

# Sikkim Sales Tax Act, 1983

SIKKIM

India

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### Act 4 of 1983

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Sikkim Sales Tax Act, 1983(Act No.4 of 1983)Last Updated 9th June, 2020[Dated 03.03.1983]An Act to consolidate and amend the law relating to the levy of tax on the goods in the State of Sikkim.Be it enacted by the Legislature of Sikkim in the Thirty-fourth year of the Republic of India as follows:

## Chapter I Preliminary

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

(1)This Act may be called the Sikkim Sales Tax Act, 1983.(2)It extends to the whole of Sikkim.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### 2. Definitions.

- In this Act unless there is anything repugnant in the subject or context,(a)"business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture carried on with or without a motive for profit whether or not any profit accrues from such activities and any transaction ancillary or incidental to or in connection with such trade, commerce or manufacture or adventure or concern;(b)"commissioner" means the Commissioner of Commercial Taxes appointed under sub-section (I) of Section 3 ;(c)"dealer" means any person who carries on business of buying and selling of goods for commission, remuneration or otherwise and includes any firm, Hindu Undivided Family, company, corporation, a department of Government society, club or association, the incorporation of such society, club or association .Explanation 1. - A factor, broker, commission-agent, del-credere agent, auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying or selling of goods and who has, in the

course of his business, authority to sell goods belonging to their owners, shall be deemed to be a dealer for the purposes of this Act; Explanation 2. - The manager or agent of a dealer residing outside the State, and who sells or purchases goods in the State, shall in respect to such business, be deemed to be a dealer for the purpose of this Act; (d) "declared goods" means the goods declared by section 14 of the Central Sales Tax Act, 1956 (74 of 1956) to be of special importance in inter-State trade or commerce; (e) "goods" means all kinds of movable property in solid, liquid or gaseous form, and includes all materials, commodities, articles and also electricity but does not include newspapers, actionable claims, stocks, shares and securities; Explanation. - Materials, commodities and articles attached to or forming part of immovable property which are agreed to be severed under the contract of sale, shall be deemed to be goods within the meaning of this clause; (f) "manufacture" with all its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing or adopting, any goods but does not include such manufacture or manufacturing process as may be prescribed; (g) "notification" means a notification published in the Official Gazette; (h) "place of business" includes (1) in the case of any dealer who carries on business through an agent (by whatever name called), the place of business of such agent; (2) a warehouse, godown or other place where a dealer stores his goods; and (3) a place, where a dealer keeps his books of accounts; (i) "prescribed" means prescribed by rules made under Act; (j) "prescribed authority" means such authority as may be prescribed; (k) "registered dealer" means a dealer registered under section 10; (l) "rules" means the rules made under this Act; (m) [ "sale" with its grammatical variations and cognate expressions means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes the "transfer, delivery or supply of goods by one person to another person in any of the following ways, namely: [Inserted by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 w.e. 1/4/1986.] (a) the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration; (b) the transfer for property in goods (whether as goods or in some other form) involved in the execution of a works contract; (c) the delivery of goods on hire-purchase or any system of payment by instalments; (d) 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; (e) the supply of goods by any unincorporated association, or body of persons to a member thereof for cash, deferred payment or other valuable consideration; (f) 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, does not include a mortgage or hypothecation of or a pledge on goods.][Explanation 1. - Transfer of goods on hire-purchase or other system of payment by instalments shall be deemed to be a sale if and when there is a transfer of property or goods from the seller to the buyer;] [Omitted by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 w.e.f. 1/4/1986.][Explanation 1. - A barter that is, sale by exchange of goods shall be deemed to be a sale only when the exchange is based or worked out in terms of the value of the goods, exchanged.] [Renumbered by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 w. e. f. 1/4/1986.][Explanation 2. - A sale of goods shall be deemed to have taken place in the State if it fulfils the requirements of the sub-section (2) of section 4 of the Central Sales Tax Act 1956; (74 of 1956).] [Renumbered by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 w. e. f. 6/4/1986.](n) "sale price" means the amount payable to a dealer as consideration for the sale of

goods, less any sum allowed as cash discount but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged; Explanation 1. - The term cash discount shall refer only to the discount allowed by the seller to the buyer for the prompt or prior or early payment of sale price according to the practice prevailing in the trade; Explanation 2. - The tax levied under this Act on the transaction of sale shall not form part of the sale price for the purpose of this Act, only if it is actually leviable under this Act on the seller and is recovered by the seller from the buyer by showing it separately as such in the cash memos, invoices or other sale memoranda; [Explanation 3. - In respect of goods delivered on hire purchase or any system of payment by instalments, the sale price on the date of such delivery shall, for the purposes of this Act, be determined in such manner as may be prescribed.] [Substituted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w e. f. 1/4/1986.] [Explanation 4. - The sale price shall include the excise duty, fee or any other levies on the goods, under any Central or State law for the time being in force, made at the time of or before the delivery of the goods to the buyer whether such duty, fee or other levy is paid by the purchaser of the goods to the seller along with the consideration for the sale or directly to the Government.] [Inserted by the Sikkim Sales Tax (Amendment) Act No.4 of 1986 w. e. f. 1/4/1986.](o)"Sikkim" means the territory comprised in the State of Sikkim;(p)"State Government" means the Government of Sikkim;(q)"Tax" means tax payable under this Act;(r)"turnover" used in relation to any period means the aggregate of sale price or part of sale price receivable or if a dealer so elects, actually received by the dealer during such period after deducting the amounts if any, refunded by the dealer in respect of any goods returned by the purchaser within such period as may be prescribed: Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose Explanation. - The turnover of sales shall include amounts realized by a dealer by sale of surplus, unserviceable and discarded goods, fixed or other assets of the business, bye-products and subsidiary products of manufacture or processing but shall not include sales in a canteen owned and run by the dealer for the benefit of his workman or laborers;(s)"year" means the financial year commencing on the first day of April and ending on the 31st day of March next following.

## Chapter II

### Taxation authorities

#### 3.

(1) For carrying out the purposes of this Act, the State Government may appoint a person to be Commissioner of Commercial Taxes and such other persons with such designation to assist him as may be necessary and as may be specified in this behalf by the State Government by notification. (2) The Commissioner and other persons appointed under subsection (1) shall exercise such powers as may be prescribed and perform such duties as are imposed upon them by this Act or rules made thereunder within such areas in the State as may be specified in this behalf by the State Government by notification. (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) Chapter-III

## Incidence of Taxes

**4. incidence of taxation.**

- There shall be paid by every dealer who sells [goods] [Inserted by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 with effect from 12/5/1986.] manufactured, imported, produced or purchased by him in the State, a tax on sales made on and from the date of commencement of this Act.

**5. Rate of tax.**

(1)The tax payable by a dealer under this Act shall be levied on taxable turnover at the following rates,(a)in respect of goods specified in Schedule II, at the rate of ten paise in the rupee;(b)in respect of declared goods, at such rate not exceeding four paise in the rupee as the State Government may, from time to time, by notification, specify;(c)in respect of any other goods at such rate not exceeding five paise in the rupee as the State Government may, from time to time, by notification, specify;(2)Notwithstanding anything contained in sub-section (1), the State Government may, in public interest, by notification and subject to such conditions as may be specified therein, direct that no tax or a lower rate of tax shall be payable in respect of any specified transactions or goods or class of dealers and such notification may be given such retrospective or prospective effect as may be specified therein.(3)For the purposes of this Act, the expression 'taxable turnover' means that part of dealer's gross turnover during the prescribed period in any year which remains after deducting there from(a)his turnover during that period on(i)the sales, at the subsequent stages of sales, of such goods as are specified, by a notification, issued under section 6 to be subject to tax at the first point in the series of sales in Sikkim in respect of which tax due under this Act is shown to have been paid to the satisfaction of the prescribed authority;(ii)the sales of goods exempted under section 8;(iii)the transactions not liable to tax under section 9;(iv)the sales of goods which are proved to the satisfaction of the Commissioner to have already been subjected to tax under this Act;(v)the sales to a registered dealer(a)of goods of the class or classes specified in the certificate of registration of such dealer, as being intended for use by him as raw materials in the manufacture in the State of any goods, other than goods declared as tax-free under section 8,(1)for sale inside the State; or(2)for sale in the course of inter-State trade or commerce, being sale occasioning or effected by transfer of documents of title to such goods during the movement of such goods from the State; or(3)for sale in the course of export outside India being a sale occasioning the movement of such goods from' the State, or a sale effected by transfer of documents of title to such goods during the movement of such goods from the State, to a place outside India and after the goods crossed the customs frontiers of India; or(b)of the goods other than those notified under section 6 as taxable at the first point in the series of sales, of the class or classes specified in the certificate of registration of such a dealer as being intended for resale by him in the State or for sale in the course of inter-State trade or commerce or in the course of export outside India in the manner specified in item (2) or item (3) of item (a) of this sub-clause as the case may be; and(c)of containers or other materials for the packing of goods of the class or classes specified in the certificate of registration of such dealer, other than declared goods intended for sale or resale:Provided that no deduction in respect of sale referred to in sub-clause (v) shall be allowed unless a true declaration duly filled and signed by the registered

dealer to whom the goods are sold and containing the prescribed particulars in the prescribed form is furnished in the prescribed manner and within the prescribed time, by the dealer who sells the goods. Provided further that where any goods are purchased by a registered dealer for any of the purposes mentioned in sub-clause (v) but are utilized by him for a different purpose, the price of the goods so purchased shall be allowed to be deducted from the gross turnover of the selling dealer but shall be included in the taxable turnover of the purchasing dealer; (vi) such other transactions as are exempted from payment of tax by a notification issued under sub-section (2).

## **6. Powers of Government to prescribe point at which goods may be taxed.**

- Notwithstanding anything contained in this Act, the Government may, by notification in the Official Gazette specify the point of sale at which any goods or class of goods may be taxed.

## **7. Burden of proof.**

- The burden of proving that the dealer is not liable to pay tax under this Act in respect of any sale effected by him, shall lie on him.

## **8. Tax free goods.**

(1) No tax shall be payable under this Act on the sale of goods specified in Schedule 1 subject to the conditions and exceptions, if any, set out therein. (2) The State Government, after giving by notification such previous notice as it considers reasonable of its intention so to do, may add to or omit from, or otherwise amend Schedule I and thereupon the said Schedule shall be deemed to be amended accordingly: Provided that the said notification may be given such retrospective or prospective effect as may be specified therein.

## **9. Certain sale and purchases not liable to tax.**

- Nothing in this Act or the rules made thereunder shall be deemed to impose or authorize the imposition of tax on any sale or purchase of any goods when such sale or purchase takes place (i) in the course of inter-State trade or commerce; or (ii) outside the State; or (iii) in the course of import of goods into, or export of goods out of, the territory of India.

## **Chapter IV**

### **Registration of dealers etc.**

## **10. Registration of dealers.**

(1) Every dealer liable to pay tax under this Act shall apply, within 30 days of his becoming so liable, to the prescribed authority for registration under this Act. (2) No dealer liable to pay tax under this Act shall sell or purchase goods unless he is in possession of a valid registration certificate granted

to him by or on behalf of the prescribed authority or has applied for such registration within the time specified in sub-section (1) and his application has not been finally disposed of by the said authority.(3)The prescribed authority may, on receipt of application in the prescribed form from a dealer for registration, and on being satisfied that the application is in order, grant registration from such date as may be specified, to such dealer:Provided that the said authority granting the certificate may demand such security from the dealer as may be prescribed before the registration is granted to him:Provided further that no application for' registration made by a dealer shall be refused, or partly granted unless he has been given a reasonable opportunity of being heard before the order is passed.(4)If the prescribed authority is satisfied that a dealer liable to pay tax under this Act has failed to apply for and get himself registered, it may, by a notice in writing, direct the dealer to apply for and get himself registered within 15 days of the service of the notice, failing which the dealer shall be liable to pay a penalty of rupees twenty-five for each day's delay after the expiry of the said period of 15 days:Provided that the said authority may, on, an application by the dealer and for reasons to be recorded in writing, reduce or waive the penalty, if it is satisfied that the delay has been caused' by reasons beyond the control of the dealer.(5)The registration certificate shall be in the prescribed form and contain such particulars as may be prescribed. The prescribed authority may on its own motion for reasons to be recorded in writing or on an application by the dealer, cancel vary, modify, or amend any registration certificate granted under sub-section 5:Provided that a registration certificate shall cease to be in force when the dealer has ceased to be liable to pay tax under this Act or his business has been closed:Provided further that when the registration certificate is cancelled, varied, modified or amended otherwise than on application by dealer or when the application made by the dealer for the purpose is proposed to be rejected in whole or in part, a reasonable opportunity of being heard or to show cause against the proposed action shall be given to the dealer.(6)The registration certificate granted to a dealer shall not be transferable and if the business to which it relates is transferred to another dealer, then that other dealer shall apply and get himself registered under subsection (1) and (2) unless he is already registered.

## **Chapter V**

### **Return, Assessment, Recovery and Refund of Tax.**

#### **11. Returns and payment of tax.**

(1)Every registered dealer shall furnish such returns for such periods in such form, to such authority and within such time as may be prescribed:Provided that if a dealer, having furnished a return discovers any omission, error or wrong statement therein, he may furnish a revised return in such manner as may be directed by the aforesaid authority at any time before the said authority passes the order determining the amount of tax payable by the dealer for the period for which the return has been furnished:Provided further that the said authority may, for reasons to be recorded and after giving the dealer a reasonable opportunity of being heard, refuse to take the revised return into consideration if it is satisfied that the original or the revised return was deliberately false and it was furnished with intent to defraud the State Government of its revenue.Explanation. - A dealer who is granted registration from any particular date shall also be liable after the grant of such registration, to furnish return also for the period prior to such date during which he was liable to pay tax under

this Act, in such manner and within such time as may be prescribed.(2)The dealer shall, before furnishing any return or revised return referred to in sub-section (1) pay to the Government in such manner and within such time as may be prescribed the amount of tax due under this Act according to the return or the revised return, as the case may be, and furnish along with the return or the revised return, such proof of the payment of tax due as may be prescribed, and any such return or revised return if not accompanied by any such proof of payment shall be deemed invalid and treated as if it has not been furnished.(3)If a registered dealer fails, without reasonable cause to furnish any valid return within the time prescribed or within such further time as may be allowed on application, by the prescribed authority, a penalty at the rate not exceeding rupees five for each day of delay shall be imposed without prejudice to any action which is or may be taken under any of the other provisions of this Act.

## 12. Rebate.

- A rebate shall be allowed at the rate of one per cent of the amount of tax paid by the dealer within the time prescribed under subsection (2) of section 11 : (d) appear or produce or cause to be produced- evidence on the date specified under sub-section (2); the prescribed authority shall, after giving a reasonable opportunity to the dealer of being heard, determine the taxable turnover of the dealer to the best of its judgment and assess the tax on the basis of such determination and may, in addition, impose penalty of an amount not exceeding one half of the amount of tax so assessed: Provided that no penalty under this sub-section shall be imposed unless the prescribed authority is satisfied that the failure of the dealer was willful, deliberate or unjustified and unless a reasonable opportunity of being heard is given to the dealer: Provided further that in cases covered by clause (a) of this sub-section, no proceedings for assessment shall be initiated after the expiry of four years from the expiry of the relevant period due for assessment or in cases in which the assessment is made as a result of an order in appeal, revision or review, after the expiry of two years from the date of such order.(4) If upon information received, the prescribed authority is satisfied that a dealer liable to pay tax under this Act in respect of any period wilfully failed to apply for registration under subsection (1) of section 10 or having applied, wilfully failed to furnish any particulars or information required for the purpose of registration or having been registered fails to furnish returns within the period prescribed under sub-section (1) of section 11, the said authority shall, after giving the dealer a reasonable opportunity of being heard, assess, according to its best judgment, the amount of tax due from the dealer for such period or any subsequent periods and in addition, may impose a penalty of an amount not exceeding one half of the amount of tax so assessed: Provided that no proceedings under this sub-section shall be initiated after four years from the expiry of such period. Explanation. - For the purpose of sub-section (3) or subsection (4), as the case may be, the proceedings shall be deemed to have been initiated when a notice therefor is served or deemed to have been served on the dealer.(5) If upon information which has come into possession, the prescribed authority has reason to believe that any turnover of a registered dealer in respect of any period has for any reason escaped assessment or was under-assessed or assessed at a rate or rates lower than the rate or rates correctly applicable, or any deduction from turnover had been wrongly made, it shall, within six years of the expiry of such period, serve on the dealer a notice in the prescribed Form and proceed to assess or reassess the amount of tax due from the dealer in respect of such turnover in the manner specified by or under this section: Provided that the amount

of tax shall be assessed or reassessed after allowing such deduction and applying the same rate of tax as was admissible during the said period: Provided further that the said authority may, after giving reasonable opportunity to the dealer of being heard, impose a penalty not exceeding the amount of extra tax found leviable in the proceedings under this sub-section, if it is satisfied that the escape from assessment or under assessment had been caused by the deliberate and willful failure on the part of the dealer (a) to disclose, at the time of original assessment the particulars of such turnover; or (b) to furnish correct particulars.

### 13.

(sic) 14. Procedure of payment of tax or penalty. (1) The tax admitted by the dealer to be due in any return or revised return furnished by him under section 11 shall be paid in the manner prescribed by or under sub-section (2) of that section. (2) The amount of the tax and penalty assessed as due from the dealer under sub-section (3) of section 11 or under section 13 after deducting any amount paid by him along with the return under sub-section (2) of section 11 shall be paid by him in such manner and within such time as may be specified in the notice of demand in the prescribed Form issued by the prescribed authority; the date so specified being not less than 30 days from the date of service of the said notice: Provided that the said authority may, in its discretion and for reasons to be recorded, on application by the dealer extend the date for such payment or allow the payment to be made in such instalments as may be determined by it. (3) If a dealer has failed, without reasonable cause, to make payment of any amount of tax together with the penalty, if any, by the date specified in the notice issued under sub-section (2) or by the date extended under the proviso thereto, interest at ten per cent per annum shall accrue and be charged on such amount from such date and such interest shall be treated as if it were tax due under this Act and shall be paid by the dealer in the prescribed manner: Provided that interest shall not accrue or be charged on any amount the recovery of which is stayed under sub-section (5) during the period the stay operates. (4) Any amount of tax, penalty or interest due from a dealer, which remains unpaid may be recovered on application by the prescribed authority to the Judicial Magistrate of the first class. who shall realize it as if it were a fine imposed by him: Provided that where, during the proceedings under this sub-section, the amount of tax, -penalty or interest due from the dealer is reduced as a result of appeal or otherwise, the prescribed authority shall inform the dealer and the authority before whom the proceedings are pending, and the amount so reduced and the reduced amount shall be deemed to be substituted for the amount originally intimated to the authority. (5) Where an appeal against or an application for revision of the assessment of tax or levy of penalty or interest is entertained, the appellate or the revisional authority as the case may be, may on application stay recovery of the tax, penalty or interest in whole or in part, subject to such conditions as it may impose till such date as it may direct: Provided that the stay of recovery so granted shall stand vacated on the date the appeal or the application for revision is finally decided or on such other date as the appellate or the revisional authority may direct. (6) No such proceedings for the recovery of tax under this section shall be commenced after the expiry of twelve years from the date on which the assessment was made: Provided that where the assessment was under appeal or under any other proceedings under this Act, the aforesaid period of limitation shall commence from the date the appeal or other proceedings were terminated.



## **15. Person authorised to collect tax from purchasers.**

(1) No person other than a registered dealer shall collect or recover from any person any amount towards tax or purporting to be tax under this Act on the sale of goods. (2) No registered dealers shall collect from any person any such amount except in a case in which, and to the extent to which, such dealer is liable to pay tax under this Act: Provided that where a registered dealer is in doubt about his liability, he may collect and keep in deposit the tax so collected towards his anticipated liability of tax; but shall refund the deposit to the person from whom it was collected or to his successors or assignees, if any, to the extent up to which it is finally determined in the proceedings under this Act, that the dealer is held not so liable. (3) Nothing contained in sub-section (1) or sub-section (2) shall relieve a registered dealer from his liability for the tax under this Act.

## **16. Procedure when tax is paid in excess.**

(1) Subject to such rules as may be made the amount of tax, penalty or interest paid, in excess of the amount finally determined as payable by the dealer under this Act, shall be refunded to him, on his application within 60 days of the date on which the application is filed by him: Provided that such application shall not be entertained unless it is filed before the prescribed authority within twelve months from the date on which the order of assessment was passed: Provided further that where the assessment was under appeal, revision or any other proceedings under this Act, the said period of limitation shall commence from the date on which the order in appeal, revision or other proceedings is passed: Provided also that any dealer may, by application, request or the prescribed authority may, on its own motion, set off the refund due against any other dues of the dealer under this Act or under any other Act. (2) Where a tax has been levied under this Act in respect of sales or purchases inside the State of any declared good and such goods are subsequently sold in the course of inter-State trade or commerce, the tax so levied shall be reimbursed to the person making such sale in the course of inter-State trade or commerce, in such manner and subject to such conditions as may be prescribed: Provided that no such reimbursement shall be made unless an application in writing is made before the prescribed authority under this Act within twelve months of the date on which the inter-State sale is made, which period may be extended for sufficient cause by the said authority by such time as may be considered necessary by it for reasons to be recorded in writing. (3) [where any goods are delivered under any agreement of hire-purchase or of any system of payment by instalments and tax under this Act has been levied on the dealer who made the delivery of the said goods and such goods are returned to the said dealer at any time during which the agreement of hire-purchase subsists, the proportionate amount of tax levied on the unpaid instalments of sale price shall be refunded to the said dealer: Provided that no such refund shall be admissible unless a claim therefor is filed before the prescribed authority in such manner and within such time as may be prescribed. ] [Inserted by the Sikkim Sales Tax (Amendment) Act No. 4 of 1986 w.e.f. 1/4/1986.]

## **17. Declaration by the dealer.**

- (I) Every dealer liable to pay tax under this Act, who is an Undivided Hindu Family, a firm, company corporation, society, club or association shall furnish to the prescribed authority in the

prescribed manner and within the prescribed time, a declaration stating the name and prescribed particulars of the person who shall be deemed to be in charge of the business for the purpose of this Act.(2)Any statement made. return furnished, accounts, registers and documents produced or evidence given by such person or any other person authorized by him or by the dealer in this behalf, in the course of any proceedings under this Act, shall be binding on and enforceable against the dealer.

## Chapter VI

### Maintenance and production of accounts by the dealer.

#### 18. Liability to maintain and produce accounts and supply of information.

(1)Every registered dealer shall keep a true and complete account in respect of all goods produced, raised, manufactured, processed, purchased, sold or delivered by him:Provided that the Commissioner may, by notification, lay down the forms or registers or the manner in which the said dealers shall maintain the accounts as aforesaid as well as cash memoranda, bills, invoices etc, and the dealer shall maintain the accounts and documents accordingly.(2)The prescribed authority may direct the dealer to produce accounts or any information in such manner as may be required for the purpose of assessment of tax under this Act 'if the said authority is not satisfied that the accounts maintained and produced by the dealer are sufficiently clear and intelligible for determining the correct amount of the tax payable. by the dealer.(3)Subject to such rules as may be made by the State Government under this Act, the prescribed authority may, either before or after the assessment of tax under this Act, require any dealer, including a dealer not registered under this Act, to produce before him all or any of the accounts, registers and documents maintained by the dealer and also to furnish any information relating to financial transactions of the dealer relating to his business, including information regarding stocks of goods held, imported, produced, manufactured, processed, bought, 'sold or delivered, the sale price realized, the profit derived there from, and the dealer shall comply with such requirements.(4)Subject as aforesaid, all accounts and documents connected with the business of the dealer, stocks of all goods purchased or kept by him for sale, the cash, or bank pass books, statements or deposit receipts kept in any place of business shall at all reasonable times, be open to inspection and search by the prescribed authority or by any person appointed to assist him under sub-section (I) of section 3 or by such other person as may be authorised by him for the purpose in writing and the dealer shall render all possible assistance to such authority or person in the search or inspection, as the case may be.Explanation 1. - It shall be open to the said authority or person to take or cause to be taken such copies of, or extracts from, the aforesaid accounts, registers and documents as may be considered by it or him necessary and to require the dealer or any of his employees present at the time to authenticate or witness such copies or extracts, as the case may be.Explanation 2. - The authority or person may, subject to such rules as may be made, break open any door, window, almirah, safe or other containers in the place of business in which he has reason to believe that the dealer has kept or is keeping any accounts registers or documents or stocks of goods or cash relating to the business which the dealer has refused to open or produce for inspection.(5)If the prescribed authority has reason to suspect that any dealer is attempting to evade the payment of any tax due under this Act or under the Central

Sales Tax Act, 1956, (74 of 1956) such authority or person may, for reasons to be recorded in writing, seize or cause to be seized such accounts, registers or documents including bank pass books or statements, as may be considered necessary, and shall grant a receipt for the same. Such seized accounts, registers or documents may be retained by the said authority for so long as may be necessary for examination or for conducting any prosecution under section 23 and shall thereafter be returned to the dealer who shall acknowledge in writing the receipt of the same: Provided that the seized accounts, registers and documents shall not be retained by any authority other than the prescribed authority for over 90 days save with the approval, in writing, obtained from the prescribed authority.

## **19. Liability on the transfer of business.**

(1) Notwithstanding anything contained to the contrary in any agreement, contract or understanding, when the ownership of a business of a dealer liable to pay tax under this Act, is transferred in whole or in part, the transferor or the transferee shall be jointly or severally liable for informing the particulars of the transfer to the prescribed authority in such manner as may be prescribed and for the payment of any tax, penalty or interest, if any, payable in respect of such business and remaining unpaid at the time of such transfer: (2) Where a dealer from whom any amount is due towards tax, penalty or interest dies, the executor, receiver manager, administrator or successors-in-interest to his estate or any other legal representative including a Court of Wards shall be liable to inform the prescribed authority in such manner as may be prescribed and to pay out of the property of the deceased the amount so payable and shall also be liable and responsible to attend and participate or be represented in all proceedings under this Act pending at the time of the death of the dealer: Provided that nothing in this sub-section shall require reissue of notices or intimation already issued to the dealer and the proceedings pending on the date of death of the dealer shall be continued as if the said dealer is substituted by the person or persons mentioned in this sub-section. (3) Where the dealer is a minor or is incapacitated and his business is carried on by any other person on his behalf, whether he is a guardian, trustee or agent, such person shall inform the prescribed authority and the tax shall be assessed upon and be recoverable from such person as if he were the dealer. (4) Where the dealer is an Undivided Hindu Family, firm or other association of persons, and such family, firm or association is partitioned, dissolved or business thereof is, due to any reason, disrupted, as the case may be, the tax, penalty and interest for the period or periods upto the date of such partition, dissolution or disruption may be assessed, imposed and levied as if the partition, dissolution or disruption has not taken place and every person who was at the time of such partition, dissolution or disruption a member of such family, firm or association shall be liable severally and jointly for furnishing such particulars as may be prescribed and for the payment of such tax, penalty or interest, whether the assessment, imposition or levy was made before or after such partition, dissolution or disruption.

## **Chapter VII**

### **Suits, Appeal, Revision and Review.**

## 20. Bar to certain proceedings.

(1) No assessment made. proceedings taken or order passed under this Act shall be called into question in any court save as provided in this Act. (2) No suit, prosecution or other legal proceedings shall lie against any public servant or any person appointed under section 3 for anything done in good faith under this Act or the rules or notifications made thereunder save with the previous sanction of the State Government.

## 21. Appeal, revision and review.

(1) Subject to such rules as may be made, any dealer may, in the prescribed manner, appeal to such authority as may be prescribed against any order passed under subsection (3) of section 11, section 13 and section 16 of the Act. (2) No such appeal shall be entertained unless (a) it is accompanied by proof of payment, in such manner as may be prescribed, of the amount of tax admitted by the dealer to be due from him and ten per cent of the difference between such amount of tax including penalty and interest assessed; or (b) it is filed within forty five days of the date of passing of the orders as aforesaid or 30 days from the date on which the demand, if any, for tax or penalty is served or deemed to have been served on the dealer, whichever is later: Provided that the aforesaid authority may admit an appeal after the expiry of the said period, if on application by the dealer, it is satisfied that the dealer was prevented by sufficient cause from preferring the appeal within the aforesaid time. (3) Subject to such rules as may be made, any order passed in appeal under sub-sections (1) and (2) may be revised by such authority as may be prescribed on an application by the dealer or by or on behalf of the State Government as the case may be: Provided that no application for revision shall be entertained unless it is made before the 'said authority within 60 days of the date' of passing of the order under sub-section (1) or sub-section (2), as the case may be, but the said authority may, if it is satisfied, on application that there 'was sufficient cause for the delay, admit the said application for revision after condoning the delay: Provided further, that the Commissioner may call for and examine the record of any proceedings under this Act in which any order other than an order passed in appeal under subsections (1) and (2) has been passed by any person appointed -- to assist the Commissioner for the purpose of satisfying himself as to the legality or propriety of such order and may, after such examination and after making or causing to be made such enquiry as he may deem necessary, 'pass any order which he thinks fit and proper: Provided that no action under the second proviso shall be initiated while any appeal under sub-section (1) is pending or when the time prescribed in sub-section (2) for filing the appeal has not expired and except before the expiry of four years from the date of order which is the subject of scrutiny by the Commissioner. (4) The aforesaid appellate or revising authority may (a) confirm, reduce, annul, enhance or otherwise modify the assessment of tax, penalty or interest; (b) set aside any order and direct the authority which made the order, to pass a fresh order after further enquiry on specified points; or (c) pass such other orders as it may deem fit and proper. (5) No order prejudicial to any dealer shall be passed under this section without a reasonable opportunity of being heard being given to him. (6) Subject to such rules as may be made, any authority under this Act or its successors in office may, on application or otherwise, review any order passed by it to correct any error or mistake apparent from records: Provided that neither an application under this subsection nor the period during which it is pending shall be considered as cause for the delay, if any, in filing any appeal or

application for revision Provided further that no such review shall be made if it has the effect of enhancing the tax or penalty or both, or of reducing a refund, unless the dealer or the person who is liable to pay the tax or the penalty or both, or as the case may be, eligible to get refund, is given a reasonable opportunity of being heard.

## **22. Payment of fee.**

- The amount of fees payable for any appeal or application made under this Act shall be such as may be prescribed: Provided that the amount of fees so prescribed shall not be less than a rupee and shall not exceed five hundred rupees Provided further that no fee shall be payable for any appeal or application filed by or on behalf of the State Government.

## **Chapter VIII**

### **Prosecution and penalties.**

## **23. Offences.**

(1) Without prejudice to any action taken or that may be taken or any order passed or may be passed under any of the provisions of this Act, whoever-(a) being a dealer, sells or purchases goods in contravention of sub-section (2) of section 10 or fails or neglects to comply with the provisions of sub-section (1) thereof; or (b) fails without sufficient cause, to submit any return required under section 11 or wilfully submits a false return; or (c) not being a registered dealer falsely represents that he is such a dealer; or (d) fails or neglects to maintain or produce accounts under section 18 or produces false and incorrect accounts or (e) prevents or obstructs any authority under this Act in the performance of its duties and functions under this Act; or (f) fails to pay the tax due in accordance with section 14; or (g) contravenes the provisions of section 15; or (h) fails to furnish the information or particulars mentioned in section 19; or (i) contravenes section 26; or (j) abets any person in the commission of any of the offences specified in clauses (a) to (i); shall be punishable with imprisonment of either description which may extend to one year or with fine which may extend to ten thousand rupees or with both and if the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period the offence continues. (2) No court shall take cognizance of any offence under this Act or the rules made thereunder except with the previous sanction of the prescribed authority. (3) All offences punishable under this Act shall be cognizable and bailable. (4) Notwithstanding anything contained in sub-section (1), the prescribed authority may compound any offence under this Act or the rules made thereunder before or after the institution of proceedings under that sub-section by accepting from the person charged with the offence a sum not exceeding twenty thousand rupees as may be determined by the said authority, in addition to the tax, penalty or interest that may be leviable under the Act, and on payment of the sum so determined together with the amount of tax, penalty or interest due, the proceedings before any court or prescribed authority under this section shall abate.

## **24. Appearance through authorised agent.**

- A dealer or any other person required to appear or to produce any accounts, documents or other records before any authority under this Act may appear, or produce as the case may be in person, or be represented by any other person in such manner as may be prescribed.

## **25. Secrecy of information given by dealer.**

- No particulars or information contained in any statement made, returns filed, books or documents produced by a dealer under this Act or any assessment made or order passed by any of the authorities under this Act shall be treated' as confidential and no person other than the said dealer shall be compelled to give evidence derived from any of the aforesaid records, save with the general or special previous sanction of the State Government which may give or withhold such sanction as it may deem fit: Provided that nothing in this section shall prevent the disclosure of all or any such particulars or information to any Government servant for the purpose of (1) investigation of any crime and prosecution of any person under this Act or under any of the laws of Central or State Government it; or (2) audit of receipts and refunds of tax including penalty and interest and fees levied by or under this Act; or (3) enforcing recovery of all amounts due under this Act: Provided further that the State Government may by notification and subject to such conditions as it may impose, delegate its power under this section to any authority subordinate to it.

## **26. Check posts.**

(1) The State Government may, by notification, set up and erect in such manner as it may deem fit, check posts and barriers at any place in the State, at which all persons vehicles or other means of transporting goods intended for sale may be detained, intercepted or searched to prevent evasion of tax under this Act. (2) Every person transporting such goods across the said check posts or barriers may be required to file such documents or other proof as may be prescribed along with a correct and complete declaration in the prescribed form before being allowed to proceed.

## **27. Removal of difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty: Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

## **28. Power to make rules.**

(1) The State Government may make rules for carrying out the purposes of this Act. (2) The rules so made may be given effect from such date or with such retrospective effect as the State Government may specify therein. (3) In making any rules, the State Government may direct that a breach thereof

shall be punishable with a fine not exceeding rupees one thousand and when the offence is a continuing one with a daily fine not exceeding rupees fifty during the continuance of the offence.(4)In particular and without prejudice to the generality of the foregoing power, such rules may provide for(a)the particulars to be contained in a declaration referred to in the proviso to sub-clause (v) of clause (a) of subsection (3) of section 5, the forms of such declarations, the manner in which, the conditions and restrictions subject to which and the authority from which such forms shall be obtainable and the manner in which such declarations are to be furnished;(b)the authority to which the application for registration under section 10 shall be made;(c)the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration and the forms of such certificates under section 10;(d)the intervals at which, and the manner in which the tax under this Act shall be payable under section 11;(e)the returns to be furnished under section 11; and dates by which, and the authority to which, such returns shall be furnished;(f)the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 13;(g)the manner in which refunds under section 16 shall be made;(h)the accounts and forms of refunds and reimbursement under section 16;(i)the conditions for the maintenance and production of accounts or documents or for furnishing information and the authority to which such accounts, documents or information may be furnished under section 13;(j)the manner in which, and the authority to which appeals or revisions against any order passed under this Act may be preferred under section 21;(k)the procedure for, the disposal of appeals and applications for revision and reviews under section 21;(l)the amount of fees payable under section 22 for any appeal or application filed under this Act;(m)the conditions under which, and the authority by which the offences may be compounded under section 23;(n)the manner in which, and the time within which applications shall be made, information furnished and notices served under this Act;(o)any other matter which may be or is required to be prescribed.

## Chapter IX

### Miscellaneous

#### 29. Repeal and Validation.

(1)On and from the commencement of this Act, all laws relating to Sales Tax in force in the State, shall stand repealed.(2)All collections of tax, penalty and interest, and all proceedings or assessments made, actions taken, things done or orders passed, by any authority under any law referred to in sub-section (1) are hereby, validated and shall for all purposes be deemed to have always been made, done, taken or passed in accordance with law.(3)All proceedings pending on the commencement of this Act with regard to assessment, collection of tax, penalty or interest, or matters in appeal, revision or review shall continue and be disposed of as if this Act had not been passed.

I

(See Section 8)

1

1. All cereals and pulses including broken particles and husk and bran thereof

2. Wheat flour including atta and suji

3. Bread

4. Meat which has not been cured or frozen

5. Fresh fish

6. Vegetables, green or dried commonly known as sabji, tarkari or sak

7. Cooked food, other than cake, pastries, biscuits and sweetmeats

8. Gur and molasses

9. Salt.

10. Milk

11. Livestock, including poultry

12. Agriculture implements

2

Except when sold in sealed container.

Except when sold in sealed container.

Except tractors and power tillers and spare parts accessories and component parts thereof.

### **13. Cotton Yarn**

**14. Inferior grade of kerosene oil, that is to say, the kerosene referred to in item 7 of the first Schedule to the Central Excise and Salt Act, 1944 and having all the following characteristics also.**

(i) it is not lighter in color than solution with the following composition : Quarter normal aqueous solution of : (a) Ferric Chloride ( $\text{FeCl}_3 \cdot 6\text{H}_2\text{O}$ ), (b) Cobaltous Chloride ( $\text{CoCl}_2 \cdot 6\text{H}_2\text{O}$ ), (c) Copper Sulphate ( $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$ ), mixed in the ratio of 6 : 3 : 1 : and (ii) it has flashing point below 65°; 60° of centigrade thermometer.

**15. Tobacco for hookah, that is to say, tobacco paste ready for use in hookah.**

**16. Texts & exercise books for educational purpose and such other sacred books as may be prescribed.**

**17. Water, but not aerated or mineral waters when sold in bottles or sealed containers.**



**18. Electrical energy.**

**19. Raw Jute.**

**20. Plain paper, commonly known as Darbar Paper Government Paper 'cartridge paper sold by Government Treasuries through the agency of licensed stamp vendors.**

**21. Eggs.**

**22. Sag and tapioca globules.**

**23. Charkha.**

**24. Cotton.**

**25. Handloom Woven**

(a)Gamchas.(b)Khaddar or Khadi. Except those made from silk yarn.(c)Garments made of khaddar or khadi referred in sub-item (b)(d)Handicraft goods locally produced only.

**26. Mustard Oil, rape oil and mixtures of mustard and rape oil.**

**27. Newspapers.**

**28. Mustard seed and rape seed.**

**29. Flowers and plants.**

**30. Vegetable seeds.**

**31. Hosiery goods.**

**II**

(See Section 5)

**1. Motor Vehicles, including chassis of motor vehicles, motor tyres and tubes and spare parts accessories and component parts of motor vehicles.**

- 2. Motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts accessories and component parts, of motor cycles, motor scooters, and motorettes.**
- 3. Refrigerators, air-conditioners, air-coolers and air-conditioning plants, and spare parts, accessories and component parts thereof.**
- 4. Wireless reception instruments and apparatus, radios and radio-gramophones, television sets, electrical valves, transistor radios, accumulators, amplifiers and loudspeakers and spare parts accessories and component parts thereof.**
- 5. Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment and spare parts accessories and component parts thereof lenses, films and parts and accessories required for use therewith.**
- 6. Photographic and other cameras and enlargers and spare parts accessories and component parts thereof, lenses, films and plates paper and cloth, and other parts and accessories required for use therewith.**
- 7. All clocks, timepieces and watches and parts thereof.**
- 8. Iron and steel safes and almirahs.**
- 9. All arms including rifles, revolvers and pistols, and ammunition for 'he same.**
- 10. Cigarette cases and lighters.**
- 11. Dictaphone and other similar apparatus for recording sound and parts thereof and electro-magnetic recording tapes including cassette tapes whether prerecorded or not.**
- 12. Sound transmitting equipment including telephones and loudspeakers and spare parts thereof.**

- 13. Typewriters, tabulating machines, calculating machines, duplicating machines and address printing machines and parts thereof.**
- 14. Binoculars, telescopes and opera glasses.**
- 15. Gramophones and component parts thereof and records.**
- 16. Cushions, mattresses, pillows and other articles made wholly or partly of rubber foam.**
- 17. Cushions, mattresses, pillows and other articles made wholly or partly of artificial or synthetic resin and plastic foam.**
- 18. Vacuum flasks of all kinds and descriptions including refills for such flasks.**
- 19. Articles made wholly or principally of stainless steel except tumblers, dishes and plates only such varieties of them as are commonly known as gelas, thala and rekabi, respectively.**
- 20. Furniture made wholly or principally of iron or steel.**
- 21. Furniture made wholly or principally of aluminum**
- 22. Upholstered wooden furniture.**
- 23. Perambulators including push-chairs for babies and spare parts, accessories and component parts thereof.**
- 24. Carpets of all varieties and description except locally produced.**
- 25. Linoleum.**
- 26. Lifts. whether operated by electricity or steam, and spare parts, accessories and component parts thereof.**
- 27. Exhaust fans and air circulators and spare parts. accessories and component parts thereof.**

- 28. Electric heaters ,of all varieties and descriptions.**
- 29. Diamond.**
- 30. Precious and synthetic stones other than diamond. real or artificial.**
- 31. Pearls-real, artificial or cultured.**
- 32. Golden or silver filigree.**
- 33. Furs and articles made of fur.**
- 34. Marble chips, marble or mosaic floor and wall tiles, and articles made of marble or mosaic.**
- 35. Laminated sheets, like Formica, Sunmica, etc.**
- 36. Perfumes.**
- 37. Ornaments set with diamond or stones (real or artificial) or with pearls ( real, artificial or cultured).**
- 38. All kinds of paints, including acrylic and plastic emulsion paints, lacquers, distempers, cement colors of paints, enamels, liquid paints, stiff paste paints, powder paints, whether ready for use or not.**
- 39. Varnishes, vegetable paint removers and strainers of all kinds.**
- 40. Cosmetics of all varieties, but excluding hair oil.**