dispose of the case accordingly. (6) Where a reference is made to the High Court under this section, the cost (including the disposal of the fee) shall be in the discretion of the Court. (7) The payment of the amount, if any, of the tax due in accordance with the order of the Financial Commissioner, in respect of which an application has been made under sub-section (1), shall not be stayed pending the disposal of such application or any reference made in consequence thereof but if such amount is reduced as the result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 18.

### **34. Power of Commissioner and his assistants to take evidence on oath, etc.**

- The Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil

Procedure, 1908 (5 of 1908) when trying a suit, in respect of the following matters, namely:-(a)enforcing the attendance of any person and examining him on oath or affirmation;(b)compelling the production of documents and impounding or detaining them;(c)issuing commissions for the examination of witnesses;(d)requiring or accepting proof of facts by affidavits;(e)such other powers as may be prescribed;and any proceeding under this Act before the Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 199 of the Indian Penal Code (45 of 1860).

**35. [ Offences and penalties. [Sub-section (2) of section 35 Substituted vide Act No. 32 of 1978, sub-sections (3), (4) and (5) omitted vide Act No. 15 of 1987 and subsequently Sec. 35 Substituted vide Act No. 18 of 1991 (Sec. 7).]**

(1)Any person who-(a)wilfully acts in contravention of the provisions of this Act or the rules made thereunder; or(b)furnishes a certificate under sub-section (2) of section 6, which he knows or has reason to believe it to be false; or(c)being a registered dealer, falsely represents when purchasing any class of goods for use by him in the manufacture of any goods for sale, that goods of such class are covered by his certificate of registration; or(d)not being a registered dealer, falsely represents when purchasing goods in Himachal Pradesh that he is a registered dealer; or(e)after purchasing any goods for any of the purposes specified in the Act, fails, without reasonable excuse, to make use of the goods for any such purpose; or(f)has in his possession any form issued under the Act on payment by the Government which has not been obtained by him or by his principal or by his agent in accordance with the provisions of this Act or any rules made thereunder; or(g)prevents inspection or examination of books, documents and accounts or wilfully fails to produce such books, documents and accounts mentioned in section 20; or(h)fails to carry with him any of the records or documents specified in section 22; or(i)makes any statement or declaration in any of the documents specified in section 22 or section 22-A, as the case may be, which statement or declaration he knows or, has reasons to believe to be false; or(j)in any way is knowingly concerned in any fraudulent evasion or attempt at evasion or abetment of evasion of any tax payable in respect of the sale or purchase of any goods under this Act; or(k)if he is a driver or any other person-in-charge of goods vehicle or vessel or an owner of the goods, refuses on demand by the Officer-in-charge of the check post or barrier or any other officer, not below the rank of an Excise and Taxation Inspector to give his name and address or the name and address of the owner of the goods vehicle or of the consignor or consignee of the goods or gives any name and address of any of these persons which he knows or has reason to believe to be false; or(l)aids or abets any person in the commission of any offence specified in this sub-section;he shall, without prejudice to the recovery of any tax or interest or penalty which may be due from him, be punishable with simple imprisonment which may extend to six months, or with fine, or with both; and when the offence, is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.(2)Whosoever contravenes or fails to comply with, any of the provisions of this Act, or the rules made thereunder, or any order or direction made or given thereunder, shall, if no other penalty is provided either under sub-section (1) of this section or under any other provisions of this Act for such contravention or failure, be liable to imposition of a penalty, not exceeding two thousand rupees, and where such contravention or failure is continuing one, to a daily penalty not

exceeding fifty rupees during the period of the continuance of the contravention or failure.(3)Any officer-in-charge of the check post or barrier or any other officer, not below the rank of an Excise and Taxation Officer, appointed under sub-section (1) of section 3 or such other officer as the State Government may, by notification, appoint, may, after affording to the person concern a reasonable opportunity of being heard, impose the penalty mentioned in sub-section (2);Provided that the officer-in-charge of the check post or a barrier shall exercise such powers only at such check posts or barriers.]

**35A. [ Imposition of penalty in lieu of prosecution. [Sections 35-A added vide Act No. 18 of 1991 (Sec. 7) Subsequently Substituted vide Act No. 12 of 1992 (Sec. 3), w.e.f. 1.8.1992.]**

- If any person specified in sub-section (1) of section 35 is guilty of an offence under that sub-section, any officer-in-charge of a check-post or barrier or any other officer not below the rank of an Excise and Taxation Officer appointed under sub-section (1) of section 3, or such other officer as the State Government may, by notification, appoint, within his jurisdiction, may, after affording to the person concerned a reasonable opportunity of being heard, by order, in writing, impose upon him by way of penalty, -(a)in case of sale to him of the goods, if the sale had been a sale within this Act, a sum not exceeding one and a half times of the tax which would have been levied under this Act; or(b)in case of non-taxable goods, a sum as may be calculated at the rate of ten paise in a rupee as if such goods were liable to tax; or(c)in cases which do not fall either under clause (a) or clause (b), a sum not exceeding three thousand rupees for each offence:Provided that the penalty for offences under sub-section (7) of section 12 shall be imposed under the same sub-section:Provided further that no prosecution for an offence under sub-section (1) of section 35 shall be instituted in respect of the same facts on which a penalty has been imposed under this section or sub-section (7) of section 12.]

**35B. [ Cognizance of offences. [Section 35-B inserted vide Act No. 18 of 1991 Sec. 7.]**

(1)No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with previous sanction of the Government or of such officer as may be authorized by a notification published in Official Gazette and no court inferior to that of a Magistrate of the first class shall try any such offence.(2)All offences punishable under sub-section (1) of section 35 of this Act shall be cognizable and bailable].

**36. Directors of defaulting companies to be liable to pay tax, etc.**

- Where any tax assessed or penalty imposed under this Act on a company cannot be recovered by reason of the company having gone into liquidation or for any other reason, then every person, who was Director of such company at any time during the relevant period for which the tax is due or in respect of which the default for which the penalty is imposed was committed, shall be jointly and severally liable for the payment of such tax and penalty unless he proves that the non-payment or

non-recovery cannot be attributed to any neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

### **37. Disposal of certain property.**

- Any property seized under this Act, which is not claimed by any person, shall be disposed of in accordance with the provisions of sections 25, 26 and 27 of the Police Act, 1861, as if the officer or authority seizing such property were a police officer: Provided that if, during the period allowed in accordance with such provisions, any person claims the property, it shall not be released to him unless the tax or penalty or both due in respect of the same under this Act is paid by such person.

### **38. Indemnity.**

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

### **39. Returns etc. to be confidential.**

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), no court shall, save as aforesaid, be entitled to require any officer of the Himachal Pradesh Government to produce before it any such statement, return, accounts, document or record or any part thereof, or to give evidence before it in respect thereof. (2) If, save as provided in sub-section (3), any officer of the Himachal Pradesh Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine. (3) [ Nothing contained in this section shall apply to the disclosure-(a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition for the purpose of any prosecution under this Act or the Indian Penal Code, 1860 (45 of 1860); or (b) of any such particulars to any person entrusted with the administration of this Act for the purposes of carrying out the objects of this Act; (c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or summons or the recovery of any demand; or (d) of any such particulars to a civil court in any suit to which the Government in the Excise and Taxation Department or any officer of the said Department is a party and which relates to any matter arising out of any proceeding under this Act; or (e) of any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act; or (f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Excise and Taxation Department of the State Government to any person or persons appointed by the Commissioner under the Public Servants (Inquiries) Act, 1850 (XXX of 1850), or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or (g) of the annual gross

turnover, shown in any return furnished or determined in any assessment order passed under this Act, to any officer of the Central or any State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or(h)of any such particulars which are relevant to any inquiry into the charge of misconduct, against an income-tax practitioner or other person who represents any assessee before any authority in any proceedings under this Act; or(i)of any such particulars to the Director of Economics and Statistics department of the Government of Himachal Pradesh as may be necessary for enabling him to work out the incidence of tax on any commodity or for carrying out any statistical survey of trade, commodity or dealer; and(j)of any such particulars for the purpose of preparing date by computerisation:Provided that the information mentioned in clauses (a), (f) and (g) may be permitted to be disclosed by the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer-in-charge of the district only when he is satisfied, after scrutiny of the request made in this behalf and after such enquires as he considers necessary, that the disclosure is admissible under this sub-section.]

[Substituted vide Act No. 14 of 1994 Sec. 6.]

#### **40. Powers to make rules.**

(1)The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may prescribe:-(a)[ to prescribe the limit of capital investment for the purposes of clause (p) of section 2: [Clause (a) renumbered as clause (aa) and new clause (a) inserted vide Act No. 14 of 1994 (Sec. 7).]Provided that the State Government may, for the purposes of this clause, make rules with retrospective effect but not earlier than the 2nd day of November, 1991;(aa)the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 4;](b)the taxable quantum for particular classes of dealers under clause (d) of sub-section (6) of section 4;(c)the particulars to be contained in a declaration under sub-clause (ii) of clause (a) of sub-section (3) of section 6; the form of such declaration and the manner in which such declaration is to be furnished;(cc)[ the form of declaration and manner in which such declaration is to be furnished under sub-clause (iii) of clause (a) of sub-section (3) of section 6;] [Clause (cc) added vide Act No. 14 of 1994 (Sec. 7).](d)the other sales, turnover in respect of which may be deducted from a dealer,s gross turnover in computing his taxable turnover as defined in section 6;(dd)[ the manner in which the certificate referred to in the second proviso to sub-section (1) of section 8 shall be furnished;] [Clause (dd) added vide Act No. 5 of 1991 (Sec. 13) w.e.f. 1.4.1991.](e)the authority to which applications for registration under section 8 or section 9 shall be made;(f)[the fixation of fee to be charged and] [Added vide Act No. 15 of 1986 w.e.f. 28.5.1986.] the procedure for the payment of fees in respect of, and other matters incidental to the registration of dealers and granting of certificates of registration, and the form of such certificate under section 8 or section 9 or section 10 and the manner in which security shall be furnished under section 11;(g)the intervals at which the conditions subject to which a lump-sum by way of composition may be accepted by the Commissioner from any dealer, the manner in which such lump-sum is to be determined and the manner in which the tax under this Act shall be payable under section 12;(h)the returns to be furnished under sub-section (3) of section 12, and dates by which, and the authority-to which such returns shall be furnished;(hh)[ the manner in which deductions are to be made and the deduction certificate is to be issued under sub-sections (1) and (4) of section 12-A;] [Clause (hh) added vide Act

No. 18 of 1991 (Sec. 8).](i)the time within which and the manner in which tax collected under section 13 shall be paid;(j)the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 14;(jj)[ the conditions subject to which the presence of a dealer or production of evidence by him can be dispensed with under sub-section (1-A) of section 14; [Clause (jj) and (jjj) added vide Act No. 12 of 1979.](jjj)the manner of payment of tax, penalty or interest, under sub-section (7) of section 14;](k)the manner in which refunds under section 18 shall be made;(l)the conditions ,if any, for issue of direction under section 19;(m)the manner of authentication of account books under clause (c) of sub-section (2) of section 20;(n)the particulars of bills of sales or delivery note referred to in sub-section (2) of section 22, the particulars of declaration to be given under sub-section (3) of that section, the form of transit slip (rahdari) referred to in the proviso to that sub-section and the conditions on which delivery of consignment of goods shall be taken under sub-section (7) of that section;(nn)[ the manner of obtaining and granting the registration certificate, fee to be charged for the same and the manner in which the security is to be furnished under sub-section (1) and also the dates and the manner of furnishing returns under sub-section (2) of section 22-A;] [Clause (nn) added vide Act No. 5 of 1991 Sec. 13, w.e.f. 1.4.1991.](o)the restrictions and conditions subject to which the Commissioner may delegate his powers under section 24;(p)the authority to which information shall be furnished under section 25;(q)the manner in which appeals against assessment may be preferred under section 30;(r)the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision and review under sections 30, 31 and 32;(rr)[ the form and the manner in which the certificate under section 42-B is to be furnished; [Sub-clauses (rr) and (rrr) added vide Act No. 18 of 1991.](rrr)the restrictions and conditions subject to which and the manner in which the set off under sub-section (2) of section 42-C is to be granted;](s)the authority by which and the manner in which cases may be transferred from one assessing authority to another and from one appellate authority to another;(t)any other matter which is to be, or may be prescribed;(u)the manner in which, and the time with in which, applications shall be made, information furnished and notices served, under this Act;(v)the procedure for the cancellation and return of certificate of registration;(w)[ to prescribe the meaning of the industries specified in explanation to sub-section (1) of section 42.] [Clause (w) inserted vide Act No. 14 of 1994 (Sec. 7).]

#### **41. Provision in case of inter-State trade etc.**

- Notwithstanding anything contained in this Act-(a)a tax on the sale or purchase of goods shall not be imposed under this Act-(i)where such sale or purchase takes place outside the [State of Himachal Pradesh;] [Substituted for the words 'Union Territory of Himachal Pradesh' by A.O. 1973.](ii)where such sale or purchase takes place in the course of import of the goods into, or export of the goods out of, the territory of India;(b)a tax on the sale or purchase of any goods shall not be imposed where such sale or purchase takes place in the course of inter State Trade or commerce except in so far as Parliament may by law otherwise provide.

**42. [ Powers to exempt. [Sub-section (2) of section 42 omitted and sub-section (3) renumbered as sub-section (2) vide Act No. 8 of 1985 (Sec. 3) subsequently section 42 subs. vide Act No. 18 of 1991 Sec. 9' w.e.f.**



**2.11.1991.]**

(1)The Government if satisfied that it is necessary or expedient so to do in the interest of cottage industries or small scale industries [pioneer industries, new small scale industries, tiny industries, small service business establishment industries or other industry] may, by notification, exempt either wholly or to such extent only as may be specified in the said notification any class of co-operative societies [or such industry] [Substituted for the words 'or persons' vide Act No. 14 of 1994 (Sec. 8) w.e.f. 18.4.1992.] from the payment of tax leviable on the sale of goods manufactured by such societies/persons [or such industry] [Substituted for the words 'Union Territory of Himachal Pradesh' by A.O. 1973.] subject to such conditions as may be specified in such notification:[Provided that the State Government may, for the purpose in this sub-section, issue notification exempting from tax-(a)"pioneer industries", except those mentioned in part (b) of the proviso, "new small scale industries", "tiny industries" and "small service business establishment industries" approved by the Government with effect from the 18th day of April, 1992;(b)"pioneer industries" manufacturing vegetable ghee and refined oil with effect from the 8th day of October, 1992; and(c)"other industry" from the date of the publication of the notification.Explanation. - In this proviso the expressions "pioneer industries" , "new small scale industries" , "tiny industries" "small service business establishment industries" and "other industry" shall-have the meanings as may be prescribed.] [Proviso added vide by A.O. 1973, clause (a) shall be effective w.e.f. 18.4.1992 clause (b) effective w.e.f. 8.10.1992 and clause (c) and Explanation to be effective prospectively.](2)Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before the State Legislature.]

**42A. [ Special provisions relating to deferred payment of tax by industrial units. [Section 42-A added vide Act No. 18 of 1991 (Sec. 9).]**

(1)Notwithstanding anything contained in any other provisions of this Act, if the Government is of the opinion that with a view to provide incentives to the entrepreneurs setting up a new industrial units in the State for manufacturing goods for sale, it is necessary or expedient in the public interest so to do, it may, under a scheme notified in this behalf, under this Act, and subject to such restrictions and conditions as may be specified in such scheme, provide for deferred payment of tax payable under section 12 by such entrepreneur who is registered as a dealer under this Act.(2)Subject to the provisions of sub-section (1), the entrepreneur referred therein, if eligible for grant of facility of deferred payment of tax under the scheme notified under sub-section (1), may make deferred payment of tax payable on the sale of goods manufactured by him.][Explanation. [Explanation added vide Act No. 14 of 1994 (Sec. 9) w.e.f. 1.8.1993.] - For the purpose of this sub-section the expression "new industrial units" shall also include "new tourism units" with effect from the 1st day of August, 1993.]

**42B. [ Concessional rate of tax on certain raw materials [processing and packing material] [Section 42-B inserted vide Act No. 18 of 1991 (Sec. 9).]**

- Notwithstanding anything contained in this Act, but subject to such restrictions and conditions as may be specified, the State Government may, if it is expedient in the public interest so to do, by notification exempt wholly or fix a concessional rate of tax, on the sale, to an entrepreneur, of goods, specified in his [certificate of registration, -(a) for use by him as raw material in the manufacture in Himachal Pradesh of any goods for sale therein or in the course of inter-State trade or commerce; and (b) for use by him in the processing or packing of goods so manufactured for sale:] Provided that the tax on such sales shall be levied at full rates fixed under section 6 unless the dealer making the sale to such entrepreneur furnishes to the assessing authority in the prescribed form and manner a certificate duly filled in and signed by the eligible entrepreneur: [Provided further that the State Government may, by notification, allow the transfer of [manufactured goods] [Added vide Act No. 14 of 1994 (Sec. 10).] in the course of inter-State trade or commerce, to such extent of the aggregate sales shown by the dealer in his returns for a financial year as may be specified in such notification:] [Substituted for the words 'certificate of registration for use by him as raw material in the manufacture in Himachal Pradesh of any goods.' vide Act No. 2 of 1995.] Provided also that the State Government may, for the purposes of the preceding proviso, issue notification retrospectively-(a) allowing transfer of goods upto twenty-five percent with effect from the 17th day of August, 1992; and (b) allowing transfer of [manufactured goods] [Substituted for the word 'goods' vide Act No. 2 of 1995.] upto one hundred percent with effect from 8th day of October, 1992].

**42C. [ Set off of tax in respect of tax paid goods in certain circumstances. [Sections 42-C and 42-D added vide Act No. 18 of 1991 (Sec. 9) w.e.f. 2.11.1991.]**

(1) Subject to such restrictions and conditions as may be prescribed, a set off, as provided in sub-section (2), shall be granted in such manner as may be prescribed, to a registered dealer in respect of tax paid goods in the circumstances mentioned in sub-section (2). (2) When the registered dealer purchases any goods, which have suffered tax either under sub-section (2) of section 6 at full rates or under section 42 or section 42-B at the concessional rates, for use of such goods as raw-material in the manufacture in Himachal Pradesh of any goods for sale, he shall be entitled to a set off of tax equal to the difference between the aggregate liability on the sale of final product minus to the amount of tax already paid by the selling dealer.]

**42D. [ Penalty for utilisation of goods for other purposes. [Sections 42-C and 42-D added vide Act No. 18 of 1991 (Sec. 9) w.e.f. 2.11.1991.]**

- Where any goods purchased by a registered dealer either under sub-section (1) of section 42 or [XXXXXXX] section 42-B, at concessional rates, for use by him in the manufacture of any goods in Himachal Pradesh, other than goods declared tax free under section 7, -(a) for sale in the State of Himachal Pradesh; (b) for sale in the course of inter-State trade or commerce; are utilised by him for any purpose other than those specified in clause (a) or (b), such dealer shall be liable to pay as penalty, such amount not less than the difference between the amount of tax on the sale of such goods at the full rate applicable thereto under section 6 and the amount of tax payable under sub-section (1) of section 42, or [XXXXXXXXXXXXX] [The words, brackets and figure 'sub-section (1)

of occurring before the word, figure and letter 'section 42-B' omitted vide Act No. 12 of 1992.] section 42-B, but not exceeding one and a half times the amount of tax payable at such full rate, as any officer appointed under sub-section (1) of section 3 may, by order, impose: Provided that no order imposing such penalty shall be passed under this section unless such dealer has been given a reasonable opportunity of being heard.]

### 43. Powers to amend Schedule 'C'.

- [x x x] [The words and sign 'or Schedule 'D' , omitted vide Act No. 32 of 1978.] The Government, after giving by notification not less than 30 days notice of its intention so to do, may, by notification, add to or delete from, or otherwise amend Schedule 'C' [XXXXXX] [The words' brackets and figure 'sub-section (1) of, occurring before the word, figure and letter 'section 42-B' omitted vide Act No. 12 of 1992.] and thereupon Schedule C, [x x x] [The words' brackets and figure 'sub-section (1) of, occurring before the word, figure and letter 'section 42-B' omitted vide Act No. 12 of 1992.] shall be deemed to be amended accordingly.

### 44. Repeal.

(1)The East Punjab General Sales Tax Act, 1948 (46 of 1948) as extended to the Union territory of Himachal Pradesh by Notification of the Government of India in the Ministry of Home Affairs No. G.S.R. 767 (8/3/57-judl-II), dated the 30th August, 1958 and the Punjab General Sales Tax Act, 1948 (46 of 1948) as in force in the territories transferred to that Union territory under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), are hereby repealed.(2)The repeal of any of the enactments under sub-section (1) shall not affect:-(a)the previous operation of any such enactment, or(b)any penalty, forfeiture or punishment incurred in respect of any offence committed against any such enactment, or(c)any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment;and any such investigation, legal proceeding or remedy may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.(3)Subject to the provisions of sub-section (2), anything done or any action taken, including rules, notifications and orders made, instructions or directions issued or rights acquired and liabilities incurred under any of the enactments repealed under sub-section (1), shall-(a)be deemed to have been respectively done, taken, made, issued, acquired and incurred under the corresponding provisions of this Act; and(b)continue in force unless and until directed otherwise or superseded by anything done or any action taken under this enactment by the State Government or other competent authority.[Schedule 'A'] [Schedule 'A' containing items 1 to 32 Substituted vide Act No. 14 of 1974' w.e.f. 1.6.1974.](See the first proviso to sub-section (1) of section 6)[x x x] [The words 'LIST OF LUXURIES GOODS' omitted vide Act No. 1 of 1977.]

| Serial No. | Description of goods.  |
|------------|--|
| 1          | 'Motor Vehicles' including accessories and chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles. |
| 2          | Motor cycles and motor cycle combinations,   |

3. motorscooters, motorettes and accessories, tyres, tubes and spareparts thereof.
4. Refrigerators and air-conditioning plants andcomponent parts thereof.
5. Wireless reception instruments and apparatus,radios and radio-gramophones, electrical valves, accumulators,amplifiers and loud-speakers and spare parts and accessoriesthereof.
6. Cinematographic equipment including cameras,projectors and sound recording and reproducing equipments,lenses, films and parts and accessories required for usetherewith
7. Photographic and other cameras and enlargers,lenses, films and plates, papers and cloth and other parts andaccessories required for use therewith.
8. All clocks, time-pieces and watches and partsthereof.
9. All furniture of iron and steel including safesand almirahs.
10. All furniture other than that of iron and steel.
11. All arms including rifles, revolvers, pistolsand ammunition.
12. Cigarette cases and lighters.
13. Dictaphone and other similar apparatus forrecording sound and spare parts thereof.
14. Sound transmitting equipment includingtelephones and loudspeakers and spare parts thereof.
15. Typewriters, tabulating machines, calculatingmachines and duplicating machines, and parts thereof.
16. Binoculars, telescopes and opera glasses.
17. Gramophones and component parts thereof andrecords.
17. [ [Item 17 Substituted vide Notification No. EXN-F(5)2/774 II dated the 6th August, 1988, published in R.H.P. Extra., dated the 10th August, Cosmetics, perfumery and toilet goods but notincluding tooth-paste, tooth powder, soap, kum-kum and dhoop andaggarvati.]

1988 p. 1721-1722.]

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|--|---|
| 18   | Electrical appliances excluding electric bulbs, electric motors, motor starters and mono-block pumping sets.  |
| 19.  | Pile carpets.   |
| 20.  | Cutlery (table).  |
| 21.  | Vaccum flasks.  |
| 22.  | Sanitary goods and fittings.  |
| 23.  | Leather goods but not including footwear.   |
| 24.  | Glassware, Glaze ware, and Chinaware including crockery.  |
| 25.  | Liquor (foreign liquor and Indian made foreign liquor including wines and beer).  |
| 26.  | Picnic sets.  |
| 27.  | Form rubber products.   |
| 28.  | Articles made wholly or principally of stainless steel but not including surgical instruments.  |
| 29.  | Perambulators.  |
| 30.  | Furs and articles of personal or domestic use made from furs.   |
| 31   | [but not including polythene bags.] [Plastic, Celluloid, Bakelite goods and goods of similar substances of the value exceeding fifty rupees per piece Inserted vide Act No. 2 of 1996 w.e.f. 15.11.1996.] |
| 32.  | All tiles including mosaic tiles (but not including roofing tiles), laminated sheets and sunmica sheets.  |
| 33. [ [Item No. 33 added vide notification No. 1-17/71-E&T. Sectt dated the 28th January, 1976, published in R.H.P. Extra., dated the 30th January, 1976, p. 432.]   | Aerated water.]   |
| 34. [ [Item No. 34 i.e. 'Timber' added w.e.f. 25.9.1976 vide Ordinance No. 8 of 1976, replaced by Act No. 1 of 1977, subsequently substituted as 'timber but not including converted timber' vide Notification No. EXN (11)-3/82 dated 13.10.1983, published in R.H.P. Extra., dated 22.10.1983, p. 1136.] | Timber but not including converted Timber.]   |
| 35. [ [Item No. 35 added vide Notification No. EXN-(11)1-3/82, dated 22.10.1983, p. 1136.]   | Converted timber.]  |

36. [ [Item No. 36 added vide Act No. 2 of 1996 w.e.f. 15.11.1996.] Polythene bags.]

**'B'**

(See section 7)

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|---|--|--|
| 1.  | 2.   |  |
|   |  | [XXXXXXXXXXXXX] [The words against item No. 1 of the Schedule 'B' 'Husk of all foodgrains and pulses' , omitted w.e.f. 28.11.1972 No l-77/71-E&T-Sectt., dated 23.11.1972, published in R.H.P. Extra., dated 28.11.1972, p. 1065.] |
| 1.  |  |  |
| 2. [ [Item No. 2 Substituted w.e.f. 1.4.1991 vide Notification No. EXN-C(17)-3/86, dated the 1st April, 1991 published in R.H.P. Extra., dated the 1st April, 1991, p. 653.]                                    | Vegetables including green chillies            | Except when sold in tins, bottles or cartons.]   |
| 3.  | Milk.  | Except when condensed and dried milk.  |
| 4.  | Meat, fish and eggs.                           | Except when sold in tins, bottles or cartons.  |
| 5. [ [Substituted for the words 'Fresh fruits' vide Substituted w.e.f. 1.4.1991 vide Notification No. EXN-C(17)-3/86, dated the 1st April, 1991 published in R.H.P. Extra., dated the 1st April, 1991, p. 653.] | Fresh fruits, including tender/watery coconut] |  |
| 6.  | Common salt                                    | [XXXXXX] [The words 'Except when sold in sealed containers' , omitted vide Not. No. EXN-F(1)8/77, dated 16.9.1987, published in R.H.P. Extra., dated 20.11.1987, p. 2288.]   |
| 7.  | Flowers.                                       |  |
| 8.  | Pan.   |  |
| 9.  | Books.   |  |

10. Periodicals.
11. Exercise and drawing books.
12. Writing states and state pencils.
13. Writing chalks and crayons.  
[Geometry box and its instruments, sketch-pen, drawing, colour, pencil, eraser, pencil sharpner and ink tablets] [Foot-rules, Inserted w.e.f. 1.4.1991 vide Not. No. EXN-C(17)3/86, dated 1.4.1991, published in R.H.P. Extra., dated 1.4.1991 at page 653.]of the type usually used in schools.
14. All varieties of cotton, woolen or silken textiles, including rayon, artificial silk or nylon, whether manufactured by hand loom or powerloom or otherwise.][except] [The word 'except' added vide Not. No. EXN-F(10)-5/76-Vol. I, dated 22.1.1987, published in R.H.P. Extra., dated 28.1.1987, p. 237-238.]carpets, druggets, woolen durees and cotton floor durees.
15. [ [Item No. 15 Substituted vide Not No. EXN-F(1)6/77, dated 8.2.1980, published in R.H.P. Extra., dated 19.2.1980, p. 101-102 and again Substituted vide Not. No. EXN-F(10)5/76-Vol. I, dated 26.6.1986, published in R.H.P. Extra., dated 1.7.1986, p. 1159-1160.]
- 15A. [ [New items 15-A, 15-B and 15-C added vide Not. No. EXN-F(1)6/77, dated 7.2.1980, published in R.H.P. Extra., dated 19.2.1980, p. 101-102.]
- 15B. All varieties of textiles covered by item No. 15on which knitting and embroidery work has been done.
- 15C. Such varieties of canvas cloth tarpaulines andsimilar other products manufactured with cloth as base, as aremanufactured in textile mills, powerloom factories and processingfactories.
- Leather cloth and inferior or imitation leathercloth ordinarily used in bookbinding (rubberised) tissue orsynthetic water-proof fabrics whether single-textured

- ordouble-textured and bookbinding cotton fabrics.]
16. All varieties of textile covered by item 15 on which knitting and embroidery work has been done.
17. Such varieties of canvas cloth tarpaulines and similar other products, manufactured with cloth as base, as are manufactured in textile mills, powerloom factories and processing factories.
18. Leather cloth and inferior or imitation leather cloth ordinarily used in book binding; rubber issued (rubberised) or synthetic waterproof fabrics whether single textured, ordouble textured and book binding cotton fabrics.
19. Electric energy.
20. Motor spirit as defined in the Himachal Pradesh Motor Spirit Taxation of Sales) Act, 1968.
21. Photographs including X-ray Photographs. When sold by photographers and radiologists preparing them.
22. [ [The words substituted for the words 'Agriculture implement' vide Not. No EXN-1(7)/75' dated 3.3.1976, published in R.H.P. Extra.' dated 6.3.1976.] Agricultural implements and parts thereof as per details below:]
- A. Ordinary Agricultural Implements:

### 1. Hand Hoe or Khurpa.

### 2. Sickle.

### 3. Spade.



- 4. Baguri.**
- 5. Hand-wheel Hoe.**
- 6. Horticultural tools like budding grafting knife, scateur, pruning shear or hook, hedge shear, sprinkler, rake.**
- 7. Sprayer, duster and sprayer-cum-duster.**
- 8. Soil injector.**
- 9. Jandra.**
- 10. Wheel Barrow.**
- 11. Winnowing fan or winnower.**
- 12. Dibbler.**
- 13. Gandasa.**
- 14. Puddler.**
- 15. Fertilizer seed broadcaster.**
- 16. Maize sheller.**
- 17. Groundnut decorticator.**
- 18. Manure or seed screen.**
- 19. Flame gum.**
- 20. Seed grader.**
- 21. Hand driven chaff cutters.**

**22. Tasla.**

**23. Tangli.**

B. Bullock Drawn Agricultural Implements:

**1. Yoke.**

**2. Plough.**

**3. Harrow.**

**4. Cultivator or triphah.**

**5. Seed drill, fertilizer drill, seed-cum-fertilizer drill.**

**6. Planter.**

**7. Plank or float.**

**8. Leveller or scoop.**

**9. Ridger.**

**10. Ditcher.**

**11. Bund former.**

**12. Thrasher or palla.**

**13. Transplanter.**

**14. Chalf cutter.**

**15. Persian wheel, bucket and bucket chain or washer chain.**

**16. Cart.**

**17. Reaper.**

**18. Mower.**

**19. Sugarcane crusher.**

**20. Cane juice boiling pan and grating.**

**21. Roller.**

C. Tractor Drawn Agricultural Implements:

**1. Plough.**

**2. Harrow.**

**3. Cultivator or tiller.**

**4. Seed drill, fertilizer drill or seed-cum-fertilizer drill.**

**5. Fertilizer broadcaster.**

**6. Planter.**

**7. Plank or float.**

**8. Leveller or scoop.**

**9. Bund former.**

**10. Ridger;**

**11. Trailer.**

**12. Puddler.**

**13. Ditcher.**

- 14. Cage wheel.**
- 15. Sprayer, duster or sprayer-cum-dusted.**
- 16. Roller.**
- 17. Hoe, rotary hoe or rotavator.**
- 18. Reaper or mower, harvester.**
- 19. Combine.**
- 20. Potato harvester, or spinner.**
- 21. Groundnut digger shaker.**
- 22. Transplanter.**

D. Power Implements:

- 1. Thrasher.**
- 2. Chaff cutter.**
- 3. Maize shelter.**
- 4. Groundnut dicorticator.**
- 5. Seed grader.**
- 6. Winnowing.**
- 7. Seed treater.**
- 8. Power sprayer or duster.**
- 9. Self-propelled combine.**

## 10. Centrifugal pump.

## 11. Poultry feed grinder and mixer.

## 12. Transplanter.

[E. Metal Storage Bins] [Added vide Not. No. EXN(1)-6/85-Part, dated 5.10.1987, published in R.H.P. Extra., dated 20.11.1987, 2288-2289.]

23. Spinning wheel (charkha) and its parts.
24. All goods sold to the Indian Red Cross Society and St. Johan Ambulance Association.
25. All goods except foreign liquor I.M.F. liquor including wines and beer, on which duty is or may be levied under the Punjab Excise Act, 1914 as in force in Himachal Pradesh or the Opium Act, 1878.

[26 [Item No. 26  
Substituted vide Not No.  
EXN-F(1)6/77, dated  
7.2.1980, published in  
R.H.P. Extra., dated  
19.2.1980, p. 101-102,  
subsequently subs. vide  
Notification No.  
EXN-F(5)2/77-Part  
dated 29.6.1982,  
published in R.H.P.  
Extra., dated 6.7.1982,  
p. 616.]

Agricultural or horticultural produce (and saplings of trees) sold by person or a member of his family, grown by himself or grown on any land in which he has an interest whether as owner or usufructuary mortgagee, tenant or otherwise.]

27. Judicial and non-judicial stamps, entertainment duty stamps, passengers and goods tax stamps and standard watermarked petition paper.

[28 [Item No. 28  
Substituted for the word  
'fertilizers' vide Not. No.  
1-17/71-E&T(Sectt.)  
Fertilizes (except oil-cakes)]

dated 30.10.1976,  
published in R.H.P.  
Extra., dated 3.11.1976,  
p. 1813.]

29. Hand spun yam.

When sold by one who deals in hand  
spun yam exclusively.

30 Crudely tanned leather called half  
tannedleather, usually tanned by  
villagers in villages (other than  
thattanned in a factory).

31. Reori, patashas, gajjaks, misri  
(candy orcooza), golies, bopra,  
makhanas, marunda and phulian.

32. Artificial hearing aids and their  
accessories.

32A. [ [Item No. 32-A  
added vide Not. No.

EXN-F(5)2/77-III, dated  
18.3.1986, published in  
R.H.P Extra., dated  
8.4.1986, P.

639-640.</p>]]

[33 [Item No. 33  
Substituted vide Not.

No. EXN-F(1)-7/75,

dated 21.11.1986,

published in R.H.P.

Extra., dated 24.11.1986,

p. 2067-2068.]

[34 [Item No. 34

Substituted vide Not.

No. 1-17/71-E&T(Sectt.)

dated 22.11.1972,

published in R.H.P

Extra., dated 28.11.1972,

p. 1065, and again vide

Not. No. 1-17/71-E&T

(Sectt.) dated

30.10.1976, published in

R.H.P. Extra., dated

3.11.1976, p. 1813-1814,

further Substituted vide

Not. No. EXN-

Artificial limbs and rehabilitation  
aids for thehandicapped.]

Seeds and saplings.]

Cattle feed including fodder of  
every type (dryor green) but  
excluding chhilka of foodgrains,  
pulses andoil-cakes.]

F(10)3/75, dated the  
17.3.1980 published in  
R.H.P. Extra., dated  
22.3.1980, p. 252-253.]

35. Earthenwares made by kumhars.

36. Kikar bark

[37 [Item No. 37  
Substituted vide Not.  
No. 1-6/70-E&T (Sectt.)  
Part-II, dated  
13.12.1976, published in  
R.H.P. Extra., dated  
5.12.1976 p. 1968.]

Country made jootis including  
Chamba, chappals and sandals

When sold by the maker of such  
shoes himself or by any  
other member of his family, provided  
that the maker does not employ  
any outside labour or uses power at  
any stage for making the shoes.]

38. Takhties used by students in  
schools.

39. Sugar.

[40 [Item 40  
Substituted vide Not.  
No. EXN-F(1)6/77,  
dated 7.2.1980  
published in R.H.P.  
Extra., dated 19.2.1980,  
p. 101-102 and further  
Substituted of vide Not.  
No. EXN-C(17)3/86  
dated 1.4.1991 published  
in R.H.P. Extra.; dated  
1.4.1991, p. 653.]

Bakery goods other than bread i.e  
Double-roti, prepared with out  
using power.]

41 Bardana (packing material) and  
containers.

When sold by a person who deals  
exclusively in goods declared tax free  
under section 7, but sells packing  
material and containers only as  
incidental to his main business.

42. Kuth.

43. All articles of handicrafts and ready  
made garments made out of the  
handloom industrial Co-operatives.

When sold through Government  
Emporium and the sales depots of  
the cloth by Punjab Weavers Apex  
Co-operative Society Ltd.

44. Straw covers.

When sold by the manufacturers  
themselves or through their  
labour unions.

|   |   |  |
|---|---|--|
| 45. [ [Item 45<br>Substituted vide Not.<br>No. EXN.F(16)/74,<br>dated 10.10.1977,<br>published in R.H.P.<br>Extra., dated 12.10.1977,<br>p. 1017 and further<br>Substituted vide Not of<br>even number dated<br>8.3.1978, published in<br>R.H.P I Extra., dated<br>18.3.1978, p. 218 again<br>item 45 Substituted vide<br>Not No. EXN.<br>F(16)/74-PD, dated<br>13.9.1985, published in<br>R.H.P. Extra., dated<br>28.9.1985, p. 1580.] | All articles or handicrafts prepared by the Tibetan Refugees in their Production Centres/Societies in Himachal Pradesh.   | When sold by such centre/Societies directly to consumers.] |
| 46.   | Edible oils produced from sarson, toria and tilin indigenous kohlus, whether worked by animals or human beings.   | When sold by the owners of such kohlus.                    |
| 47.   | Poultry feed, that is to say, a mixture of proteins, salts and minerals, vitamins, antibiotics and coccidiostate, whether such mixture contains carbohydrates or not. |  |
| 48.   | Tobacco whether cured, uncured or manufactured and all its products including biris, cigarettes, cigars.  |  |
| 49.   | Water (aqua pura).  |  |
| 50.   | Condoms.  | When sold through general trade agencies.                  |
| 50A. [ [Item No. 50-A<br>added vide Not. No.<br>EXN-F(10)3/75-Vol. II,<br>dated 30.1.1987,<br>published in R.H.P.<br>Extra., dated 2.2.1987,<br>p. 253-254. ]   | Mala i.e. Mala-N and Mala-D i.e. the oral contraceptive pills.]   |  |
| 51. [ [Item No. 51<br>deleted and Item No. 52   | All goods sold to the serving military personnel and  |  |



renumbered as item No. 51 vide Act No. 17 of 1978 w.e.f. 29.4.1978 and the word '(India)' appearing between the words 'Department' and 'direct' deleted vide Not. No. 1-4/70 E&T(Sectt.), dated 30.6.1978, published in R.H.P. Extra., dated 8.7.1978, p. 857 and again Substituted vide Not. No. EXN-F(16)/74, dated 13.11.1978, published in R.H.P. Extra dated 20.11.1978, p. 1458.]

52. [ [Item No. 54 renumbered as item No. 52 vide Act No. 17 of 1978 w.e.f. 29.4.1978.] Fuel oil/heavy stock used as feed stock in .fertilizer production.]

53. [ [Item No. 53 added vide Not No. 1-1/71-EXN(Sectt.), dated 5.9.1972, published in R.H.P. Extra., dated 8.9.1972, w.e.f. 1.4.69 and deleted vide Act No. 17 of 1978, w.e.f. 29.4.1978 and again inserted vide Not. No. EXN-1(2)74/pt dated 30.8.1978, published in R.H.P. Extra., dated 31.10.1979, p. 2441, w.e.f. 31.10.1979.] Mango stones and mango kernels.]

54. [ [Item No. 54 added vide Not. No. EXN-1(2)/75 dated 19.1.1979, published in R.H.P. Extra., dated Insecticides and pesticides]

6.2.1979, p. 645, w.e.f.

6.2.1979.]

55. [ [Item No. 55 added  
vide Not. No.

EXN-1(2)/75 dated

19.1.1979, published in Chloroquine.]

R.H.P. Extra., dated

6.2.1979, p. 645, w.e.f.

6.2.1979.]

56. [ [Item No. 56 added  
vide Not. No. EXN.

1-7/73-E&T dated

19.8.1977, published in

R.H.P. Extra., dated

25.8.1977, p. 849 and Baan.]  
Substituted vide Not.

No. EXN. F(10)-5/76,

dated 29.10.1979,

published in R.H.P.

Extra., 31.10.1979, p.

2442.]

57. [ [Item No. 57 added  
vide Not No.

EXN-F(10)5/79, dated

28.5.1979, published in

R.H.P. Extra., dated

5.6.1979, p. 1858 and XXXXXXXXXXXXXXXX]  
deleted vide Not No.

EXN-F(1)6/77, dated

29.11.1989, published in

R.H.P. Extra., dated

16.12.1989, p. 2939.]

58. [ [Item No. 58 added XXXXXXXXXXXXXXXX]  
vide Not. No.

EXN-F(5)2/77, dated

16.5.1980, published in

R.H.P. Extra., dated

24.5.1980, p. 465, again

Substituted vide Not No.

EXN-F(5)2/77-pt. dated

30.8.1985, published in

R.H.P. Extra., dated

18.9.1985, p. 1520-1521

[XXXXXXXXXXXXXXXXX] [The words  
and sign 'When sold by the maker  
himself or by any other member of  
his family provided that the maker  
does not employ any outside labour  
or use power at any stage for making  
the been.' omitted vide Not. No.  
EXN-C(9)2/90-IV, dated 2nd  
January, 1996, published in R.H.P  
Extra., dated 3.2.1996, p. 388.]

and deleted vide Not.  
No.

EXN-F(5)2/77-Part-II,  
dated 18.10.1989,  
published in R.H.P.  
Extra., dated  
26.10.1989, p.  
2637-2638.]

59. [ [Items 59 added  
vide Not. No.

EXN-1(4)/74-Part,  
dated the 9.6.1981,  
published in R.H.P.  
Extra., dated 11.7.1981,  
p. 612 and deleted vide  
Not. No. EXN-F(1)6/77  
dated 22.11.1985,  
published in R.H.P.  
Extra., dated 7.12.1985,  
p. 2753-2754.]

XXXXXXXXXXXXXXXXXX]

60. [ [Item 60 added  
vide Not. No.

EXN-1(4)/74-Part,  
dated the 9.6.1981,  
published in R.H.P.  
Extra., dated 11.7.1981,  
p. 612 and deleted vide  
Not. No. EXN-F(1)6/77  
dated 22.1.1985,  
published in R.H.P.  
Extra., dated 7.12.1985,  
p. 2753-2754.]

XXXXXXXXXXXXXXXXXX]

61. [ [Item No. 61 added  
vide Not. No.

EXN-F(11)28/76, dated  
12.2.1981, published in  
R.H.P. Extra., dated  
6.6.1981, p. 473-474. ]

Sera and vaccines manufactured by  
Himachal Pradesh Central Research  
Institute, Kasauli (Himachal  
Pradesh).]

62. [ [Item No. 62 added  
vide Not No.  
EXN-1(4)/74 dated  
8.7.1981, published in  
R.H.P. Extra., dated

News print sold to small medium  
newspapers which are categorized  
as under:-

When circulation of all newspapers is  
certified by a Chartered Accountant  
or by a professional and reputed  
accounts body or institution.

25.7.1981, p. 633-634.]

|   |  |   |
|---|--|---|
|   | Small-Upto a circulation 15,000 copies per issue.  | Newspapers having a circulation upto 2,000 copies per issue may submit a certificate from a Chartered.  |
|   | Medium-Circulation between 15,000 and 50,000 copies a per issue.   | Accountant or from the concerned District Magistrate.]  |
| 63. [ [Item No. 63 added vide Not. No. EXN-F(10)-36/78 dated 30.10.1981, published in R.H.P. Extra., dated 17.11.1981, p. 1018.]              | Foodgrains supplied free of cost by the Government of India under the Food for work programme or other relief programmes notified as such by the Government. | The exemption shall be granted on production of declaration from the concerned Government Department through which the distribution is made.] |
| 63A. [ [Item No. 63-A added vide Not. No. EXN-F(10)36/78-Part dated the 29.5.1989, published in R.H.P. Extra., dated 5.6.1989, p. 1303-1304.] | Gifted maize supplied by the Government of India and sold for human consumption in tribal and drought affected areas, poultry and animal feed sectors.       | The exemption shall be granted on production of declaration from the concerned Government Department distributing the gifted maize.]          |
| 64. [ [Item No. 64 added vide Not. No. EXN-F(18)/85, dated 24.11.1986, published in R.H.P. Extra., dated 26.11.1986, p. 2071-2072.]           | Non-conventional energy devices:   |   |
| 1.  | Solar energy equipments.   |   |
| 2.  | Solar water heaters and systems.   |   |
| 3.  | Solar crop driers and system.  |   |
| 4.  | Solar refrigerations, solar cold storages and solar air conditioning systems.  |   |
| 5.  | Solar stills and dissemination systems.  |   |
| 6.  | Solar pumps based on solar thermal and solar photovoltaic conversion.  |   |
| 7.  | Solar power generating system.   |   |
| 8.  | Solar cookers.   |   |
| 9.  | Concentrating and pipe type solar  |   |

collectors.

10. Flat plate solar collectors.[Black continuously plated solar selective coating sheets (in cut lengths or in coils) and fins and tubes.] [The words added vide Not. No. EXN-F(17)1/85, dated 17.9.1988, published in R.H.P. Extra., dated 20.9.1988, p. 2307-2308.]
  11. Solar photovoltaic modules and panels for waterpumping and other applications.
  12. Wind mills and any special designed devices which run on windmills.
  13. Any special devices including electric generators, pumps running on wind energy.
  14. Electrically operated vehicles including battery powered or fuel cell powered vehicle.
  15. Equipment for utilising ocean waves and thermal energy in the oceans.
  16. Agricultural and municipal waste conversion devices producing energy.
  17. Biogas engines 'biogas plants' gas holder and chulha (burner).]
65. [ [Item No. 65 added w.e.f. 15.9.1986 vide Not. No. EXN-E(1)6/77-pt dated 9.9.1986, published in R.H.P. Extra., dated 15.9.1986, p: 1514 and XXXXXXXXXXXXXXXX] deleted vide Not No. EXN-F(1)6/77-Part, dated 29.11.1989, published in R.H.P. Extra., dated 16.12.1989, p. 2939.]

|   |  |  |
|---|--|--|
| 66. [ [Item No. 66 added vide Not. No. EXN-F(12)2/86, dated 31.1.1987, published in R.H.P. Extra., dated 6.2.1987, p. 259-260 and Substituted vide Not. No. EXN-F(12)2/86, dated 3.2.1992, published in R.H.P. Extra., dated 14.7.1992, p. 2377-2378 and again Substituted vide Not. No. EXN-F(13)1/96-(viii), dated 20.6.1997, published in R.H.P. Extra., dated 25.6.1997, p. 2479-2484.] | Sale of electronic goods manufactured by (a)existing Electronic Industrial Electronic Units and (b) newElectronic Industrial Units situated in Himachal Pradeshincluding Computer Software and Electronic Assembly Units wherevalue addition in assembling (a) by an existing ElectronicAssembly Unit is 25% or more and, (b) by a new ElectronicAssembly units is more than 14% but excluding:(i) T.V. Assembly units;(ii) Radio Assembly units;(iii) V.C.R./V.C.P. Assembly units;(iv) Other units where value addition inassembling (a) by existing Electronic Assembly unit is less than25% and (b) by a new Electronic Assembly units is 14% or less. | (1) In respect of the existing Electronic Industrial Units andexisting Electronic Assembly Units, the exemption shall grantedonly when:-(i) the Units (other than the existing Electronic Assmeby Units)come in to production between 1.4.1985 and 30.9.1996 and theexisting Electronic Assembly Units where value addition inassembling is 25% or more come into production between 31.7.1996and 30.9.1996;(ii) the Units file by 30th April, every year with the AssessingAuthority concerned a certificate in Form R.M. II prescribed bythe Himachal Pradesh Government Excise and Taxation DepartmentNotification No. 1-12/73-E & T-III, dated the 7th February,1992, published in Rajpatra Himachal Pradesh (Extra-Ordinary) on12.2.1992, obtained from the authority specified therein(iii) exemption will be available for ten years from the date,the units come into production;(iv) the units comply with all the provisions of the Act, therules framed and also the notification issued thereunder; and(v) the unit was registered and continues to be so registered as a dealer under the Himachal Pradesh General Sales Tax Act, 1968:Provided that subject to compliance of sub-condition No. (ii),(iv) and (v) of condition No. (1) above, the Electronic AssemblyUnits, except the following which came into commercial productionbetween the period from 1.4.1991 to 30.9.1996 and where the valueaddition in assembling is more than 14% shall also be eligiblefor the grant of |
|---|--|--|

exemption from the payment of sales tax for the period commencing from the date of this notification and ending on the day of March, 2001:- (i) T.V. Assembly units; (ii) Radio Assembly units; (iii) V.C.R./V.C.P. Assembly units; and (iv) Other, units where value addition in assembling is 14% or less. (2) In respect of new Electronic Industrial Units and Electronic Assembly Units where value addition in assembling is more than 14% the exemption shall be granted only when:- (i) the Units came into commercial Production on or after 1.10.1996. (ii) the units file by 30th April every year with the Assessing Authority concerned, a certificate in Form R.M. II prescribed by the Himachal Pradesh Government, Excise and Taxation Department Notification No. 1-12/73 E & T-III dated the 7th February, 1992, obtained from the authority specified therein; (iii) the unit is registered as a dealer under the Himachal Pradesh General Sales Tax Act, 1968. (iv) the unit comply with all the provisions of the Act and the rules framed and also the notifications issued thereunder; and (v) the exemption will be available:- (a) to units located in category 'A' and 'B' Industrial Blocks, for ten years from the date the unit comes into commercial production; and (b) to units (including Pioneer Units and Prestigious Units) located in category 'C' 'Industrial Block' for five years from the date the units come into commercial production; and (vi) no exemption shall be available to new Electronic Industrial Units

manufacturing goods listed in  
'Negative List'. Explanation:- In this  
item the expressions,  
Pioneer Industrial Units, Prestigious  
Industrial Units, 'Negative List' and  
'Industrial Block' shall have the  
same meanings as are assigned to  
them in Government of  
Himachal Pradesh, Excise and  
Taxation Department Notification  
No. EXN-F(13) 1/96(iii), dated  
27.1.97, EXN-F(13) 1/96(vi)  
dated 27.1.97 and EXN-F(13) 1/96(vi)  
dated 27.1.1997.]

67. [ [Item No. 67 added Wooden Fruit packing  
vide Not. No. cases[XXXXXXXXXXXXXXX] [The  
EXN-E(1)6/77-Part., words 'upto 31st December, 1987,  
dated the 3.6.1987, deleted vide Not. No.  
published in R.H.P EXN-E(1)6/77, dated 8.2.1988,  
Extra., dated 4.6.1987, published in R.H.P. Extra., dated  
p. 917.] 12.2.1988, p.]]



68. [ [Item No. 68 added  
vide Not No.

EXN-F(1)8/77, dated 16.9.1987, published in R.H.P. Extra., dated 20.11.1987, p. 2288.] Live stock.]

69. [ [Item No. 69 added  
vide Not No.

EXN-F(12)3/86, dated 11.5.1988, published in R.H.P. Extra., dated 25.5.1988, p. 873-874.] Lottery Tickets.]

70. [ [Item No. 70 added  
vide Not. No.  
EXN-F(10)3/75. Vol. II  
dated 17.8.1988, publish  
in R.H.P. Extra., dated  
23.8.1988 p. 1995-1996.] Pre-recorded Cassettes  
containing 'Azadi-Ki-Kahani' (story  
of Freedom) and the Cassettes of the  
Historic Utterances of Mahatma  
Gandhi and Jawahar Lal Nehru in  
their own voices which contains  
National Anthem and Patriotic  
Songs in various regional  
languages]

71. [ [Item No. 71 added  
vide Not No.

EXN-F(10)3/75. Vol. II,  
dated 4.10.1988, Bee-hives.  
published in R.H.P.  
Extra., dated 10.10.1988,  
p. 2471-2472.]

When manufactured from the timber  
upon which sales tax @ Rs. 25% has  
been charged upon first sale.]

I[72. [tems 72, 73, 74  
and 75 added vide Not

No. EXN-C (17)-3/86,  
dated 1.4.1991, Bangles made of glass, plastic and  
published in R.H.P. lakh.  
Extra., dated 1.4.1991, p.  
653.]

73. Bindi and Kum-Kum.

74. Wheat bran (i.e. chokar).

75. Bread (i.e. Double Roti).]

76. [ [Item No. 76 added  
vide Not No.  
1-12/73-E&T-III, dated  
23.7.1993, published in  
R.H.P. Extra., dated  
Sales of goods manufactured by  
following (a) existing industrial  
units, and (b) new industrial  
units:-(a) existing industrial  
units:(i) Agriculture- Horticulture

(1) In respect of the existing  
industrial units, the exemptions shall  
be granted only when:-(a) the units  
file by 30th April every year with the  
Assessing Authority concerned, a

28.7.1993, p. 1331-1332 and Substituted vide Not. No. EXN-F(13)1/96(viii), dated 20.6.1997, published in R.H.P. Extra., dated 25.6.1997, p. 2479-2484.]

produce based industries except Breweries, Distilleries, Non-fruit based Wineries and Bottling Plants both for Country Liquor and Indian Made Foreign Liquor; (ii) Food products and mineral water bottling industry other than those specified at Sl. Nos. 1, 2, 3, 5, 6, 7 and 24 of the Negative List notified vide this Department Notification No. 1-12/73 E&T-III, dated 25.9.1992 published in Rajpatra (Extra Ordinary) on 1.10.1992. (iii) Herbal produce based Industries and Aromatic Industries; (iv) Wool based industry (including Angora Wool); (v) Sericulture; (vi) Garments and Knitwear manufacturing industry; and (vii) Project with investment of more than Rs. 300 crores and those with 100% Export Oriented Industries (b) New Industrial units; (i) Agriculture-Horticulture produce based industries except Breweries, Distilleries, Non-fruit based Wineries and Bottling Plants (both for Country Liquor and Indian Made Foreign Liquor); (ii) Food Products and mineral water bottling industry other than those specified at SI Nos. 1, 3 and 16 of the Negative List notified vide this Department Notification No. 1-12/73 E&T-III, dated 25.9.1992, published in Rajpatra, Himachal Pradesh (Extra-Ordinary) on 1.10.1992 and as amended vide Government of Himachal Pradesh Excise and Taxation Department Notification No. EXN-F(13)1/96(vi), dated 27.1.1997. (iii) Herbal produce based industries and Aromatic certificate in Form R.M. II as prescribed by the Himachal Pradesh Government Excise and Taxation Department Notification No. 1-12/73-E& T-III, dated 7th February, 1992 issued by the authority specified therein; (b) the exemption will be available for a period of 10 years from the date of commencement of production by such industrial unit; and (c) the units comply with all provisions of the Act the rules framed and also the notifications issued thereunder. (2) In respect of new industrial units, the exemption shall be granted only when:-(i) the units file by 30th April every year with the Assessing Authority concerned, a certificate in Form R.M.II, as prescribed by the Himachal Pradesh Government Excise and Taxation Department Notification No. 1-12/73 E& T-III, dated 7.2.1992, published in Rajpatra, Himachal Pradesh (Extraordinary) on 12.2.1992 issued by the authority specified therein; (ii) the exemption and as will be available for a period of ten years from the date of commencement of commercial production by such industrial units located in 'A' and 'B' category of Industrial Block only including the industrial units which fall in the Negative List (other than those located in 'C' category of Industrial Block) notified vide Himachal Pradesh Government Notification No. 1-12/73 E&T-III, dated 25.9.1992, published in Rajpatra, Himachal Pradesh (Extra-Ordinary) on 1.10.1992 and as amended vide Notification No. EXH-F(13)1/96(vi), dated 27.1.1997. In case of Fruit,

industries;(iv) Wool based industry (including Angora wool);(v) Sericulture;(vi) Garments and Knitwear manufacturing industry; and(vii) 100% Export Oriented Industries;(viii) Projects with fixed capital investment of more than Rs.300 crores going into commercial production on or after 1.4.95 and which are registered with the Empowered Committee after 31.3.1995 except the industries specified in the Negative List notified vide Notification No. 1-12/73- E&T-III, dated 25.9.1992, published in Rajpatra, Himachal Pradesh (Extraordinary) on 1.10.1992 and as amended vide Government of Himachal Pradesh, Excise and Taxation Department Notification No. EXN-F(13)1/96 (vi), dated 27.1.1997.

Vegetable, Maize and other grain based industrial unit or a combination of these (i.e. Agriculture-Horticulture based industries) the exemption from the payment of sales tax will be available for a period of twelve years, ten years and ten years in respect of such industrial units located in 'A', 'B' and 'C' category of industrial block respectively; and (iii) Units comply with all the provisions of the Act, the rules framed and also the notifications issued thereunder.

**Explanation.-** (1) In this item,- (i) 'existing industrial unit' means industrial unit which commences production between the period from 1.4.1991 to 30.9.1996 and which was registered and continues to be so registered as a dealer under the Himachal Pradesh General Sales Tax Act, 1968 and will include any existing unit which is eligible to get fresh registration as per the guidelines issued by the Development Commissioner, Small Scale Industries, Government of India, from time to time, but will not include an industrial unit, small medium or large, which is formed as a result of re-establishment, mere change of ownership, change in the constitution, restructuring or revival of an existing industrial unit. (ii) 'new industrial unit' means an industrial unit which commences commercial production on or after 1.10.1996, and is registered as a dealer under the Himachal Pradesh General Sales Tax Act, 1968. (2) For the purposes of sub-item (vii) the expression '100% Export Oriented Industries' means the industries

defined as such by the Government of India from time to time.(3) In this item the expression 'Industrial Block' 'Negative List' and 'Fixed Capital Investment' shall have the meanings as defined vide Himachal Pradesh, Government, Excise and Taxation Department Notification No.1-12/73 E&T-III, dated 25.9.1992, published in Rajpatra, Himachal Pradesh (Extraordinary) on 1.10.1992 and as amended vide Not. No. F(13)1/96(vi), dated 27.1.1997.]

77. [ [Item No. 77 Ins      Raw wool.]  
vide Not. No.  
EXN-F(II)4/94, dated  
20.12.1995, published in  
R.H.P. Extra., dated

20.12.1995, p. 5022.]

78. [ [Item 78 Ins vide  
Not. Not.

EXN-C(9)2/90-IV,  
dated 16th May, 1996      Paper Gags].  
published in R.H.P.  
Extra., dated 7.6.1996,  
p. 2568.]

79. [ [Item No. 79 Ins  
vide Not. No.

EXN-F(12)1/93, dated      Food preparation ordinary sold by      When prepared and sold by Halwais  
16.10.1996, published in      Halwais and Dhabawalas      and Dhabawalas themselves.  
R.H.P. Extra., dated  
16.10.1996, p. 4782.]

Explanation. - In this item the term 'Halwais' and 'Dhabawalas' shall have the meaning as may be prescribed.]

**'C'**

[See the third proviso to sub-section (1) of section 6]

## **1. Resin (crude pine gum).**

**2. [ x x x] [The entry of 'Groundnut' deleted vide Not. No. EXN-F(1)8/77, dated 16.9.1987, published in R.H.P. Extra., dated 20.11.1987, p. 2287-2288.]**

**'D'**

[x x x] [Schedule 'D' omitted vide Act No. 32 of 1978.]